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ERF 322, 200 PIET RETIEF CRESCENT, SANDBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR THE REMOVAL AND AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS, SUBDIVISION, CONSENT USE AND DEPARTURE: MESSRS WRAP PROJECT OFFICE ON BEHALF OF PBL VERMEIREN

322 HSB (3763)

(H Boshoff)

S van der Merwe

15 February 2022

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Hermanus Administration

1. EXECUTIVE SUMMARY

An application was received on 9 March 2021 (amended application February 2022) from Messrs WRAP Project Office on behalf of the PBL Vermeiren, applicable to Erf 322, Sandbaai for the following:

- the amendment, in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), of restrictive Title Deed condition A.2.(a) as contained in Title Deed T39384/2019 applicable to Erf 322, Sandbaai to conduct a guesthouse from each portion after the subdivision of the property hereunder;
- the removal, in terms of Section 16.(2)(f) of the By-Law, of restrictive Title Deed condition A.2.(b) as contained in Title Deed T39384/2019 applicable to Erf 322, Sandbaai in order to subdivide the property in two portions;
- the subdivision, in terms of Section 16(2)(d) of the By-Law, of Erf 322, Sandbaai in two portions, namely Portion A ±705m² in extent and a Remainder ±874m² in extent;
- consent use in terms of Section 16(2)(o) of the By-Law to conduct a three-bedroom guesthouse from the above Portion A and a five-bedroom guesthouse from the above Remainder portion; and
- departure in terms of Section 16(2)(b) of the By-Law to deviate from the parking requirements by providing one of the five required parking bays for the three-bedroom guesthouse on the above Portion A, on the Remainder portion and to tie it with a notarial deed in favor of Portion A.

The restrictive Title Deed condition A.2.(a) read as follows:

“That the above erf or erven be used for residential purposes only.”

The proposed amendment of the above restrictive Title Deed condition A.2.(a) read as follows:

“That the above erf or erven be used for residential- and guesthouse purposes only.”

The restrictive Title Deed condition A.2.(b) read as follows:

“That the above erf or erven be not subdivided.”

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the Site Development Plan is attached as Annexure C. The title deed is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

Erf 322, Sandbaai is zoned as Residential Zone 1: Single Residential and is 1579m² in extent and is currently undeveloped.

4. SUMMARY OF APPLICANT'S MOTIVATION

The Motivation Report in support of the application is summarised as follows (only the main points are summarised - the detailed report is attached as Annexure B):

- ❖ The erf sizes in immediate area ranges from 679m² to 1579m² and the proposed portions are within the erf range size of the immediate area.
- ❖ The shape of the erven in the area is rectangular with the corner erven either being accessed through panhandles or being irregular. The subdivision of the property which is a corner erf would retain the irregular shape of the property and therefore retain the general character of the area.
- ❖ The average erf size in the immediate area is 800m² excluding the subject property. The subject property measures 1579m² and is out of character with the average erf size in the area. The proposed Portion A is 11,88% smaller than the average erf size and the proposed Remainder portion is 9,25% larger than the average erf size in the area.
- ❖ There are seven guest houses in proximity to the subject property in Piet Retief Crescent and Kusweg and conforms to the land use character of Sandbaai.
- ❖ The nature and scale of residential land uses are beyond what title the deed condition A.2.(a) initially intended for the property which is the rationale for the proposal. The condition was inserted in an era of low population growth and density and this condition was intended to protect the residential character. The trend of the current land uses has been sparked by Sandbaai increasingly functioning as a tourist destination which was absent when the settlement was initially established that now nullifies the relevance of the condition.
- ❖ Most erven in the southern side of Sandbaai measures $\pm 800\text{m}^2$ and Condition A.2.(b) was inserted to prohibit the further subdivision of these erven that would result in erven measuring $\pm 400\text{m}^2$ which would become too small and impractical for development as it would alter the urban form in a manner that was not envisaged by the initial planners of Sandbaai. The subject property is excessively large and out of harmony with the average erf size in the area. The trend is now that owners with large properties apply for the subdivision thereof to harmonise the size thereof with surrounding properties.
- ❖ All the development rules as set out in the Land Use Scheme will be complied with.
- ❖ The applicant will pay the prescribed bulk services levies to the Municipality.
- ❖ All services already exist in the area.
- ❖ Access to Portion A is proposed via a 3m right of way servitude registered over the Remainder portion.

