



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

A G E N D A

DATE:	28 MARCH 2018
VENUE:	TOWN PLANNING COMMITTEE ROOM HERMANUS
TIME:	14:00

OVERSTRAND MUNICIPALITY

Office of the Municipal Manager
Civic Centre
HERMANUS
7200

7 March 2018

TO : THE CHAIRPERSON AND MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

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

NOTICE IS HEREBY GIVEN that a meeting of the **Municipal Planning Tribunal (MPT)** will go into session on **Wednesday, 28 March 2018 at 14:00, Town Planning Committee Room, 16 Paterson Street, Hermanus**, to consider the attached agenda.

You are kindly requested to submit any amendments/additions to Ms S Swart (sswart@overstrand.gov.za) on or before **14 March 2018**.

STEPHEN MÜLLER
CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL

Distribution:

1. Mr S Müller (Chairperson)
2. Mr R Williams (Vice Chairperson)
3. Mr S Madikane (Member)
4. Ms D Arrison (Member)
5. Ms H Janser (Member)
6. Mr R Kuchar (Authorised Official)
7. Mr S van der Merwe (Senior Town Planner)
8. Ms H van der Stoep (Senior Town Planner)
9. Mr H Olivier (Town Planner)
10. Mr P Roux (Town Planner)
11. Secretariat

MUNICIPAL PLANNING TRIBUNAL (MPT)

28 March 2018

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Report attached

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Report attached

4.3 ERF 2478, 228 PORTER DRIVE, BETTY'S BAY : PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS, CONSENT USE AND DEPARTURE : INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF JOHAN KROG FAMILY TRUST

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Report attached

4.5 ERF 1068, STANFORD, OVERSTRAND MUNICIPAL AREA: PROPOSED CONSENT USE: MESSRS SETPLAN CONSULTING ON BEHALF OF THE RICHARD METCALF FAMILY TRUST

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- 4.6 REMAINDER ERF 1294, 215 PIET RETIEF CRESCENT, SANDBAAI, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: MESSRS PLANACTIVE ON BEHALF OF P JOUBERT, CM JOUBERT AND NJ JOUBERT**

Report attached

4.1

**ERF 106, 38 BEACH ROAD, SANDBAAI, OVERSTRAND MUNICIPAL AREA :
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND
CONSENT USE : MESSRS WRAP ON BEHALF OF JM HATTINGH**

106 HSB (3634)

H van der Stoep

16 January 2018

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 30 March 2017 from Messrs WRAP on behalf of JM Hattingh on Erf 106, Sandbaai for the following:

- ❖ Removal of restrictive title conditions in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 for the removal of restrictive title deed conditions B.2.(a) – (d) as contained in Title Deed T31833/2010 applicable to the above erf in order to legalize the existing second dwelling unit on the property, as well as to be in line with the primary rights and development parameters applicable to single residential properties as set out in the Overstrand Zoning Scheme;

The restrictive conditions B.2.(a) – (d) as contained in Title Deed T31833/2010 to be removed read as follows:

(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 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 is subsequently made in terms of Section 16(2)(o) of the above By-Law for a consent use ("tourist accommodation") in order to enable the owner of the above property to utilise the one (1) bedroom second dwelling unit as a self-catering unit for tourists (two (2) bedrooms in the main dwelling will also be used as guests rooms for tourists as a primary right once the above restrictive conditions have been removed from the Title Deed).

A Locality Plan of the property concerned is attached as Annexure A. The proposed Site Development 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 D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The erf is zoned Residential Zone 1 : Single Residential, measures 714m² in extent and is located in the residential area of Sandbaai. The property is developed with a dwelling unit and an outbuilding that was illegally converted into a second dwelling unit.

The landowner obtained municipal approval for the structure that encroach the 2m western lateral building line (garage to habitable space – play room), the 2m eastern lateral building line to accommodate a passage from the garage to the main dwelling as well as the double garage (a letter of consent was obtained from the adjacent property owner for the garage as required in terms of the Zoning Scheme – no departure application was necessary). The letters of approval of the Municipality for the building line encroachments, other than the garage, are attached as Annexure J.

The subject property changed ownership since the application was submitted. The previous owner however submitted a letter that the new owners may proceed with the application, and the new owners provided a power of attorney to the consultant to proceed with the application.

4. SUMMARY OF APPLICANT'S MOTIVATION

Due to the comprehensive nature of the motivation report only the main points of motivation are summarised as follows (the detailed report is attached as Annexure C):

- ❖ There is an existing second dwelling unit on the property and it is essential for the relevant restrictive title deed condition to be removed;
- ❖ It is also proposed to have the remainder of the restrictive title deed conditions removed to provide the property owner with future development scope within the application procedures of the Municipal By-Law and due regard for the Zoning Scheme;
- ❖ Consent use is applied for tourist accommodation for the second dwelling unit to be utilised as a self-catering unit;
- ❖ On the ground floor of the main dwelling unit two (2) rooms will be used for renting out to guests. In total, three rooms (3) will therefore be rented out on the property to tourists for short term rental. The first floor of the main dwelling has four (4) bedrooms in which the owner/manager will reside;
- ❖ There is an existing building line departure approval for the covered walkway between the garage and the house;
- ❖ The southern part of Sandbaai predominantly functions as a residential neighbourhood;
- ❖ The subject property enjoys great sea views resulting the subject property having the potential to be a popular tourist overnight destination;
- ❖ The applications are consistent with the principles and goals enshrined in the Provincial Spatial Development Framework, the Municipal Spatial Development Framework, and the Municipal Growth Management Strategy;
- ❖ There is a definite need in Sandbaai for guesthouse and tourism accommodation to contribute to marketing and promoting the town as a viable and popular tourist destination;
- ❖ Parking layout and manoeuvring space is compliant with the Municipality's Zoning Scheme;
- ❖ Liquor will only be sold to the residents of the guesthouse;

- ❖ The owner will ensure that all required municipal services are in compliance with municipal standards;
- ❖ Access from the property is gained from Kusweg. A double garage and three (3) parking bays are provided on the property. The parking layout configuration has been designed in a manner to ensure the safety of pedestrians and motorists;
- ❖ The proposals do not deviate from the spatial planning initiatives and is in line with the structure form that is envisaged by local and provincial authorities;
- ❖ The subject property is located in Planning Unit 3 and no densification is proposed for this planning unit and this proposal does not seek to increase the density of the subject property;
- ❖ The proposals are consistent with the spatial planning principles in terms of Section 42 of the Spatial Planning and Land Use Management Act and also Chapter VI of the Land Use Planning Act;

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	8 June 2017	14 July 2017
Gazette	Yes	9 June 2017	14 July 2017
Notices	Yes	8 June 2017	14 July 2017
Ward councillor	Yes	9 June 2017	14 July 2017
Total comments	ONE (1)		
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
Was the application processed correctly (if no, elaborate below):			Yes
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

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

Name	Date received	Summary of comments	Recommendation
Ward Councillor	09/06/2017	No comment to offer.	Positive
Building Control	12/06/2017	Supported. Existing structure poses no further impact on surrounding properties – plans to be submitted in compliance with SANS10400.	Positive
Heritage and Aesthetics Committee	12/06/2017	No objection.	Positive

Environmental Management	30/06/2017	No objection.	Positive
District Health	13/06/2017	No objection.	Positive
Fire Department	25/07/2017	Attached as Annexure H	Positive
Engineering Services	06/07/2017	Attached as Annexure G	Positive
Telkom	02/08/2017	Attached as Annexure I	Positive

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Objection: JB Burmeister, Erf 107, Sandbaai

The points of objection are summarized as follows:

1. Property is zoned single residential and title conditions were placed (for good reasoning) on all our properties to protect the integrity and nature of the surrounding properties;

Removal of title conditions require serious motivation backed by sound reasoning to be removed or amended. To simply remove all conditions without excellent reasons why it would only benefit the owner, but the general neighbourhood, is both simplistic and irresponsible;

No reasons are forwarded to motivate for any change that will necessitate the removal of clause 2(a) - the approval of the second dwelling unit is already an intrinsic right in terms of the zoning restrictions so we see no reason why the planners indicate to utilise the property for other purposes, unless the true nature of the application is not being made clear to us. As neighbours we are not being indicated the true intentions of the owner if there is already such wording as "for other purposes";

To simply "obliterate any regulatory and legislature overlapping and contradictions" is both naïve and vague and with no reason at all to remove the said condition, it needs to be maintained.

2. Clause (b) was clearly inserted in the Title Deed to protect the street frontage and character of smaller subdivisions, which would negate the value of the neighbourhood which would appear to be in conflict with the aims and origins of the planners who established the original layout. Such clauses are inserted to protect the value of seaside properties and prevent ad-hoc subdivisions. If a subdivision is anticipated it should be stated clearly in terms of intentions, failing which the removal of such has no validity and needs to be omitted.

The planners' justification that "these documents are modern planning tools that have been compiled to the current development trend and pressures within the Municipality, is absolute rubbish and the further statement that the "removal of this restrictive condition will therefore seek to eliminate regulatory duplication", has no relevance at all and gives no valid reason for the clause to be removed.

3. Clause 2(d) – the 4,72m title setback indicates even further confusion by the planner's report. They note that "the existing building is encroaching on the title deed building line and it is therefore essential for this restrictive title deed to be removed." The plan attached to the application indicates that the existing house is set behind the 4,72m title condition. Again no compelling reason is given as why it should be removed and this condition, in particular, we will vigorously oppose. Our property, Erf 107, lies due east of Erf 106 and any extension over the 4,72m building line will directly affect us in terms of privacy, overshadowing and loss of sunlight. In this regard we strongly reserve our rights to take the matter further and will serve due notice on the applicants in due course. Is the building of new stairs reason enough to remove a title condition? The matter of the second dwelling unit is a long-standing joke in the community as it has been common knowledge to all that there exist three (3) dwellings on the property and not two (2) that I noted in my objection way back in 2015. Even when the house was put up for sale in 2015 the house was advertised as having multiple units. However, the units which constitute a block of flats and require a rezoning do not materially affect us in their current form, as the property currently house multiple tenants at the rear and has been doing so for many years without affecting the main house.

The plan submitted and the demarcation of the areas to be utilised are now literally a formal block of flats comprising of four (4) living units (couched as guest units). We are of the opinion that further multiple tenants will occupy the property and the guest house is merely a front to allow this to occur. If one compares this to formal guest houses in close proximity one can see that no communal kitchen/dining areas are catered for. In fact the best rooms for the guest house face a court yard and not the sea view, which makes no sense. The direct access from the guest unit to the main house implied something different from that advocate by the applicant. We believe this application constitutes "invasion of intent" by the applicant. The application is in direct conflict with the intensions of the Overstrand Municipality Spatial Development Framework (OMSDF), which seeks to promote the retention of single residential erven for use as a family residence which in return maintain the quality of the neighbourhood. If the intention is to rent out multiple tenancies within one (1) erf then a rezoning needs to be applied for.

We request an interview with the Planning Board when the application is discussed and request a formal site inspection with municipal officials present to explain our concerns. The motivation report indeed provided a "clear analysis" of the owner's intent and nowhere in the report does the proposal conclusively provide evidence that the application is in the public's interest or will benefit the public at large.

For this reason we respectively request that the removal of the restrictive clauses be refused. Removal of Clause 2(c) will mere legalise the current scenario, so we are accepting the removal of this clause to enable at least a double dwelling.

We further object to the consent use for a guest house with three (3) lettable rooms of which only two (2) separate are clearly indicated, whilst one (1) links directly to the main house. We are most surprised that the owner choose this route rather than discuss this with us and we trust that they will facilitate a meeting as neighbours.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

The applicant's comments on the points of objection are summarised as follows:

1. Section 4 of the motivation report motivates that the primary uses on Residential Zone 1 properties are not exclusively residential. The removal of this restrictive condition would therefore eliminate regulatory overlapping.
2. A second dwelling unit is a primary right for Residential Zone 1 properties as highlighted by the objector. The objector however negates that the restrictive Condition 2(c) prohibits a second dwelling unit. This restriction is therefore in contrast with the Zoning Scheme and in contrast with the consent use for tourist accommodation which is applied for. The proposal for the removal of this restrictive condition therefore seeks to eliminate this stark regulatory contrast.

The quote of the objector from the report that "the property owner needs to utilise the property for other purposes" "unless the nature of the application is not made clear to us", is devoid from the context of the report and what was intended. For clarity, Section 4. of the report highlights that the property may at any point, if she deems it necessary, use the subject property for any other purposes as listed as primary rights under the Residential Zone 1 zoning. These other uses include a day care centre, guest rooms, home occupation and second dwelling unit. The nature of the application and other uses are explicitly clear in the report.

3. The restrictive clauses were inserted in the Title Deed in 1947. Objector is unaware of the fact that these restrictions were the overarching planning regulatory tools at the time and were written from the epistemological standpoint that was relevant in urban planning in 1947. The urban development has evolved and became more dynamic since 1947, hence the introduction of modern regulatory planning tool policies which respond to current land use trends and are in sync with the current epistemological standpoint. The report elucidates this point particularly in Section 4 and why the removal of the conditions will not absolve the property owner from being compliant with any other legislation and eliminate older restrictive conditions from being in sync with modern legislation.
4. A suburb or township is never complete and is subject to changes in land use patterns, which cannot always be accurately predicted in a rational comprehensive manner. For example, the owner may purchase two (2) neighbouring erven and may apply for a consolidation and sell the property after which the new property owner may apply to subdivide the property again. The removal of Condition 2(b) would therefore eliminate the stifling urban development. The removal thereof would therefore cater to the unpredictable changes of land use patterns. Any application for subdivision is subject to a municipal process as highlighted in the report. The removal of the condition cannot be incorrectly interpreted as following any or all future subdivision proposals.
5. The building plan shows steps which encroach the 4,72m title deed building line. Steps are regarded as a building in terms of its definition in the Zoning Scheme. As the objector correctly highlights, the report states that the existing building encroaches on the title deed building line. Any building that

encroaches a title deed building line triggers a removal of a restrictive title deed condition.

6. The building plan submitted with the application has the following description “new passage to connect guest’s bedroom 1 with main dwelling”. Part of the application is to make the subject property interleading so that it could have two dwelling units.
7. The subject property only has two (2) kitchens in use.
8. The nature of current residential land use on the property and what is proposed cannot constitute a block of flats as the scale of the activities are either a primary right or a consent use as applied for in the report. The intention of this application is made clear in the report and the property owner will only convert to the proposed land uses, should this application be approved.
9. Objector is making allegations which are inconsistent with the intention of the owner as set out in the report. The unfounded pre-emption of the future uses of the property by the objector is unsupported by empirical theoretic evidence.
10. A fundamental aspect of the report was to illustrate that the zoning of the property will be unaltered should the application be approved, that the proposal is aligned with the OMSDF and that the approval will contribute to enhancing the valued quality of the Sandbaai neighbourhood.

9. MUNICIPAL ASSESSMENT OF COMMENTS

The following municipal comment is offered on the objection as a whole:

In the subject matter the restrictive title deed conditions were not imposed in favour of all the owners of Sandbaai, although matching conditions are contained in most of the Title Deeds of the single residential properties in Sandbaai. It is thus the onus of each property owner to apply to have these conditions removed in order to be in line with the primary rights as set out in the Zoning Scheme. Such applications are in all instances evaluated on its merits, but keeping in mind that some townships in the Overstrand do not have these restrictive clauses and therefore enjoy the primary rights as set out in the Zoning Scheme. The latter therefore mostly leads to the approval of such applications.

A very important fact that the objector may not be aware of is that each primary right is strictly regulated in terms of requirements set out in the Zoning Scheme. The applicant motivates the usage of the second dwelling unit, as well as the removal of all the restrictive conditions appropriately in its motivation report and it is thus not sure why the objector claims that the true intentions of the landowner is questionable. Section G: Declaration, of the signed application form clearly states that it is an offense to provide false, incorrect or misleading information since it is a criminal offence that can lead to legal actions. When the application was submitted and evaluated no false or misleading information could be detected and it is thus regarded that the intentions of the applicant is true in this regard. Should the application be approved conditions would in any event be imposed to prevent any contraventions of the Zoning Scheme. In view of the motivation report, this point of objection can be regarded as pure speculation since the objector did not provide evidence to back his objection.

The restrictive conditions were registered against the Title Deed of the property when the township was established during the 1940's already. These conditions were imposed to assist former local councils to regulate land uses, but since then regulatory legislation has been frequently improved and adapted to meet modern needs, thus the original land use regulatory system (title deed conditions and regulations in terms of the former townships ordinance) is commonly regarded as being out-dated. The current regulatory legislation indeed overlaps (Title Deeds and Zoning Scheme), and for this reason application is made to have all conditions removed that is in "contradiction" with the scheme and applicable legislation. The objector should have taken cognisance of the latter.

The applicant applied for a specific additional land use (tourist accommodation) that is to be evaluated on its merit, together with the removal of the relevant conditions to obtain all the primary rights and parameters as set out in the Zoning Scheme. The point of objection that the removal of the clause restricting subdivision was inserted to protect the street frontage and character from smaller subdivisions that would negate the value of the neighbourhood and protect the value of seaside properties are unfounded and clearly not thoroughly investigated by the objector. If this was indeed the case, different or additional restrictive clauses would have applied for all seafront erven, which is not the case. Nonetheless, the application does not involve a subdivision of the property and the objector should have familiarized himself with the aim of the application before making unfounded allegations. The subject property is also not part of a smaller subdivision, but part of the original layout of the Sandbaai township. These clauses were inserted in the majority of the Title Deeds of the single residential properties when the original township development was approved, and not to protect the seaside erven. (Again pure speculation and misinterpretation by the objector.) The removal of the specific clause further does not implicate that the landowner is exempted in future from any prescribed application procedures for subdivision. To have the relevant condition removed from the title deed at this stage ensures that the landowner does not sustain additional costs should an application for subdivision of the property in future be submitted, which is doubtful for various reasons.

Only a small section of the proposed new steps (see the Site Development Plan) will encroach the title deed building line and once the relevant condition is removed the 4m Zoning Scheme street building line will in any event be maintained. The owner can legally develop its property within the envelope provided for in the Zoning Scheme. Taking the latter into consideration it should be noted that the front section of the dwelling unit already consists of a two (2) storey structure making the objector's point regarding privacy, overshadowing and loss of sunlight unfounded. Many street frontages in the greater Hermanus have 3m and 4m setbacks in terms of the new scheme. A 4m street building line applies to the property in terms of the Zoning Scheme. The removal of the 4,72m restrictive clause in order to obtain the 4m zoning scheme street building line should not have the impact that the objector refers to, since lateral building lines of 2m still applies. The encroachment of these building lines may impact on privacy and in some cases overshadowing of adjacent properties. These allegations are therefore also regarded as speculative.

The application is based on the rectification of irregularities and to obtain a consent use for a one (1) bedroom self-catering unit for tourists, and two (2) guestrooms as a primary right within the main dwelling. The claim that a block of flats with four (4) living units will be enabled is regarded as far-fetched since it would necessitate a rezoning, which is not the case. Again, should the application be approved it will be

approved in the manner as applied for which is in accordance with the applicable planning documentation of the Municipality, and strict conditions shall also apply.

As already mentioned, each property owner, including the objector, has the right to apply for the removal of restrictive clauses to be in a position to exercise the applicable primary rights. In this case it is the opinion of one person that the removal will impact on the integrity and nature of surrounding property owners, whilst none of the surrounding property owners actually objected to the application as they most probably have different opinions and will most probably in future also apply to have the restrictive clauses removed as a result of the contents of the application that came to their attention.

It is the opinion that the objector misses the main objectives of the application. The objector does not elaborate on the tourism enterprise which may have a more adverse impact, but rather concentrates on technicalities being the removal of the restrictive Title Deed clauses. The applicant's comment is supported that the restrictive clauses are out-dated and that urban planning since township development has evolved and became more dynamic. These old clauses restrict modern time development and property uses and do have unnecessary restraints specifically in relation to the primary rights set out in the Zoning Scheme. The primary and secondary rights were in any event well thought through when the Scheme Regulations were drafted that entails strict requirements when exercised in order to ensure that the character of residential neighbourhoods are still maintained as far as possible, as well as the vested rights of property owners.

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 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 Department.

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The application is in line with the Overstrand Spatial documents.

10.9 THE DESIRABILITY OF THE PROPOSAL**Removal of Restrictive Title Deed Conditions**

The property is burdened with restrictions in the Title Deed. The owner of the subject property wishes to have these restrictions removed from the Title Deed in order to be in line with the applicable primary rights and development parameters as set out in the Overstrand Municipality Zoning Scheme. One of the primary rights in terms of the scheme is a second dwelling unit and should the applicable condition be removed the existing second dwelling unit will be legalised. 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 Deeds of single residential properties in Sandbaai were used to limit the development thereof. However, 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. It is therefore the opinion that the restrictions set out in the Title Deed are not relevant anymore, because they are out-dated,

thus the removal of the restrictions will enable the owner to utilise the property more efficiently, but still in line with the development rules as set out in the zoning scheme. Thus, development control will still be in place.

Consent Use (Tourism Accommodation)

Some of the core objectives of the OMSDF are to promote more uses within residential areas that include the promotion of the tourism industry.

The owner wishes to utilise the second dwelling unit as a one (1) bedroom self-catering dwelling unit for tourists which is in line with the objectives of the OMSDF. Further, one (1) bedroom in the main dwelling will be utilised as guest room and a portion of the combined outbuildings in the rear of the property as a second guest room. The latter room will be made interleading through the existing garage by means of an enclosed walkway (see SDP). In effect the property will then contain three (3) guestrooms for tourists. It should be noted that should the removal of the restrictive conditions be successful, the two (2) guestrooms that forms part of the main dwelling will in any event be a primary right. Since the one (1) bedroom will be interleading with the main dwelling by means of the said enclosed walkway, a condition should be imposed that this room may be utilised as a guest bedroom only. The reason being that it will technically only form part of the main dwelling unit by means of the said proposed walkway and can easily be converted into a liveable entity should a kitchenette or alike be fitted in the future. The proposed walkway has not been constructed yet, and a condition should also be imposed that it forms part of the building plan approval. Further, the applicable conditions as set out in the letters of approval dated 18 July 2013 and 29 January 2015 (attached as Annexure I) shall apply.

From a town planning perspective the consent use is supported since consent uses can be regarded as being ancillary to the primary uses of a property.