- ❖ All parking for Portion A is proposed on the Remainder portion by way of a departure.
- ❖ The approval of the application will increase the value of the property that will increase the rates that will be collected by the Municipality.
- ❖ The establishment of the guesthouses are proposed on erven that are of similar sizes as the erven in the surrounding area that are not out of context with the surrounding area.
- ❖ A total of eight lettable rooms from both guesthouses is not excessively large that will not unlock land use rights that can lead to the discomfort of surrounding property owners.
- ❖ The application is consistent with the Provincial and the Municipality's spatial development policies.
- ❖ The application is in line with the planning principles as set out in more detail in the motivation report.
- ❖ The South African Economy is slowly recovering from the impact of Covid 19 since more sectors have been allowed to trade. The applicant therefore projects that by the time the approval has been implemented, the economic dynamics would have improved drastically thereby making the operation of the proposed guesthouses feasible.
- ❖ Employment will be created.
- ❖ Since the property is currently vacant it has the potential to attract unsavoury characters.
- ❖ The property does not trigger any Environmental or Heritage considerations.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	2 June 2021	9 July 2021
Gazette	Yes	4 June 2021	9 July 2021
Notices	Yes	31 May 2021	9 July 2021
Ward councillor	Yes		
Total comments	EIGHT (8)		
Total letters of support	ONE (1)		
Was public participation undertaken in accordance with Section 46 - 50 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
In case of application for removal, amendment or suspension of restrictive title conditions if notices in accordance with Section 35(3)(d) of the By-Law on Municipal Land Use Planning was served on all persons mentioned in the title deed for whose benefit the restriction applies.			N/A

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

Name	Date received	Summary of comments
Engineering Services	01/06/2021	Attached as Annexure G.
Telkom	18/06/2021	Attached as Annexure H.
Waste Management	07/07/2021	No objection. Provision needs to be made for sufficient waste storage area and containers on the two sites and properties to be billed on their monthly service account for the agreed number of containers to be utilized.
Building Department	13/08/2021	No objection. The building plan applications must comply with all applicable law.
Fire Department	30/08/2021	No objection subject to compliance with the provisions of SANS-A:2016, 10400-T: 2020 and the By-Law relating to Community Fire Safety.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Comments received

1. **Erf 323, Sandbaai** (S & R Swart. It must be noted that S & R Swart are not the registered owners of Erf 323, but the son and daughter of the registered owner. No power of attorney to object on behalf of the owner accompanied the objection and the objection must therefore be dealt with as an individual objection and not an objection by the registered owner.)
2. **Erf 1642, Sandbaai** (E Engelbrecht the spouse of the registered owner).
3. **DJ Cloete** (It must be noted that Mr Cloete does not reside in Sandbaai or own property in Sandbaai. He permanently resides in Johannesburg.)
4. **Erf 1296, Sandbaai** (HSB Schoeman).
5. **Erf 80, Sandbaai** (RG & L Beyer).
6. **Erf 81, Sandbaai** (W Guse).
7. **Erf 321, Sandbaai** (Mature Personhood NPC PBO).
8. **Erf 63, Sandbaai** (RJ Kilian).

Since various points of objections/comment are similar in nature only the main points of objection are addressed as follows. Some comments are in Afrikaans and is thus translated to English. (The detailed objections/comments are attached as Annexure E.

Point 1 of comments

I have not yet received any written notice regarding this project. According to the correct administrative procedure registered notices should be send to all interested parties prior to public notice boards be installed. How can interested parties who does not reside permanently in Sandbaai or is out of town for long periods be aware of such an application?

Response from applicant

The standard public participation process in terms of the relevant By-Law was followed and registered letters were sent to all relevant surrounding property owners, and it was advertised in the Village News in all three official languages. Proof that the registered letters were send are on record at the Municipality.

Response from town planner

A track & Trace on the post office's website was conducted and it was found that the commenter did not collect its registered letter from the post office after the post office send him a notice to collect the postal item. In view of the latter no further comment is offered on this point of comment.

Point 2 of comments

The title deed prohibits subdivision. The restriction and spirit of the title deed are not respected. It is disrespectful to the vision and core purpose of the title deed to just disregard the restriction to subdivide for the sake of someone abroad that just arrived here and who now wants to destroy the atmosphere of the property's spiritual significance and purpose for the sake of purely economic profit motives. The owner should have familiarized himself that the property is not allowed to be subdivided prior to purchasing it and should have purchased two other erven which would have been suitable for his two profit driven businesses.