11. RECOMMENDATION

1. 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 B.2.(a) – (d) as contained in Title Deed T31833/2010 applicable to Erf 106, Sandbaai in order to accommodate the existing second dwelling unit on the property, as well as to be in line with the primary rights and development parameters applicable to single residential properties as set out in the Overstrand Zoning Scheme, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section (16)(2)(o) of the By-Law for consent use (tourism accommodation) on Erf 106, Sandbaai in order to utilise the second dwelling unit as a self-catering dwelling unit for tourists, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the approvals in Points 1. and 2. above be subject to the following conditions:

- (a) that this approval is for the development as indicated on Plan Numbers 4.1, (undated) which was submitted with the application;
 - (b) that building plans be submitted to the Building Department for approval, and that all conditions of the Building – and the Fire Department be complied with at that stage;
 - (c) that the enclosed passage (as per the site development plan submitted), be constructed to connect that guestroom at the rear of the property with the main dwelling unit – this bedroom may only be utilised as a guestroom for guests and may not contain any kitchenette or anything alike;
 - (d) that the self-catering second dwelling unit may only contain one (1) bedroom, and the main dwelling unit only two (2) guest bedrooms;
 - (e) that the parking layout be provided as indicated on the site development plan and the parking bays be properly demarcated;
 - (f) the applicable conditions as set out in the letters of approval dated 18 July 2013 and 29 January 2015 (attached as Annexure J) still apply;
 - (g) that all the conditions in the Engineering Report (attached as Annexure G), Fire Department (attached as Annexure H), and Telkom (attached as Annexure I), be complied with;
 - (h) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
 - (i) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with.
4. that the objector and the applicant be notified of their respective appeal rights in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditional approvals.

12. REASONS FOR RECOMMENDATION

- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ It is in line with policy documents.
- ❖ The development of the erf will be beneficial for optimization of the erf.
- ❖ Contribute to alleviate the need for temporary employment possibilities.
- ❖ Is not regarded as being undesirable from a town planning point of view.

13. Annexures

- Annexure A: Locality Plan
- Annexure B: Site Development Plans
- Annexure C: Motivation Report

Annexure D: Title Deed T T31833/2010
Annexure E: Objection received
Annexure F: Applicant's comment on objection
Annexure G: Engineering Services
Annexure H: Fire Department
Annexure I: Telkom
Annexure J: Municipal letters of approval

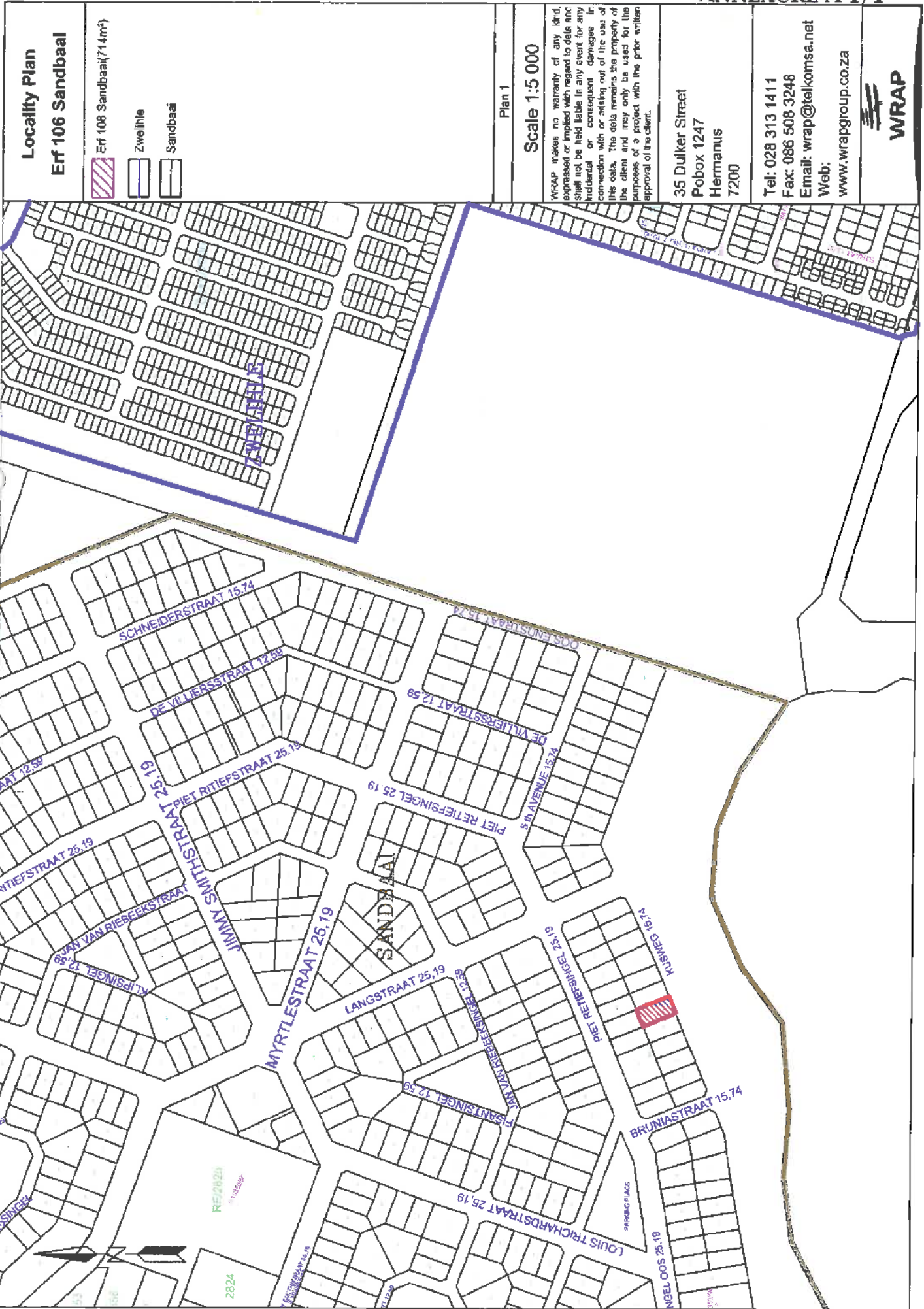
SIGNATURES**REGISTERED PLANNER:**

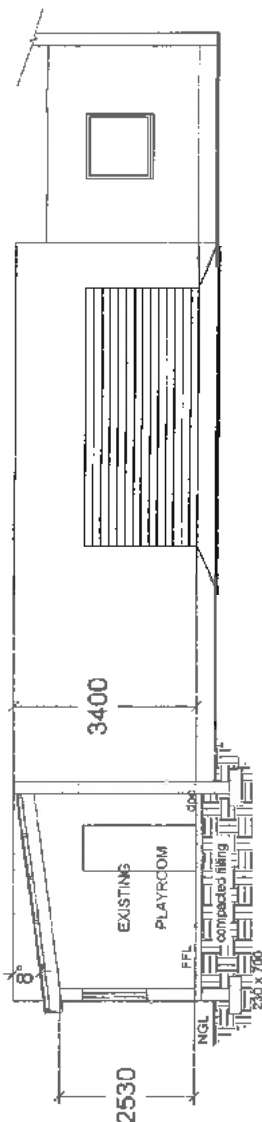
Name : **H VAN DER STOEP**

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

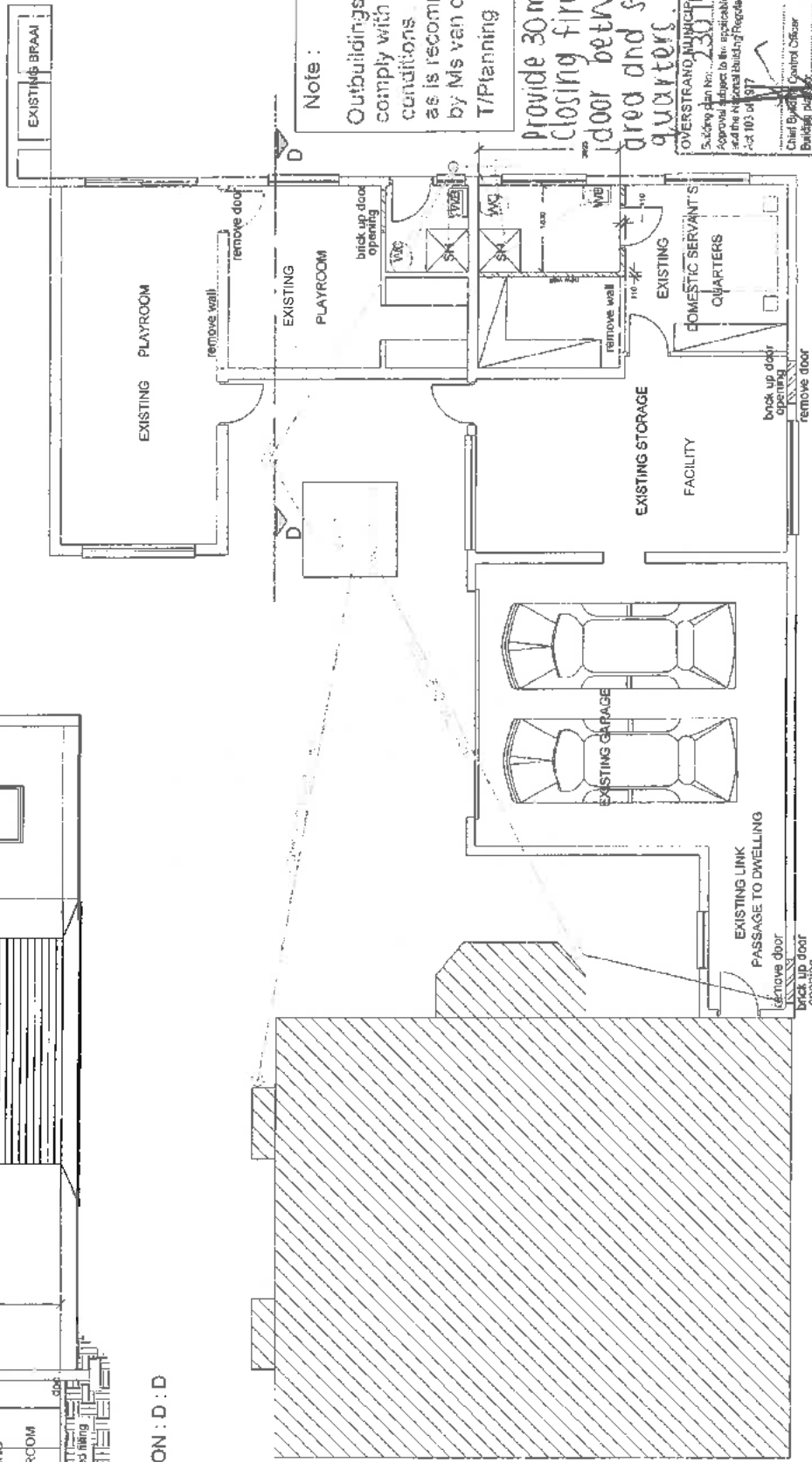
Signature : _____

Date: _____





SECTION : D : D



Note :
 Outbuildings did not comply with / deed conditions. Remedies as is recommended by Ms van der Sloep T/Planning
 Provide 30 minute self closing fire resistant door between storage area and servants quarters

OVERSTRAND MUNICIPALITY
 Submission No: 23015
 Approved subject to applicable Town Planning regulations and the relevant building regulations and Standards Act 103 of 1977
 Chief Executive Officer
 Approved subject to applicable Town Planning regulations and the relevant building regulations and Standards Act 103 of 1977
 Plan approved on: 11/05/15
 Municipal Engineer for Council