With the old clause in the title deed of the property, the property may never be subdivided, and it is tragical that a non-Sandbaaier does not respect the wishes of our forefathers by subdividing the property.

Response from applicant

The first title deed was issued approximately 50 – 60 years ago when times were different. Sandbaai was just a residential area, but has changed into a mixed-use area, where businesses, old age homes, residences and institutions function together to form a community. To assume that the original developers would take personal offence to remove a 50 year old restriction does not make sense in 2021.

Sandbaai is changing into an inclusive and modern area that allows for more than just single-family homes. The owner has a right to "enjoy" and optimise his property to his benefit.

The applicant will operate the guest houses in such a manner that it will not disrupt the surrounding property owners.

It must be pointed out that the owner is not someone from abroad who just arrived here, but the owner of other properties in Sandbaai also in which he resides in for quite a while already.

Response from town planner

The response of the applicant is concurred with. It must be added that the point that the owner is from abroad and just arrived here, borders discrimination which is unacceptable in present times.

One additional erf will be created that is in line with the erf sizes of the immediate area that could hardly lead to a crowded space. Erf 325 at the rear side of the subject property has already been subdivided in two portions and developed with a dwelling on each erf. There are also various other erven of similar sizes as the subject property in the block of erven in which the subject property is situated. Chances are good that these bigger erven will eventually also be subdivided.

It is also important to take note of the fact that the original holder of rights was the initial township developer whose rights became null and void when the Municipality took over its functions. The delegated powers now vest with the Municipality to approve or refuse land use applications.

Point 3 of comments

There is no application for a servitude meaning that Portion A cannot be developed and operated as a residential home. No provision is made for a garage or parking space on Portion A and can therefore not operate as a residential home. All parking is done on Portion B, clearly indicating an eight-bedroom operation.

Response from applicant

The application makes provision for two servitudes, being the registration of a right of way for access to Portion A, as well as the registration of a notarial deed of servitude to provide parking for guests of both properties on one property. Should one of the properties be sold for one or other reason, the access servitude will remain in place and parking can be provided on Portion A.

Response from town planner

The applicant's response is factual. It is evident that the commenter did not familiarise itself with the full content of the application. Should the properties be sold for some or other reason, both properties will still have access. Portion A by a compulsory right of way over the Remainder, and the Remainder also from the right of way servitude. Four parking bays will be provided on Portion A and the additional parking bay on the Remainder by means of a departure that forms part of the application.

Point 4 of comment

We want to sit on our porch and listen to the sea and not the noise of vehicles that comes and goes the whole day long. Vehicles will be a danger to our children who wants to play cricket outside in the road with the neighbours' kids since Sandbaai is still one of those townships that allow it. The tranquillity of our area will suffer as a result thereof and Piet Retief is already very busy with vehicles and the enormous increase in traffic on undetermined times of the day and night. Directly opposite is the two decade old valued Sandbaai Country House and there are also various other guesthouses in Piet Retief Crescent East, and all is well spaced from each other not to make the street very busy, as well as to protect the calm atmosphere of this part of Sandbaai residential area.

Sandbaai Country House has thirteen parking bays for cars and there is an average of twenty cars that move in and out on a normal day according to the manager. Two guesthouses directly opposite the guesthouse will activate a further twelve cars, as well as other cars of guests visiting their people at the two guesthouses. Altogether there will be a bottle neck activity of a minimum of 25 cars. It is no exaggerated scenario that there may be up to 31 cars moving in and out of the narrow frontages of the erven that will be dangerous for pedestrians.

There are concerns that cars will park on the sidewalks.

The parking of all the vehicles of the guesthouses at the front is unacceptable.

Response from applicant

The guesthouses will add additional traffic to the area, but it is not predicted to be an issue to surrounding property owners since the surrounding roads have the capacity to accommodate the additional flow of traffic.

Guesthouses generally do not generate concentrated traffic since guests arrive and leave at different times.

The playing of children in the street is not advised and could result in an unforeseen accident that could occur at any time with or without new guesthouses in the area.

The number of vehicles entering and exiting the Sandbaai Country House should not be compared with the proposed guesthouses since it is two different enterprises.

The number of cars mentioned are estimates and speculative. The application is being circulated to the Municipality's Engineering Department for comment that will inform the decision makers.

The applicant is required to provide twelve parking bays for the guesthouses as per the per the proposed Site Development Plan that is included in the application.

Guests will be required to utilise the provided parking bays and the managers will ensure that guests do not park on surrounding properties.

Response from town planner

The applicant's response is concurred with. The bottle neck effect of vehicles is pure speculation, and no knowledge exists of such an occurrence at even much bigger accommodation establishments. There are no complaints on record regarding access to and from the eleven bedroom guesthouse diagonally across the road on Erf 1436 that has been approximately operated for two decades already and on a single erf. The Engineering Department of the municipality did not comment negatively on the application or required a traffic impact assessment and therefore the department is satisfied that the additional traffic will not be problematic to the area.

It is noticeable that a commenter at one point mentions that Piet Retief Crescent is already a very busy road whilst at another point mentions that the road is not very busy that is seen as contradictory regardless in the perspective it is put.

The approval of guesthouses is subject to very strict requirements regarding, amongst others, noise, the parking of vehicles, and the manner in which it must be operated. In fact, very few complaints are received against full blown guesthouses in general, whilst on the other hand the most complaints that are received is against dwellings that is used as short-term self-catering dwelling units where managers are not required.

The parking areas of most accommodation establishments are placed at the front sides thereof, especially for practical reasons, as well as businesses and similar land uses.

Point 5 of comments

The tranquillity of the area and the families' lifestyles will be impacted upon. The high walls of the dwelling, as well as the continuous use of service vehicles that deliver cleaning products, linen, and food.

The owners of the adjacent Erf 321 (Mature Personhood NPC – a non-profit organization), amongst others, state that its patients need calmness and silence in a calm and a domestic dwelling for traumatised individuals. They are also helped to get rid of sleep disorders and are assisted by routine early sleep, in silence, to develop a healthy deep sleep rhythm. The recovery program also requires daily scheduled times of reflection and the practice of mindfulness-meditation that takes place in the courtyard. Disturbance-free concentration during therapeutic conversations and programs is required. Individuals come from all over the country and neighbouring countries, even from overseas to obtain humanity help here.

Response from applicant

The proposal fits into the surrounding nature of the area. It is understood that the Sandbaai area is a tranquil and calm area. The applicant does not intend to affect this, and guests will also want to experience the tranquil and calm of the area. As indicated by the objectors there are several guesthouses in the area which are in operation.

The small scale development is not foreseen to affect the surrounding area or have an impact on the area as a whole. To ensure this, there will always be a manager on-site. The plans included with the application indicates the accommodation area for the manager to reside on-site.

The applicant made great efforts to ensure the right number of rooms and the aesthetics of the proposal is not something out of the ordinary for the Sandbaai area. The proposal complies with the parameters of the Municipality's Land Use Management Scheme which is of great importance to the applicant.

The proposal will not intrude on the privacy of surrounding property owners and the applicant wants to ensure the privacy of the guests to ensure that both parties are protected.

Response from town planner

The applicant's response is concurred with. Further, there is no limitation to the number of guesthouses that may be operated within a defined area. Each guesthouse application is evaluated on its own merit and if it can comply with the prescribed land use requirements it cannot just be refused since numerous similar applications have been approved in the past in Sandbaai and the greater Hermanus area and many more will be approved in future if it complies with the relevant requirements. The Municipality further has a mandate to promote the tourism industry. Primary rights on single residential erven have also been made more lenient to promote the tourism industry by allowing two guest bedrooms for transient tourists thereon.

The comments of the owners of Erf 321 regarding the calm atmosphere its patients need to have to recover from traumatised experiences cannot be commented upon. An investigation into its practice revealed that it is being conducted illegally and that the owners also have various websites, on which they advertise the practice as a full blown guesthouse. The matter has in the meantime been taken up with the Town Planner: Land Use Management & Compliance for further investigation and actions. Why did the commenters not mention the activities on Erf 321? They are without doubt aware of these activities.

Point 6 of comments

The value of our properties will depreciate since who will buy a property opposite and adjacent to two very busy guesthouses and the related noise pollution and invasion of privacy.

Response from applicant

There is no concrete evidence backing these statements that the proposed guesthouses will affect property values. It is an established principle in property valuation that an area has a median or average value. With two high value and upmarket buildings to be established in the area, the median or average value will definitely be increased.