CAP - LON DESIGNS
 REGNO : DO 993
 cadesigns478@gmail.com
 CELL ; 0849051055

PROJECT
 PROPOSED
 ALTERATIONS

SCALE : 1 : 100

OWNER
 ERF
 PLANNO

HOUSE HATTINGH
 106 SANDBAAI
 2015 /04 / 08

Photo Plan
Erf 106 Sandbaal

Plan 7

Photos taken by: RestieHe Jankie

35 Duiker Street
Pobox 1247
Hermanus
7200

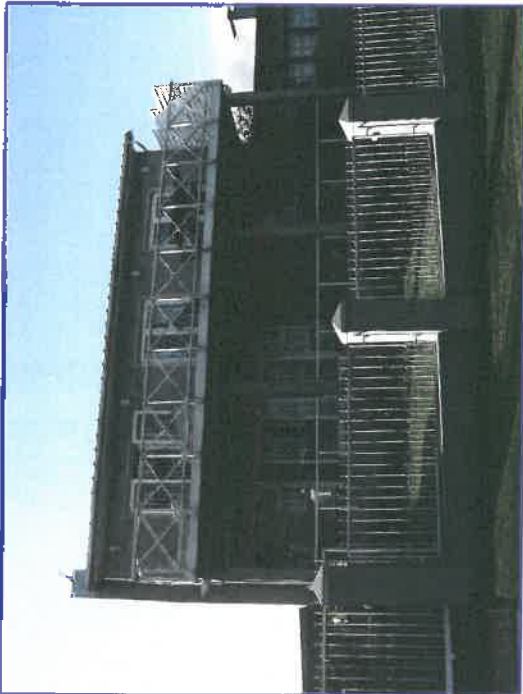
Tel: 028 313 1411
Fax: 086 508 3248
Email: wrap@telkomsa.net
Web:
www.wrapgroup.co.za



The second dwelling unit proposed for tourism accommodation



The kitchen in the main dwelling unit



A street view of the subject property



The ocean view from the subject property

3. CHARACTER OF ENVIRONMENT

Sandbaai is located approximately 8km from the Hermanus CBD and functions predominantly as a residential neighbourhood in the southern part. The subject property is located in Kusweg and enjoys great sea views resulting in the subject property having the potential to be a popular tourist overnight destination. The property is zoned Residential Zone 1: Single Residential (SR1).

4. TITLE DEED AND PROPERTY DETAILS

Herewith the details of the subject property, as well as a list of the title deed conditions proposed for removal and motivation for such removal:

Property details:

Property Description	Extent	Ownership	Title Deed Number
Erf 106 Sandbaai, in Overstrand Municipality, District Caledon, Western Cape Province	714m ²	Jessie Marais Hattingh	T31833/2010

A copy of the title deed of the subject property is attached as **Annexure B**. A perusal of the title deed has revealed that the following title deed restrictions exists on the subject property in favour of the Administrator that need to be removed:

The restrictive condition proposed for removal.	Motivation for the removal
2 (a) <i>"That the above erf or erven be used for residential purposes only;"</i>	<p>The removal of this title deed condition will not exempt the property owner from being subject to the Overstrand Municipality Zoning Scheme, 2013 parameters for Residential Zone 1: Single Residential. The relevant zoning scheme is also a more recent tool used by the Municipality to regulate land use in comparison with this title deed condition and this justifies the removal.</p> <p>In terms of the Overstrand Municipality Zoning Scheme, 2013 the following uses are primary rights under Residential Zone 1: Single Residential: day care centre, dwelling house, guest rooms, home occupation, second dwelling unit. The primary uses enable the property owner to utilise the property for other uses which may not necessarily be for residential purposes only. The proposal for the removal of this restrictive title deed condition will therefore obliterate any regulatory and legislative overlapping and contradictions.</p>
2 (b) <i>"That the above erf or erven be not subdivided;"</i>	The removal of this restrictive title deed condition will not exempt the property owner from other applicable policies such as the Overstrand Municipal Growth Management

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	Strategy and the Zoning Scheme which provide guidelines and regulate density and subdivision. These documents are modern planning tools that have been compiled to respond to the current development trend and pressures within the Municipality. The removal of this restrictive condition will therefore seek to eliminate regulatory duplication.
2 (c) <i>"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 of the above erven be built upon;"</i>	The subject property is improved with a second dwelling unit and it is therefore necessary for this restrictive title deed condition to be removed. It is also proposed that the restrictive title deed condition which relates to "not more than one half of the above be built upon" be removed. The removal of this condition will not exempt the subject property from the development parameters which are applicable in the Overstrand Zoning Scheme; 2013 that limits coverage to 50%.
2(d) <i>"That no building shall be erected on the above erf or erven within 4.72m 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"</i>	The existing buildings are encroaching on the title deed building line and it is therefore essential for this restrictive title deed to be removed.

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

Section 35(4) of the Overstrand By-Law on Municipal Land Use Planning, 2015, outlines what the Municipality must consider in the removal, suspension or amendment of a restrictive condition. The following benchmarks must be considered:

(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 personas of the owner of a dominant tenement.	The restrictive condition does not have a beneficial financial or other value for the 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 that accrued to anybody in respect of the 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 the restrictive conditions will enable the property owner to legalise an existing second dwelling and to obtain approval for the following. <ul style="list-style-type: none"> • Guest house • Tourist accommodation These are the personal benefits the property owner will accrue with the removal of these conditions.
(d) The social benefit of the restrictive	The restrictive condition remaining in place

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condition remaining in place.	does not have any social benefit.
(e) The social benefit of the removal of the restrictive condition.	The removal of the restrictive condition will benefit other members in society as there will be additional employment on the property with the operation of the guesthouse and the tourist accommodation. The tourists who will stay as guests in the rooms will also purchase other consumer goods in Sandbaai and the Greater Hermanus and this will result in an additional income stream for other members of society.
(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.	The removal of the restrictive title deed condition will provide the property owner with future development scope within the parameters set out in the relevant municipal development frameworks and regulatory tools.

5. DESIRABILITY

In terms of Section 55 (b) and (c) Land Use Planning Act; 2014 an application can be refused based on it being undesirable. The measure to assess the desirability of the application is the consistency of the application with spatial development frameworks, applicable structure plans, the principles referred to in Chapter VI and guidelines issued by the Provincial Minister regarding the desirability of proposed development.

The proposed removal of restrictive title deed conditions, and consent use for tourist accommodation and consent use for a guest house needs to be desirable and consistent with the logic character of the town and add value to the owner and the community. The Department of Environmental Affairs and Development Planning (DEADP) published a Guideline on Need and Desirability as part of the EIA Guideline and Information Document Series. Although this application does not include an environmental authorization application, the desirability guidelines set out in the document are also applicable in planning.

In terms of the above, a number of questions need to be asked with regard to the need and desirability of a proposal, which include the following:

Need and desirability measure	Yes/ No	Applicability to the subject farms
Is the land use considered within the timeframe intended by the existing approved SDF agreed to by the relevant environmental authority?	Yes	The application for the removal of restrictive title deed conditions, consent use for a guest house and tourist accommodation is within the timeframe of the PSDF (Western Cape Provincial Spatial Development Framework), OMSDF (Overstrand Municipal Spatial Development Framework) and Overstrand Municipal Growth Management Strategy (OMGMS) is consistent with the principles and goals enshrined in the frameworks. The spatial planning initiatives section of this report will elucidate this.
Does the community/area need	Yes	There is a definite need in Sandbaai for a guest

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the activity and the associated land use concerned?		house and tourist accommodation to contribute to marketing and promoting the town as a viable and popular tourist destination.
Are the necessary services with adequate capacity currently available, or must additional capacity be created to cater for the development.	Yes	The subject erf has a dwelling house and second dwelling unit which receive water from the municipality and is connected to the sewage network of the Municipality. The solid waste removal is done by the Municipality. Electricity is provided by Eskom.
Is this development the best practicable environmental option for this land/site?	Yes	This proposed guest house and tourist accommodation is the most practical environmental option as the property is situated in an approved township where the relevant specialist studies have been done to prove that the subject property is not situated on environmentally sensitive land.
Would the approval of this application compromise the integrity of the existing approved and credible municipal IDP and SDF as agreed to by the relevant authorities?	No	As this motivation will prove later on, the proposal is well aligned with the existing approved and credible municipal IDP and OMSDF.
Do location factors favour this land use?	Yes	The subject property is ideally located in Kusweg and enjoys a great sea view and will definitely contribute to attracting tourists to Sandbaai. With the new mall that is currently under construction in Sandbaai the location of the subject erf will also ensure that the guests have access to a wide variety of consumer goods.
How will the activity or the land use associated with the activity applied for, impact on sensitive natural and cultural areas?	No	The proposed buildings will not adversely impact on any sensitive natural areas and cultural areas.
Will the proposed activity or the land use associated with the activity applied for, result in unacceptable opportunity costs?	No	The proposed land use applied for will not result in unacceptable opportunity cost.
Will the proposed land use result in unacceptable cumulative impact.	No	The proposal will not have any adverse impact on the society and the environment.

6. OVERSTRAND MUNICIPALITY ACCOMMODATION ESTABLISHMENTS

The Overstrand Municipality Policy on Accommodation Establishments provides a set of guidelines that outlines the development parameters that are applicable for accommodation establishments. It is essential for the proposed guest house to be aligned with the guidelines and promote a sound short term rental facility for guests.

Guideline	Consistency of the application with the guideline
Up to 5 rooms need to apply for	This application is for the second dwelling unit to be

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Special Consent or a Departure from the Zoning Regulations. All rooms to be interleaving with the main dwelling.	utilised as tourist accommodation and for the main dwelling to have two rooms to be rented out to guests on a short term rental basis. The manager/owner and the family of the manager/owner will reside on the first floor of the subject property. There is no intention to rent out any rooms on the first floor for short term rental purposes.
Approved or proposed building plan, showing all B & B rooms	The building plan submitted with this application is to scale and clearly depicts where the existing second dwelling and dwelling house are located with the respective rooms.
A proper site plan, also indicating the parking layout, to scale.	The SDP that is to scale shows the positioning of the buildings with a parking layout. The parking layout and manoeuvring space is compliant with the requirements of the Overstrand Municipality Zoning Scheme.
Copy of the Title Deed,	A copy of the title deed is attached to the application and there are restrictive title deed conditions that are proposed for removal.
Meals/liquor may be served to residents only.	All meals in the main dwelling will only be served to guests. The second dwelling unit which is intended to be a self-catering unit as it has a kitchen.
If meals are prepared and provided to guests a Certificate of Acceptability must be obtained from the municipal Health Department. (See Annexure B)	The property owner will follow all the processes as prescribed by the Municipal Health Department to ensure that the meals provided are hygienically prepared.
Liquor may only be sold to residents of the guesthouse.	Liquor will only be sold to residents of the guest house.
The owner/manager must occupy the premises personally.	The owner/manager and the family of the owner/manager will occupy the main dwelling.
An approved unilluminated advertising sign to a maximum size of 2000 cm ² may be displayed. Any other signage not on the property must be applied for separately at the Tourism Bureau.	The subject property will comply with the Overstrand Municipality By-Law Relating to Outdoor Advertising and signage.
One or more fire extinguishers must be provided to the satisfaction of the municipal Head of the Fire Department. Obtain specifications regarding fire extinguishers.	There will be one or more fire extinguishers on the subject property and will be to the satisfaction of the Head of the Fire Department.

6.1 Services

For the proposed development to be viable it is necessary for services such as water, sewage, electricity and roads to be available. The owner will ensure that all required services are in compliance with municipal standards.

6.1.1 Water

The water to the subject property is provided by the Overstrand Municipality.

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6.1.2 Traffic impacts, parking access and other transport related considerations

Access to the property is gained from Kusweg. A double garage and 3 parking bays are provided on the property. The parking layout configuration has been designed in a manner to ensure the safety of pedestrians and motorists.

6.1.3 Electricity

Electricity on the subject property is provided by Eskom.

6.1.4 Sewer

The subject property is connected the Municipal sewer network.

7. ZONING OVERLAY

The zoning of the property is Residential Zone 1: Single Residential (SR1) in terms of the Overstrand Municipality Zoning Scheme, 2013.

The parameters associated with this zoning, development parameters of the proposal was assessed for compliance:

Residential Zone 1: Single Residential			
	Parameters	Proposal	Comply or deviate
Primary use	Dwelling house , day care centre, guest rooms, home occupation and second dwelling unit .	Existing dwelling house and second dwelling unit.	Comply
Consent use	Crèche, guest house , green house, house shop, institution, place of instruction, place of worship, residential building and tourist accommodation .	Tourist accommodation and guest house	Deviate/applied for
Land Use Restrictions			
Coverage	50% = 357m ²	288m ² = 40%	Comply
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.	4,5m	Comply
Side and Rear building line	Side and Rear building lines for erven greater than 400m ² are 2m.	Comply	Comply
Height	8 m measured from the base level to the top of the roof.	Comply	Comply
Garages and carports	Garages and carports may be constructed within the building lines in accordance with 16.1.2.	N/A	N/A
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.	Required <ul style="list-style-type: none"> • A garage which can accommodate two cars for the manager. • One parking bay for the 	Comply

	2 bays per establishment (owner/manager) Tourist accommodation and guest rooms 1 bay per 2 persons accommodated	tourist accommodation. • Two parking bays for the two guest rooms. Provided • A garage which can accommodate two cars. • Three parking bays.	
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8. SPATIAL PLANNING INITIATIVES

Spatial planning initiatives

The proposed removal of restrictive title deed conditions and consent use application was assessed for consistency with the existing spatial planning initiatives. This is to ensure that the development does not deviate from the spatial planning initiatives and is in line with the structure form that is envisaged by Local and Provincial Authorities.

Provincial Spatial Development Framework 2014 (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

The spatial logic following refers to the physical and socio-economic manifestation of activity within a neighbourhood.

Spatial logic	Alignment of the proposal with the spatial logic.
<p>“Capitalise and preserve unique local built form and natural typologies, character and heritage”</p>	<p>The character of this part of Sandbaai is predominantly single residential and this proposal will maintain the residential character and look of the subject property. The location of the subject property with an excellent view of the ocean would also contribute to making the tourist accommodation a popular destination for tourists who seek a tranquil environment. The proposed tourist accommodation and guest house will therefore blend in with the character of the area.</p>
<p>“Promote urban rather than suburban model: avoid further fragmentation of townships.”</p>	<p>The subject property is located within a well-defined urban edge and the proposed tourist accommodation and guest house will maintain the character of the town and not fragment it in any way.</p>
<p>“Focus on creating connections to economic and social opportunity to promote spatial and socio-economic integration”</p>	<p>The tourism industry is one of the dominant economic drivers of the Overstrand Municipality. The proposed development seeks to capitalise on this tourism opportunity by contributing to socio-economic integration by unlocking employment opportunities in Sandbaai.</p>
<p>“Cluster all social facilities and complementary activities”</p>	<p>The location of the subject property within a residential area will ensure that the proposed tourist accommodation creates a complementary linkage with the surrounding environment.</p>

Overstrand Municipality Spatial Development Framework (OMSDF)

The objective of the OMSDF 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

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inhabitants and the environment in the Overstrand Municipality. The OMSDF is guided by a set of objectives and the consistency of the proposed land use will be assessed with these core objectives.

According to the OMSDF the future detailed planning for the area must provide a sustainable balanced land use pattern which would provide future residents with a desirable environment in which to "live, work and play". The intention of the proposed development is for a guest house and tourism accommodation that fits in with the character of the town.

Local spatial development principles for the Greater Hermanus	Alignment of the proposal with the local spatial development principles
Conservation of cultural heritage resources, including the character of the historical fishing/holiday settlement areas of Hermanus and Onrust, the number of buildings of historical, architectural and social value.	The great ocean view the subject property has, opens up numerous tourism opportunities. The subject property is also highly accessible and proposal for this development in a single residential area will maintain the existing cultural heritage, architectural and social value in Sandbaai.
The provision of a range of residential housing types and appropriate densification strategies in order to retain the character of Greater Hermanus, while ensuring appropriate growth to address the growing population housing needs.	This proposal seeks to contribute to creating a harmonious integrated permanent and short term rental environment in Sandbaai and is within the immediate densification context of surrounding properties. This will ensure that the proposal contributes to providing the residents and tourists with a wider variety of accommodation within the growing and dynamic town of Sandbaai.
Promote Greater Hermanus as a tourism destination.	The intention of the proposed tourist accommodation and guest house is to contribute to promoting the greater Hermanus as a popular and viable tourist destination.
Contain the urban footprint of Greater Hermanus within a well defined urban edge.	This proposal is within a well-defined urban edge and will contribute to combating urban sprawl.

The Spatial Proposal Plan in the OMSDF outlines that the subject property is earmarked for residential development. The proposed development does not seek to alter the residential zoning of the property.

Overstrand Municipal Growth Management Strategy (OMGMS 2010)

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. It will be outlined how the proposed development will contribute towards the aims and objectives of this strategy.

Objectives	Alignment of the proposal with the objectives
Protect, manage and enhance the natural and built environment and landscapes.	The proposal seeks to protect the residential character in Sandbaai. The operation of the proposed tourist accommodation will also require the property owner to continually maintain and make improvements to the subject property and that will contribute to enhancing the streetscape.
Support the development of mixed land uses, providing for vitality, opportunities, opportunities and integrated living environments.	This proposal essentially seeks to contribute to a mixed permanent and short term residential accommodation in Sandbaai. This in turn will contribute to integrated living environments.
Ensure that the scale and character (in terms of bulk, height, and architectural styling) of the higher density areas are appropriate to the immediate context.	The scale, height, character and architectural styling of the subject property are within the immediate context and character of the street and will preserve the existing character of the area.
Contribute to place making and the development of attractive and safe urban environments.	The proposed tourist accommodation fits into the place making characteristics of Kusweg. The additional surveillance by the guests will also contribute to more safe urban environments.
Ensure optimal land use planning and the efficient use of infrastructure, services, facilities and land.	This application seeks to efficiently utilise the services and infrastructure that is available to the property.

The subject property is located in Planning Unit 3 and no densification is proposed for this planning unit and this proposal does not seek to increase the density on the subject property.

Consistency with the various planning principles

The analysis of the spatial planning initiatives has provided a clear and complete explanation of the alignment of the proposal with the relevant guidelines. The proposal is consistent with the PSDF, OMSDF and OMGMS and can be deemed as encompassing the core objectives of planning as set out in the documents.

9. PLANNING PRINCIPLES

An analysis of the applications' consistency with the planning principles was analysed. These spatial planning principles are in terms of Section 42 of the Spatial Planning and Land Use Management Act, 2013 and also Chapter VI of the Land Use Planning Act, 2014.

Planning principles	Consideration and impact
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 tourist accommodation and guest house will not in any way contribute to perpetuating the spatial imbalances caused by apartheid spatial planning.
Spatial Sustainability	

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<p>"A spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscape and ultimately limits urban sprawl."</p>	<p>The tourist accommodation and guest house will not in any way compromise on agricultural land, environmentally sensitive and biodiversity rich areas as well as the scenic and cultural landscape and will not cause urban sprawl.</p>
<p>Efficiency "Efficiency refers to the need to create settlements that optimise the use of space, energy, infrastructure, resources and land."</p>	<p>This proposal seeks to optimise on the development potential that exists on the subject property in a manner that is compatible with the surrounding environment within sound town planning principles.</p>
<p>Spatial Resilience Spatial resilience in the context of land use planning refers to spatial plans, policies and land use management systems should enable the communities to be able to resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner.</p>	<p>The Department of Environmental Affairs and Development Planning (DEADP) and the Overstrand Municipality have compiled spatial policies that promote resilience in land use management. As the motivation in the spatial planning initiatives has proven, the proposed tourist accommodation and guest house is well aligned with the different planning development frameworks as set out by the competent authorities and promotes resilience. The fact that the subject property is spatially resilient will enable it to absorb and accommodate shocks whether they are economic or environmental in a timely and efficient manner.</p>
<p>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.</p>	<p>The Overstrand Municipality has an integrated consultative planning process where the application is advertised to the general public and comments on the application are made by the general public. WRAP will also respond to the comments of the general public and this will ensure that a joint planning approach is pursued.</p>

The proposed consent use application is aligned with the core planning principles as outlined in SPLUMA and LUPA. The proposed consent use application can therefore be viewed as encompassing and promoting all planning principles.

10. EVALUATION

The synopsis will outline how the proposed development is practicable and viable on the site. The evaluation will consider site specific circumstances and how the application fits into the character of the area.

Application

Removal of title deed restrictions 2(a), 2(b), 2(c) and 2(d) from Title Deed T31833/2010;
Consent use for tourist accommodation on Erf 106 Sandbaai; and
Consent use for a guest house on Erf 106 Sandbaai.

Character of the environment

The subject property is located in Kusweg and enjoys a great sea view which will result in the subject property potentially contributing to the sea front properties in Sandbaai being a popular tourist overnight destination.

Title deed

- There are restrictive title deed conditions which have to be removed for the viability of this proposed development.
- Restrictive condition 2 (c) needs to be removed, in order to ensure that the second dwelling unit is accommodated.
- Restrictive conditions 2 (a), 2 (b) and 2 (d) also need to be removed as a means to ensure that the subject property enjoys the same development parameters that other properties enjoy in the Overstrand Municipality Zoning Scheme for Residential Zone 1: Single Residential.
- The removal of the restrictive title deed conditions will be to the benefit of the property owner and enable the owner to enjoy the same development rights as other properties with the same Residential Zone 1: Single Residential zoning in the Overstrand area without the restrictive conditions.

Desirability

- This application is well aligned with the PSDF, OSDF and OMGMS.
- There is a definite need to promote Sandbaai as a tourist destination with the intention of contributing to economic growth in the town.
- There are adequate services which exist on the subject property.
- The property is located within an approved township and is not located on environmentally sensitive land.
- The subject property is ideally located as it enjoys a great sea view and will be a popular destination.
- The implementation of what is applied for will not impact adversely on sensitive natural cultural areas, not result in unacceptable opportunity cost and not adversely impact on society.
- This proposal will not adversely impact on the existing rights of neighbours and the current property owner.

Overstrand Municipality Accommodation Establishments

- The second dwelling unit is proposed as tourist accommodation and the primary dwelling unit is proposed to have two guest rooms and the owner/manager will reside on the first floor main dwelling with the family. The proposed building plan shows all the lettable rooms applied for.
- The SDP and parking layout is to scale and complies with provisions in the Overstrand Municipality Zoning Scheme.
- The second dwelling unit will be for self-catering.
- Signage will be compliant with the Overstrand Municipality By-Law Relating to Outdoor Advertising and signage.