Response from town planner

The applicant's response is concurred with. The decreasing of property values are common objections that are rarely backed by substantial evidence. It is similar with the application under discussion. The question should rather be asked whether the commenters' property values did not decrease when the nearby guesthouses came into operation. No further comment is offered on this point.

Point 7 of comments

The concentration of guesthouses in the area is already too much. There are six guesthouses in a radius of 250m from the proposed guesthouses. We are not convinced that Sandbaai needs more guesthouses since there are already ±46 guesthouses or self-catering units listed which are not fully utilised due to the Covid 19 pandemic. The Municipality has an obligation to see to it that there is not an oversupply of guesthouses in Sandbaai and specifically new-builds that will endanger the tranquil and rural character of Sandbaai.

Response from applicant

The surrounding area in fact have existing guesthouses that was indicated in the application as well.

Competition in business is always healthy and may be an inspiration to upgrade their facilities and their tourism offering. By having competition, all involved are required to raise the imaginary bar of standard.

South Africa has a free market system, and the Municipality cannot decide on the number of guesthouses to be allowed in an area.

Response from town planner

The applicant's response is concurred with. The Municipality does not have an obligation to see to it that the number of guesthouses is limited. In fact, it has an obligation to promote the tourism industry in terms of its forward planning documentation, as well as the fact that South Africa has a free market system. If an application complies with all the requirements as set out in the Municipality's Land Use Scheme, it will have no legal grounds, except in exceptional cases, to refuse such an application. The application under discussion do comply with all the requirements as set out in the Municipality's Land Use Scheme.

Point 8 of comments

Adding another eight-room guesthouse property to the already crowded space would rather lead to other job losses at the already established places than adding new jobs in Sandbaai. There are already guesthouses that locked their doors as a result of the current economy and pandemic, and we cannot see how the owner can contribute towards tourism in Sandbaai.

Response from applicant

If the proposal is approved, the construction phase will create temporary jobs and any opportunity to provide employment should be encouraged.

Manager, kitchen staff, cleaners, and other domestic support staff will be employed at the facilities.

The applicant has no intention in "poaching" employees from other establishments.

The proposal is not expected to affect the operation that is occurring on Erf 321, the Mature Personhood NPC. Erf 321 is operating a self-catering business and the question needs to be raised if their land use rights are in place. It is also not clear if

Mature Personhood NPC is regarded as the practising of an occupation or if it is a business and should be established in a central business district and not in a residential area.

Response from town planner

The applicant's response is concurred with. The proposed guesthouses will indeed create permanent jobs that is badly needed in South Africa with an unemployment rate of nearly 40%.

It is further the opinion that it is the prerogative of the owner of the subject property to decide to risk its finances by entering the tourism industry. The point of comment can therefore not be entertained. The broader Hermanus area is a well renowned tourism destination and the Covid restrictions are being relaxed and most of the accommodation establishments are operating again. It is believed that the said restrictions will at some point be relaxed to such an extent that more and more tourists will visit the area that will make the proposed guesthouses and other existing establishments feasible as they were before.

Point 9 of comments

It is worrying how this proposal has already affected my parents and if their health is going to suffer from this, we will blame the "incomers" forever.

Response from applicant

It is predicted that the proposal will not have any effect on the health of the surrounding owners.

To refer to the applicant as "inkommers" is regarded as derogatory and as already mentioned the applicant is an established ratepayer of Overstrand and owns other residential properties.

Response from town planner

The applicant's response is concurred with.

Point 10 of comments

The safety of me and my family, as well as my privacy will be compromised.

It is known that guesthouses are targeted by criminals because of the opportunity to rob relaxed and non-vigilant tourists of valuables, as well as because of the suspicion that there will be a lot of cash present on the premises. Sandbaai Country House has witnessed this and has been through burglaries several times and burglaries have increased in recent months in Sandbaai according to ADT and Afla Buurtweg of Afriforum. The 12 parked vehicles will attract criminals with a view to attempt burglary.

Response from applicant

Safety of the guests and their possessions is of great importance to the applicant and therefore it will be one of the priority duties of the manager on duty.

The cars will be locked behind gates during the evening to deter criminals from attempting to break in. This is indicated on the plans submitted with the application. The constant awareness of people on the property will also serve as a great deterrent for criminals.