Services

Water: water on the subject property is provided by the Overstrand Municipality.

Traffic and parking: access is gained from Kusweg and there is a double garage and 3 parking bays provided.

Electricity: electricity is provided by Eskom

Zoning overlay

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- The application is for the second dwelling unit to be utilised for the purpose of tourist accommodation and this is accommodated under a consent use.
- The extent of the building is below the permissible coverage of 50%.
- A garage which can accommodate two cars for the owner/manager and three parking bays are provided and only three parking bays are required for the tourist accommodation and guest house.

Spatial planning initiatives

Provincial Spatial Development Framework

- The proposal seeks to capitalise on the tourism opportunity that the view of the ocean presents the subject property.
- This proposal will not contribute to the fragmentation of the township as it is located within a well-defined urban edge.
- The proposed tourist accommodation and guest house will also contribute to socio economic integration on the subject property.
- The proposed tourist accommodation will also contribute to creating a complementary linkage with the residential character of the area.

Overstrand Municipality Spatial Development Framework (OMSDF)

- The proposal seeks to contribute to creating a harmonious intergrated living between permanent residents and tourists who rent on a short term basis.
- This application will also meet the tailored accommodation needs of the growing population of Hermanus.
- The proposal also seeks to contribute to making the Greater Hermanus a viable tourism destination.
- This proposal is within the urban edge and will contribute to combating urban sprawl.

Overstrand Municipal Growth Management Strategy (OMGMS 2010)

- The proposed tourist accommodation and guest house is within the scale, height, character and architectural styling of the immediate context.
- This proposed tourist accommodation and guest house will also efficiently utilise the services on the property.
- The proposed tourist accommodation will also contribute to protecting the residential character of Sandbaai.

Consistency with the planning principles

Spatial justice: the tourist accommodation and guest house will not in any way perpetuate the spatial development imbalances caused by apartheid planning.

Spatial sustainability: the tourist accommodation and guest house will not compromise on agriculturally viable land, biodiversity rich areas and will not cause urban sprawl.

Efficiency: the tourist accommodation and guest house seeks to optimally capitalise on the residentially related development potential that exists on the subject property in an efficient manner.

Spatial resilience: the tourist accommodation and guest house is well aligned with all the relevant spatial planning policies that have been created by DEADP as well as the Overstrand Municipality is therefore spatially resilient and will therefore absorb economic and environmental shock.

Good administration: the Overstrand Municipality has an inclusive and efficient public participation process where the comments from the public will be taken into consideration and ensure a joint planning approach between WRAP, Municipal Officials and the public.

269

GUTHRIE & THERON
 POSBUS 37
 HERMANUS
 7200

Opgestel deur my

TRANSPORTBESORGER
 VAN ROOYEN J P

<p>FEE</p> <p>R. 800.00</p>

T 031833 / 10

TRANSPORTAKTE

HIERBY WORD BEKEND GEMAAK DAT

PETRA VAN NIEUWHOLTZ

voor my verskyn het, REGISTRATEUR VAN AKTES te Kaapstad, hy die genoemde komparant synde behoorlik daartoe gemagtig deur 'n Volmag aan hom verleen deur

MICHAEL BARTENS
 Identiteitsnommer 580610 5144 08 8
 Ongetroud

geteken te HERMANUS op 9 April 2010

DATA/CAPTURED

06 JUL 2010

ZAWULA THULANI

DATA / VERTEK

12 JUL 2010

VAN WYK JENNY

En genoemde Komparant het verklaar dat sy prinsipaal, op 16 Maart 2010, waarlik en wettiglik verkoop by Privaat ooreenkoms, en dat hy, in sy voorgenoemde hoedanigheid hierby sedeer en transporteer aan en ten gunste van

JESSIE MARAIS HATTINGH
 Identiteitsnommer 530307 0037 08 3
 Getroud buite gemeenskap van goed

Haar Erfgename, Eksekuteurs, Administrateurs of Regverkrygendes ,

ERF 106 SANDBAAI IN DIE OVERSTRAND MUNISIPALITEIT
 AFDELING CALEDON
 PROVINSIE WES-KAAP

GROOT 714 (SEWE HONDERD EN VEERTIEN) Vierkante Meter

EERSTE OORGEDRA kragtens Transportakte Nommer T22764/1947 met Kaart Nommer 6802/46 daaraan geheg en gehou kragtens Transportakte Nommer 13158/2001.

A. **NIE ONDERHEWIG** aan die voorwaarde A op bladsy 2, ^{van T13158/2001} kragtens Artikel 53 van die Myn Titel Registrasie Wysigings Wet 24 van 2003. 

B. **ONDERHEWIG VERDER** aan die volgende spesiale voorwaardes vervat in gesegde Transportakte Nr. T22764/1947:-

1. Synde opgelê vir die voordeel van Sandbaai Seaside Estate Company (Proprietary) Limited as eienaars van die restant van Perseel 3 van die plaas Onrust River deur hulle gehou kragtens Transportakte Nommer T11466/1929 en die eienaars van erwe in Sandbaai Dorp alreeds getranspoteer of wat nog in die toekoms getranspoteer moet word onderhewig aan soortgelyke voorwaardes:-

(a) Die Maatskappy behou vir homself en sy opvolgers in regte 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 die skriftelike toestemming van die Direkteure van die Maatskappy of sy opvolgers in regte, te verkry.

- 3 -

- (b) Die Maatskappy en sy opvolgers sal nie geregtig wees om die grond liggende tussen die erwe verkoop as seefronterwe en die see, in erwe te verdeel en/of te verkoop nie.
- (c) Dat geen gebou opgerig sal word op die hierbokeskrywe 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 hierbokeskrywe 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 hierbokeskrywe eiendom, met die verdere reg om hulle aan enige gebou van watter aard ookal te laat vassit, nie minder as 3,05 meter van die grond af, met reg van toegang tot sulke lyne vir die doel om hulle te verwyder of in orde te hou.
- (f) Die Maatskappy behou die reg 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 hierbokeskrywe grond of op enige ander plek, en te 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 as nodig mag blyk vir die gerief van die inwoners van die dorpsgebied in verband met die verskaffing van water aan hulle.
- (h) 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 hierbokeskrywe grond deur middel van putte of boorgate op sulke grond gegrawe of geboor.

2. Opgelê is deur die Administrateur met die goedkeuring van die Dorpsgebied:-

- 4 -

- (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 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.

For Information Only

- 5 -

WESHALWE die komparant afstand doen van al die regte en titel wat

MICHAEL BARTENS , Ongetroud


voorheen op genoemde eiendom gehad het, en gevolglik ook erken het dat hy geheel en al van die besit daarvan onthef en nie meer daartoe geregtig is nie en dat, kragtens hierdie akte, bogenoemde

JESSIE MARAIS HATTINGH , Getroud soos vermeld

Haar Erfgename, Eksekuteurs, Administrateurs of Regverkrygendes, tans en voortaan daartoe geregtig is, ooreenkomstig plaaslike gebruik, behoudens die regte van die Staat en ten slotte erken hy dat die verkoopprijs die bedrag van R2 700 000,00 (Twee miljoen Sewe Honderd Duisend Rand) beloop.

TEN BEWYSE WAARVAN ek, genoemde Registrateur, tesame met die Komparant hierdie Akte onderteken en dit met die ampseël bekragtig het.

ALDUS GEDOEN EN VERLY op die Kantoor van die REGISTRATEUR VAN AKTES te Kaapstad op 28 Junie 2010



q.q.

In my teenwoordigheid



REGISTRATEUR VAN AKTES

269

① 1-6/10

GUTHRIE & THERON
P O BOX 37
HERMANUS
7200

Prepared by me


CONVEYANCER
VAN ROOYEN J P

POWER OF ATTORNEY TO PASS TRANSFER

I, the undersigned

MICHAEL BARTENS
Identity Number 580610 5144 08 8
Unmarried

do hereby nominate and appoint

PETRA VAN NIEUWHOLTZ

with power of substitution to be my true and lawful Attorney and Agent in my name, place and stead to appear at the Office of the REGISTRAR OF DEEDS at Cape Town or any other competent official in the Republic of South Africa and then and there to act as my Attorney and Agent and to pass transfer to:

JESSIE MARAIS HATTINGH
Identity Number 530307 0037 08 3
Married out of community of property

the property described as:

ERF 106 SANDBAAI IN THE OVERSTRAND MUNICIPALITY
DIVISION CALEDON
PROVINCE WESTERN CAPE

IN EXTENT 714 (SEVEN HUNDRED AND FOURTEEN) square metres


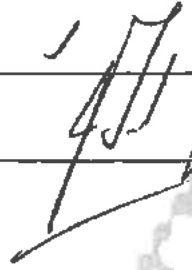
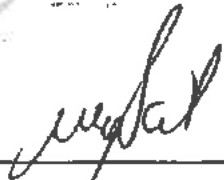
HELD BY Deed of Transfer Number T13158/2001

the said property having been sold by me on 16 March 2010, to the said transferee/s for the sum of R2 700 000,00 (Two Million Seven Hundred Thousand Rand)

and further cede and transfer the said property in full and free property to the said Transferee; to renounce all right, title and interest which the Transferor heretofore had in and to the said property, and generally, for effecting the purposes aforesaid, to do or cause to be done whatsoever shall be requisite, as fully and effectually, to all intents and purposes, as the Transferor might or could do it personally present and acting therein; hereby ratifying, allowing and confirming all and whatsoever the said Agent/s shall lawfully do or cause to be done in the premises by virtue of these presents.

Signed at Hermanus ✓ on 9th April 2010 ✓
in the presence of the undersigned witnesses.

AS WITNESSES :

- 1.  _____
 - 2.  _____
- 
MICHAEL BARTENS

For Information Only





Overstrand Municipality

16 Paterson Street

Hermanus

7200

FILE NO: EL 106 - HSB
SCAN NO: 14
COLLABORATOR NO: 1049647

ANNEXURE E 1/3
TP- A Theart
(H Boshoff)



J B Burmeister

29 Second Avenue Claremont 7708
Email: burmarch@talkomsa.net
Tel 021-6713403

Attention: Mr H. Boshoff

6th July 2017

Ref: Erf 106, 38 Beach Road, Sandbaai
106 HSB (3634)

RE: Erf 106, 38 Kus Weg, Sandbaai, Application for removal of restrictive title conditions and consent uses.

Dear Sir,

As the owner of erf 107, Marine Drive, in Sandbaai, I hereby wish to record my objection to the above application:

We object to the removal of title conditions 2(a), 2(b) and 2(d), as well as the consent applications.

1. The property is zoned single residential (SR1) and as such the title conditions were placed (for good reasoning) on all our properties to protect the integrity and nature of the surrounding properties. Removal of title conditions require a serious motivation backed by sound reasoning why these conditions are either removed or amended. To simply remove all conditions without excellent reasons why this would benefit not only the owner, but the general neighbourhood, is both simplistic and irresponsible. No reasons are forwarded by the Applicant to motivate for any change that will necessitate such removal of clause 2(a) – the approval for a second dwelling unit is already an intrinsic right in terms of the zoning restrictions so we see no reason why the Planners' indicate why "the property owner needs to utilise the property for other purposes" unless the true nature of the application is not being made clear to us. We, as neighbours, are not being indicated the true intentions of the owner if there is already such wording as "for other purposes".

To simply "obliterate any regulatory and legislature overlapping and contradictions" is both naïve and vague and with no reason at all to remove the said condition, it needs to be maintained.

2. Secondly, the clause 2(b) was clearly inserted in the title deed to protect the said street frontage and character from smaller sub-divisions, which would negate the value of the neighbourhood which would appear to be in conflict with the aims and origins of the Planners' who established the original township. Such clauses are inserted to protect the

TP
6 JUL 2017

value of seaside properties and prevent ad-hoc potential sub-divisions. If a sub-division is anticipated it should be stated clearly in terms of intentions, failing which the removal of such has no validity and needs to be omitted.

The Planners' justification noting that "these documents are modern planning tools that have been compiled to respond to the current development trend and pressures within the Municipality", is absolute rubbish, and the further statement noting that the "removal of this restrictive condition will therefore seek to eliminate regulatory duplication", has no relevance at all and gives no valid reason for the Clause to be removed.

3. Thirdly, the clause 2(d) – the 4.72m title condition setback from the road indicates even further confusion by the Planners' report. They note that "the existing building are encroaching on the title deed building line and it is therefore essential for this restrictive title deed to be removed." The plan attached to the application indicates that the existing house is set behind the 4.72m title condition. Again, no compelling reason is given as to why it should be removed and this condition, in particular, we will vigorously oppose. Our property, erf 107, lies due east of erf 106 and any extension over the 4.72m title deed line will directly affect us in terms of privacy, overshadowing and loss of sunlight.

In this regard, we strongly reserve our rights to take the matter further and will serve due notice on the Applicants in due course. The plan attached indicates new stairs being built over by 200mm – why are the existing stairs not acceptable? Is building new stairs reason enough to remove a title condition? We think not! The matter of the second dwelling is a long-standing joke in the community as it has been common knowledge to all, that there exist 3 dwellings, not 2 on the said erf 106. This, I noted in my objection way back in 2015 on the same property. Even when the house was put up for sale in 2015, the house was advertised as having multiple units and an inspection on site showed 3 kitchens in use. However, the said units, which constitute a block of flats and require a re-zoning, do not materially affect us in their current form, as the property currently is housing multiple tenants at the rear and has been doing so for many years, without affecting the main house in front.

The plan submitted and the demarcation of the areas to be utilised are now literally enabling a formal block of flats comprising of 4 living units (couched as guest units). We are of the opinion that further multiple tenants will occupy erf 106 and the guest house is merely a "front" to allow this to occur. If one compares this to the formal guest houses in close proximity one can see that no communal kitchen/ dining areas are catered for. In fact, the best rooms for the guest house face a courtyard and not the sea view which makes no sense at all. The direct access from the guest unit to the main house implied something very different from that advocated by the Applicant. We believe this application constitutes "invasion of intent" by the Applicants. This application, indeed, is in direct conflict with the OMSDF which seeks to promote the retention of erven zoned SR1 for use as a family residence which, in turn, maintain the quality of the neighbourhood. If the intention is to rent out multiple tenancies within 1 erf, then a re-zoning needs to be applied for.

In conclusion, we request an interview with the Planning Board when this application is discussed and request a formal site inspection of the property, with the Municipal Officials present to explain our concerns. The motivation report has indeed provided a "clear analysis" of the Owners' intent and nowhere in the Applicants report does the proposal conclusively provide evidence that the application is in the Public's interest or will benefit the Public at large.

For this reason, we respectfully request that the application for the removal of the title deed clauses 2(a), (b) and (d) be refused. Removal of clause 2(c) will merely legalise the current scenario that exist so we are accepting of this clause being removed to enable at least, a double dwelling.

We further object to the consent use for a guest house with 3 lettable rooms, of which only 2 separate are clearly indicated, whilst one links directly to the main house! Indeed, we are most surprised that the owner chose this route rather than discuss this with us and we trust that they will facilitate a meeting as neighbours.

Yours faithfully,



J.B. Burmeister
(Owner of erf 107)




TR A Thant
CH Olivier

ESTABLISHED
2002

Town and
Regional
Planning

Municipal
Legislation
and Procedures

Liquor
Licensing

Development
Management

35 Duiker Street
P O Box 1247
Hermanus
7200

Tel: +27 (0)28 313 1411

Fax: +27 0865083248

Email:
wrap@telkomsa.net

Web:
www.wrapgroup.co.za

Wright Approach
Investments 136 CC

Reg No
CK 2002/060745/23

Our reference: 17/003
Your reference: 106 HSB (3634)

14 August 2017

The Municipal Manager
Overstrand Municipality: Hermanus Administration
P O Box 20
HERMANUS
7200

Sir

ERF 106 SANDBAAI, APPLICATION FOR A REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE

An objection to the application on the abovementioned property was received from:

J B Burmeister (owner of Erf 107 Sandbaai), letter dated 6 July 2017.

The objection to the application was categorised in the following points and our comments are given after each point.

1. **No reasons are forwarded by the applicant to motivate for any change that will necessitate such removal of clause 2 (a).**
Section 4 of the motivation report on page 8 motivates that the primary uses on Residential Zone 1: Single Residential zoning are not exclusively residential. The removal of this restrictive condition would therefore eliminate regulatory overlapping.
2. **The approval for a second dwelling unit is already an intrinsic right in terms of the zoning scheme restrictions so we see no reason why the planners indicate why "the property owner needs to utilise the property for other purposes" unless the nature of the application is not made clear to us.**
A second dwelling unit is a primary right in Residential Zone 1: Single Residential zoning as highlighted by the objector. The objector however negates that the title deed of Erf 106 Sandbaai has a restrictive condition 2 (c) which prohibits a second dwelling unit. This restrictive prohibition therefore is in contrast with the Overstrand Municipality Zoning Scheme, 2013 and in contrast with the consent use for tourism accommodation which is applied for. The proposal for the removal of this restrictive condition therefore seeks to eliminate this stark regulatory contrast.
The objector quotes from the report "the property owner needs to utilise the property for other purposes" unless the nature of the application is not made clear to us.

The mentioned quote is devoid from the context of the report and what was intended. For clarity, Section 4 on page 8 of the report highlights that the property owner may at any point if she deems it necessary use the subject property for any other purposes and uses listed as primary rights in the Residential Zone 1: Single Residential Zoning. These other uses include a day care centre, guest rooms, home occupation and second dwelling unit. The nature of the application and other uses are therefore explicitly clear as motivated in the report.

FILE NO:	EL 106
	Sandbaai
SCAN NO:	24
COLLABORATOR NO:	1064875



8. However, the said units, which constitute a block of flats and require a re-zoning, do not materially affect us in their current form, as the property currently is housing multiple tenants at the rear and has been doing so for many years, without affecting the main house in front.

The nature of current residential land use on the subject property and what is proposed in this application cannot constitute a block of flats as the scale of the activities are either a primary right or a consent use as applied for in the motivation report. The intention of this application is made clear in the motivation and the property owner will only convert to the proposed land uses should this application be approved.

9. The plan submitted and the demarcation of the areas to be utilised are now literally enabling a formal block of flats comprising of 4 living units (couched as guest units). We are of the opinion that further multiple tenants will occupy erf 106 and the guest house is merely a "front" to allow this to occur. If one compares this to the formal guest houses in close proximity one can see that no communal kitchen/ dining areas are catered for. In fact, the best rooms for the guest house face a courtyard and not the sea view which makes no sense at all. The direct access from the guest unit to the main house implied something very different from that advocate by the applicant.

The objector is making allegations which are inconsistent with the intention of the owner of Erf 106 Sandbaai as motivated in the motivation report. The unfounded pre-emption of the future uses of the subject property by the objector are unsupported by empirical or theoretic evidence.

10. This application, indeed, is in direct conflict with the OMSDF which seeks to promote the retention of erven zoned SRI for use as a family residence which, in turn, maintain the quality of the neighbourhood.

A fundamental aspect of the motivation report was to illustrate that the zoning on the subject property will be unaltered should this application be approved. It was also illustrated that this proposal is aligned with the OMSDF, and that the approval of this application will contribute to enhancing the valued quality of the Sandbaai neighbourhood.

Conclusion

All the objections of the objector were adequately addressed in the motivation report and this comment.

Yours faithfully

A handwritten signature in black ink, appearing to read "Rea Jankie", written in a cursive style.

REA JANKIE

TOWN PLANNER

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS &
CONSENT USE: ERF 106, SANDBAAI (3634)**

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

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the 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 any commercial food preparation facilities (e.g. restaurant / guest house etc.) must be provided with a grease trap, which must comply with the standards and specification of the Department: Operational Services;
4. that, 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;
5. that stormwater be allowed to discharge through Erf 106, Sandbaai, unobstructed;
6. that no on-street parking be allowed.



**DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES**

6/7/2017.

DATE



OFFICE of THE CHIEF FIRE OFFICER
PO BOX 20
HERMANUS
7200
Tel: 028 313 8980
Fax: 028 313 1493



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

ANNEXURE B – ERF 106 HSB, SANDBAAL, HERMANUS
TOWN PLANNING APPLICATION No: 106 HSB (3634)

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

Fire Extinguishers:

SANS10400T:2011 – 4.37:

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

Combustibility of Floor Coverings:

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

Combustibility of Wall Coverings:

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

SANS10400T:2011 – 4.58 require the provision of:

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

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

These plans must include:

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

Chief Fire Officer



OFFICE of THE CHIEF FIRE OFFICER
PO BOX 20
HERMANUS
7200
Tel: 028 313 8980
Fax: 028 313 1493



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

ANNEXURE A – ERF 106 SANDBAAL, HERMANUS
TOWN PLANNING APPLICATION No: 106 HSB (3634)

The operation of Holiday/Tourist accommodation is subject to compliance with following requirements together with any other building compliance requirements as prescribed:

Fire Extinguishers:

SANS10400T:2011 – 4.37:

1 x Portable Fire Extinguisher per 100m² of a type - 4.5kg Dry Chemical Powder, 5kg CO2 or 9 litre H2O.

Combustibility of Fitted Floor Coverings:

all comply with requirements of Section 4.14 of SANS10400T:2011 - Table 8.

Combustibility of Internal Finishes:

Shall comply with requirements of Section 4.15 of SANS10400T:2011 - Table 9.

SANS10400T:2011 – 4.58 require the provision of:

- Escape route signs – Photoluminescent SANS1186-5 in all passages and corridors and also above all exit doors.
- Self-contained luminaires (automatic actuating battery operated lights) in all passages and corridors
- Stand-alone smoke alarms compliant with the requirements of European Standard EN14604 in each:
 - Sleeping room
 - Communal area
 - Passage or corridor leading to rooms
- Fire Hose Reels for premises larger than 250m² at a ratio of 1 per 500m² of the establishment. (A dedicated 30 metre 19mm Garden Hose may be an alternative due to water supply connection restraints however this must be compensated with the provision of an addition of 2 x 4.5kg Dry Chemical Powder Fire extinguishers)
- Doors leading to the outside of the building with single turn locks or any other lock device approved by the Fire Authority.

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

These plans must include:

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

Maximum design occupancy total of 16 persons as prescribed by section A21 Table 2 of National Building Regulations SANS10400A:2010 i.e. 4 x 4 sleeper or 8 x 2 sleeper rooms.