Response from town planner

Whether it is businesses, normal dwelling units or guesthouses, break-ins occur throughout South Africa 24/7 and is not limited to Sandbaai. It is further the responsibility of the applicant to ensure the safety and belongings of its guests.

Point 10 of comments

No one knows what quality guests will be staying there and also with the aim of getting a liquor license and the so-called consequences that come with it.

Response from applicant

Although the applicant states that a liquor license may be applied for, it is not the objective of this application. If required, it will be a separate application process and the public will have the opportunity to comment thereon.

Response from town planner

No comment is offered on the comment of the quality of guests that will stay at the guesthouses.

It is the prerogative of the applicant to apply for an on-site consumption liquor license at the relevant authorities for its guests. Most upmarket guesthouses have liquor licenses to sell alcohol to its guests. A manager will reside permanently on both properties to see to the behaviour of guests and the latter will be made a condition of approval should the application be successful. Almost all guesthouses have conduct/house rules for guests and with permanent managers on-site no problems are foreseen with misbehaviour of guests.

Point 11 of comments

Both guesthouses are structurally designed in such a way that all noises generated by guests' social activities inside and outside, groups of tourists that uses alcohol, the noise of the TV, music, extended restaurant-type parties, and meals, will echo to the adjacent Erf 321.

The regular noisy business activities will disturb the quiet therapeutic environment and program completely and make it unworkable and cause the charity service that has been done from Erf 321 for 20 years to be stopped and Mature Personhood is likely to be forced to sell the property because the economic profit motive of a new (foreign) resident of Sandbaai, and the little money that the Municipality will earn from it, deserves greater consideration than charity programs that help cultivate healthy people for the whole of SA's society. The movement of vehicles at the boundary of Erf 321, revving of vehicles and hooting of delivery vehicles, and the lights of vehicles in the bedrooms that will result in patients that need sleep will not be able to sleep.

Response from applicant

To ensure the noise is kept at a reasonable level there will always be a manager on site. This will aid in the reassurance of the surrounding property owners that the calmness and tranquillity of the Sandbaai area will be kept.

The proposed guesthouses are not planned with any ill intention and the proposed buildings were designed to utilise the subject property's shape and size.

The objector makes a lot of assumptions regarding guests and staff that will be nuisance and will be creating excessive noise. The applicant bought the property with the intention to develop it as an asset to himself and the area. The applicant and his managers will ensure that guests are considerate and respect other property owners in the area.

In various relevant case law, the universal principle is that any person is entitled to use and enjoy its property provided the use of the property should not intrude unreasonably on the use and enjoyment by the neighbours of their properties. What constitutes reasonable usage in any given case is dependent on various factors, including the general character of the area in question. The applicant will operate his establishment as a reasonable guesthouse owner. If the surrounding property owners at any time are of the opinion that the guesthouses are not operated within acceptable "reasonable guesthouse" principles, a complaint can be submitted to the Municipality for investigation and action.

Response from town planner

As already mentioned, it is believed that the owners of Erf 321 are conducting an unlawful practice from the property and the matter is currently being investigated. In its various points of comment the owners of Erf 321 emphasize a lot on what the impact of the proposed guesthouses would have on their practice and therefore no further comment is offered thereon. The points are not substantiated and is therefore regarded as pure speculation.

It should however be noted that the applicant can apply to subdivide the property into two portions and construct a primary dwelling unit and a second dwelling unit on each portion if such application is successful, but it is the opinion there is no grounds that it would be unsuccessful since second dwellings is a primary right. He could further legally utilise one dwelling on each portion as a self-catering unit for a single family without the requirement of a permanent on-site manager/s. Alternatively, the applicant could rent out all four dwellings to four individual families. In view of the afore-said, such an alternative would have a much bigger impact on the owners of Erf 321 than two guesthouses that will be managed by managers in a professional manner who must reside permanently on the properties.

The question arises whether the eleven-bedroom guesthouse diagonally across the road on Erf 1436 has the same impacts on the commenters' practice since it was approved during 2003 round about the same time the commenters started their practice approximately 20 years ago. It was initially approved with a condition that no liquor may be sold on the premises. An application followed to have the condition amended and approval was obtained during 2004 to obtain a liquor license to sell liquor to guests. The application under consideration consists of a total of eight guest bedrooms in two separate dwellings on two separate erven and not eleven guest bedrooms in a single dwelling like Erf 1436 right next to one of the objectors.