TP A Theard
(C H Olivier)

Division of Telkom SA SOC Ltd

10 Jan Smuts Drive
Pinelands
7404

FILE NO:	Candice Spammer
EL 106 SB v	Tel: 021 414 5582
SCAN NO:	Fax: 086 480 0617
	Email: spammec1@telkom.co.za
COLLABORATOR NO:	Our Ref.: WWIP_WHMN2508_17
1059730	Your Ref.: 106 HSB 3634

01 August 2017

Attention: S Muller

Overstrand Municipality
HERMANUS

**WAYLEAVE: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USES: ERF 106, 38
BEACH ROAD, SANDBAAI**

With reference to your application dated June 2017.

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.

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.

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



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.

As important cables are affected, please contact our representative Frederik Swart at telephone number 028 514 1199 / 081 363 7815 at least 48 hours prior of commencement on construction work.

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

This wayleave, Reference Number WWIP WHMN2508 17 is valid for 12 months from date hereof and is subject to the following conditions:

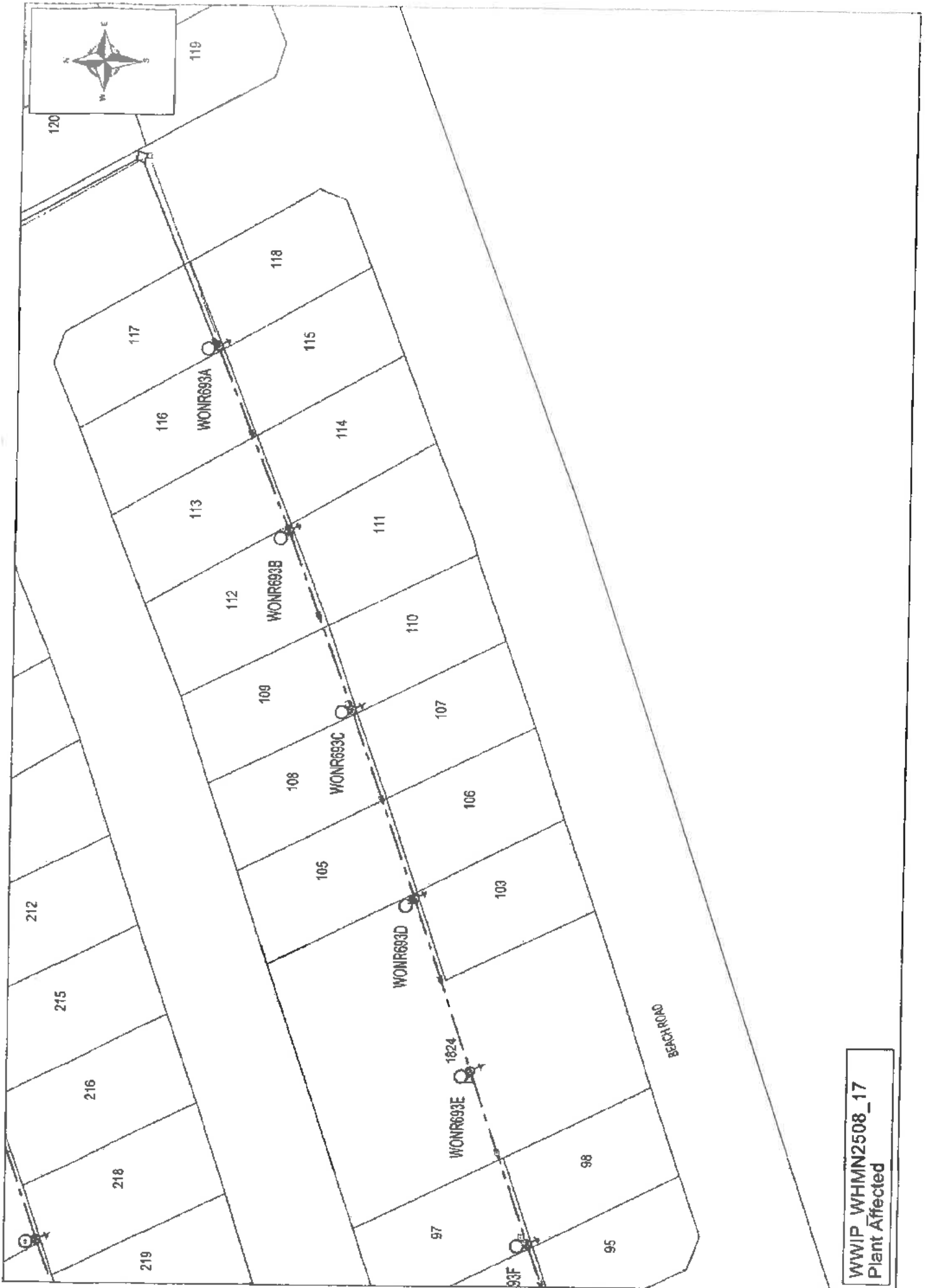
1. No mechanical plant or vibrator type compactors may be used within three meters of any Open Serve Plant (I.E. any Telecommunication equipment above or below ground level).
2. The position of our plant affected by the proposal is indicated as approximate and Frederik Swart at Telephone No 081 363 7815 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: 2017/08/01

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)	





WWIP WHMN2508_17
Plant Affected

Navrae:
Enquiries: H van der Stoep (Senior Town Planner)

Lêerverwysing:
File Reference: 106 HSB (2192)

Datum:
Date: 29 January 2015



**TOWN PLANNING / STADSBEPLANNING
HERMANUS**

Ms JM Hattingh
Private Bag X15
Suite 27
HERMANUS
7200

REGISTERED MAIL

Dear Madam

**ERF 106, 38 MARINE DRIVE, SANDBAAL, OVERSTRAND MUNISIPAL AREA :
PROPOSED DEPARTURE : JM HATTINGH**

With reference to your application regarding the above dated 23 October 2014, it is hereby confirmed that the matter was considered by the Senior Manager : Town Planning on 28 January 2015, and that it was resolved as follows:

RESOLVED :

"1. that in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), an application for departure from the Scheme Regulations on Erf 106, Sandbaai in order to relax a lateral building line from 2,0m to 1,1m to accommodate an existing garage and change of usage from a garage to a servant's quarters and store room and the existing servant's quarters be changed to an ablution facility, **be approved, subject to the following conditions:**

(a) that the building plan be amended as follows:

- (i) that the areas indicated as existing on new flatlet be removed and that the correct descriptions and alterations be in accordance with the conditions mentioned below;
- (ii) that the bedroom adjacent to the playroom be incorporated into the playroom and the division wall be demolished;
- (iii) that the en-suite bathroom be walled up and an outdoor ablution facility be installed that is accessible from outside only;
- (iv) that the storage facility's door to the eastern boundary be removed and walled, and
- (v) that the outside door in the passage between the double garage and the residential dwelling be removed as per approval dated 18 July 2014.

- (b) *that amended building plans be submitted to the Building Department for their final approval within three months from the decision letter;*
 - (c) *that all the conditions in the Service Report (attached as Annexure D), be complied with;*
 - x (d) *that no sub-letting of the structures and utilization of any of the structures as a second dwelling be allowed;*
 - (e) *that this approval does not absolve the applicant from compliance with any other relevant legislation;*
 - (f) *that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;*
 - (g) *that all renovations be done within six months of the approval, and*
 - (h) *that no occupation certificate or tax clearance be given within such time (six months of renovation), or building inspector submit a report of compliance.*
2. *that the applicant be notified of their right of appeal in terms of the provisions of Section 62 of the Municipal Systems Act, 2000 (Act 32 of 2000) with regard to the above decision."*

Your attention is drawn to your right of appeal to the Overstrand Municipality in terms of Section 62 of the Act on Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) within 21 days of date of registration of this letter. It needs to be noted, however, that the Council has resolved that all appeals in terms of Section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) must be accompanied with a deposit of R2,322.00, which deposit is refundable in total should the appeal be upheld.

Yours faithfully

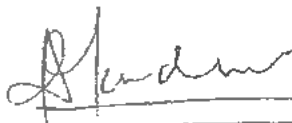

S. MÜLLER
DIRECTOR: INFRASTRUCTURE AND PLANNING

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR DEPARTURE: ERF 106, SANDBAAL (2192)**

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

Conditions:

1. 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;
2. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the developer's cost;
3. that no on-street parking be allowed;
4. that stormwater be allowed to discharge through Erf 106, Sandbaal, unobstructed.



**DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES**

20/3/2014

DATE



Navraag:
Enquiries: H van der Stoep (Senior Town Planner)

Lêervanwysing:
File Reference: 106 HSB (2192)

Datum:
Date: 18 July 2013

TOWN PLANNING / STADSBEPLANNING
HERMANUS

Mrs. JM Hattingh
Private Bag X15
Suite 217
HERMANUS
7200

REGISTERED MAIL

Dear Sir / Madam

**ERF 106, 38 MARINE DRIVE, SANDBAAI, OVERSTRAND MUNICIPAL AREA :
PROPOSED DEPARTURE : JM HATTINGH**

With reference to your application regarding the above dated 18 December 2012, it is hereby confirmed that the matter was considered by the Executive Mayor (acting under delegated authority during the recess period) on 16 July 2013, and that it was resolved as follows:

RESOLVED :

1. *that in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), application for a departure from the relevant Scheme Regulations on Erf 106, Sandbaai to relax the lateral building line from 2m to 1,77m in order to legalize the existing covered walkway between the house and garage on the property concerned, be approved, subject to the following conditions:*
 - (a) *that the door leading from the covered walkway, as indicated on Plan No. 1A dated 18 December 2012, be removed;*
 - (b) *that building plans be submitted for illegal building work within three months of the approval;*
 - (c) *that consent be obtained for the garage and if not that an application for a departure be submitted in this regard;*
 - (d) *that the new servant's quarters be omitted and revert back to store;*
 - (e) *that this approval does not absolve the applicant from compliance with any other relevant legislation, and*
 - (f) *that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.*
2. *that the objection be noted;*

3. *that the applicant and the objector be shown on their respective appeal rights with regard to the above decision, and*
4. *that the applicant/objector be notified of their right of appeal in terms of the provisions of Section 44 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) and/or the Municipal Systems Act, 2000 (Section 62) with regard to the above decision."*

Should you not be satisfied with the abovementioned decision, your attention is invited to your right of appeal to the Provincial Administration in terms of Section 44 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985). Any such appeal should be served on the Director: Integrated Environmental Management, Department of Environmental Affairs & Development Planning, Western Cape Provincial Government (Private Bag X9086, Cape Town, 8000) or if hand delivered to the Utilitas Building, 1 Dorp Street, Cape Town within 21 days of date of registration at the Post Office of this letter (with such registration day not included in the appeal period), provided where the last day of lodging an appeal falls either on a weekend or public holiday, it shall be deemed to be next working day thereafter. A copy of the appeal should simultaneously be served on the Municipality.

Your attention is further drawn to your right of appeal to the Overstrand Municipality in terms of Section 62 of the Act on Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) within 21 days of date of registration of this letter. It needs to be noted, however, that the Council has resolved that all appeals in terms of Section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) must be accompanied with a deposit of R2120.00, which deposit is refundable in total should the appeal be upheld.

Kindly note that in view of the fact that an objection has been received against the proposal, the rights are still not in place until the prescribed 21 days of registration of this letter have passed and it is confirmed by our offices that there has been no appeal received against the proposal.

Yours faithfully


 S MÜLLER
 DIRECTOR: INFRASTRUCTURE AND PLANNING