Point 12 of comments

Within 100 meters on both sides of the application property there is a park and an undeveloped park for parking. Both parks are home to indigenous fynbos, pheasants, “dikkoppe”, turtles and a small antelope have been spotted there and porcupine spikes have been picked up. The birds and turtles breed there, and this part of Piet Retief Crescent is known for small pheasants and turtles that walk regularly and unhindered in and across the street. The commotion of people and cars is going to terrify these animals and make them flee. This poses a danger to the animal ecology of these parks.

Response from applicant

It is not clear from the comment how the proposed development of two guesthouses will impact on these parks. No impact is foreseen on an ecological level. The guesthouses will not have more impacts than the existing improved erven in the area.

Response from town planner

The response of the applicant is concurred with. In addition, it must be noted that both parks are zoned for Open Space Zone 2: Public Open Space purposes and not for ecological/conservation purposes. It may primarily be used for outdoor sports, play rest or recreation or as a park area or nature area, and includes associated buildings, infrastructure and uses. Small wildlife occurs throughout Sandbaai within the developed residential areas and along its coastline. These public open spaces are in any event not enclosed to protect the small wildlife that occurs on them and therefore there is always the possibility of small wildlife getting killed on the roads with or without the presence of the proposed guesthouses. The statement that the addition of two guesthouses/dwellings in this residential area would terrify these animals and make them flee, is illogical to say the least.

Point 13 of comments

The concentration of the number of people in the guesthouses increase the risk of Covid-19 infections. That is why there was such strict requirements for hotels and guesthouses during the pandemic since such businesses are regarded as super-distributors for the virus. According to scientists medici there is no sign that the pandemic will be brought under control in the near future or be made completely harmless. The World Health Organization foresees that in the future we will have to live together with this virus and its mutant variants. Research increasingly shows that the covid virus in its newer and still mutating forms are highly contagious variants such as Delta and Lamda and is not only physically transmissible but also airborne transmissible.

Response from applicant

The proposal will not affect surrounding property owners' risk to Covid.

The properties will be managed with strict Covid guidelines based on scientific evidence.

Tourist enterprises are allowed to operate with the assurance that they meet the requirements as set out by the South African Government which the applicant will do.

Response from town planner

Author is not an expert in the field on the scientific aspects of the virus or any predictions by scientists regarding the virus and no comment is offered on this point. It is however well known that accommodation establishments may now again operate in South Africa but needs to comply with the Covid requirements as set out by the Department of Health from time to time. A condition to this effect must be imposed should the application be successful.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

As above.

9. MUNICIPAL ASSESSMENT OF COMMENTS

As above.

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

10.1 Background

N/A

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

The application is in line with the planning objectives applicable to this application as set out below.

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 the two properties in terms of municipal services and infrastructure and pay the necessary bulk infrastructure levies.

Spatial resilience

The application will ensure that the existing resource (land) is used to its maximum in an affordable manner and is 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)

The 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, the Spatial Development Framework and the Overstrand Municipal Spatial Growth Management Strategy.

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

N/A

10.6 Impact on Municipal engineering services

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

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The application is in line with the Overstrand Spatial documents.

10.9 Additional Planning Motivation for Removal of Restrictive Conditions**The financial or other value of the rights**

The removal of the relevant conditions applicable to the subject property will have a beneficial financial impact for the landowner since he will be able to obtain an additional erf, as well as additional land use rights.

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

The original holder of rights was the township developer whose rights became null and void when the Municipality took over its functions.

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

The removal of the restrictive conditions will allow for the subdivision of the property in two portions and the development of two accommodation establishments to be developed for tourists. It will have a social benefit since it will create temporary- and permanent employment opportunities.

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

No, it will result in the owner obtaining additional rights, as well as an additional erf in leu of a single erf with single residential status only.

11. THE DESIRABILITY OF THE PROPOSAL

The motivation of the application and its responses to the comments are supported. The comments by author on the points of comment should be read in conjunction with the desirability of the application.

It should be noted that the initial application involved the full removal of condition A.2.(a) and that all parking be provided on the Remainder. After discussions with the applicant, it was decided to provide four parking bays on Portion A and the additional parking bay on the Remainder. It was also decided not to completely remove condition A.2.(a) but rather to amend it to read as follows (an amended application was submitted):

“That the above erf or erven be used for residential- and guesthouse purposes only.”

The application is supported for the following reasons:

Removal of restrictions from the title deed of the property

- Most of the properties in Sandbaai are burdened with restrictions regarding subdivision and land uses. However, the original holder of rights was the township developer whose rights has since become null and void when the Municipality took over its functions. The Municipality can now decide, and has the delegated powers to do so, whether to approve the removal of restrictive title deed conditions or not.
- The first title deeds of Sandbaai were issued approximately 60 years ago when times were different. Sandbaai was just a normal residential area, but has changed into a mixed-use area, where businesses, institutions, and accommodation establishments function together to form a community. The latter is also the tendency in the greater Overstrand area.as submitted
- Since the insertion of the restrictions in the title deeds of Sandbaai, various land use tools came into force to ensure proper control over land uses and land use parameters making most title deed conditions outdated. One of these tools are the Overstrand Land Use Scheme of which the parameters and land uses on single residential properties are much more lenient than the restrictions in the title deed of the subject property. Numerous single residential properties in Sandbaai and especially the greater Overstrand area are however not burdened by these restrictive land uses, and the owners thereof can enjoy the much more lenient parameters and land uses as set out in the Land Use Scheme. Therefore, should an application contain sufficient merit to be considered favourably then such landowner can also exploit and enjoy its property in line with the Land Use Scheme.
- In order for the applicant to subdivide the property and to develop a guesthouse on each subdivided portion, the relevant condition therefore needs to be removed from the title deed of the property.

Subdivision

- It is the intention of the applicant to subdivide the property in two portions, namely Portion A ±705m² in extent and a Remainder ±874m² in extent.
- It should be noted that the original holder of rights of Sandbaai was the initial township developer whose rights became null and void when the Municipality took over its functions. The delegated powers now vest with the Municipality to approve land use applications or not that includes applications for the subdivision of land.
- One additional erf will be created and together with the Remainder portion both land parcels are in line with the erf sizes of the immediate area and will therefore not impact on the character of the specific area. Erf 325 at the rear side of the subject property has already been subdivided into two portions and developed with a dwelling unit on each erf. There are also various other erven of similar size as the subject property in the block of erven in which the subject property is situated. It is foreseen that these bigger erven will eventually also be subdivided at some stage in the future.

Consent use

- The consent use is to conduct a three-bedroom guesthouse from the above Portion A and a five-bedroom guesthouse from the above Remainder portion.
- During weekends, festive seasons, holidays, the population of the greater Hermanus area increases dramatically with approximately 50% by visitors and tourists. It is thus evident that the area is increasingly growing as a tourist destination and for this reason, amongst others, the forward planning documents of the Municipality encourages tourism orientated facilities such as guesthouses in the Overstrand residential areas. The Land Use Scheme of the Municipality now also allows for two guests rooms for transient tourist on single residential properties provided that the title deeds thereof do not prohibit it. The greater Hermanus area is globally renowned as a tourist destination and the demand is growing for the establishment of accommodation businesses since it is lucrative businesses that impacts positively on the local economy.
- The residential areas of Sandbaai and that of the greater Hermanus areas are starting to become transitional areas for mix residential and accommodation uses due to the numerous applications that the Municipality receive in this regard. Further, numerous accommodation establishments have been approved in the past in mostly the residential areas due to the tranquillity it offers to tourists.
- Should accommodation establishments not be lucrative businesses then why would landowners apply and spend hefty sums of money to obtain the rights therefore and to develop these businesses?
- The proposal is not something out of the ordinary for the Sandbaai area. The proposal complies with the parameters of the Municipality's Land Use Scheme.
- The Municipality does not have an obligation to see to it that the number of guesthouses be limited. In fact, it has an obligation to promote the tourism

industry in terms of its forward planning documentation, as well as the fact that South Africa has a free market system.

- The guesthouses will add additional traffic to the area, but it will hardly impact negatively on surrounding property owners since the surrounding roads have the capacity to accommodate the slight additional flow of traffic.
- The approval of guesthouses is subject to very strict requirements regarding, amongst others, noise, the parking of vehicles, and the manner in which it must be operated. In fact, very few complaints are received against full blown guesthouses, whilst on the other hand the most complaints that are received is against dwellings that is used as self-catering dwelling units where managers are not required.
- The broader Hermanus area is a well renowned tourism destination and the Covid restrictions are being relaxed and a lot of accommodation establishments are operating again. It is believed that the said restrictions will at some point be relaxed to such an extent that more and more tourists will visit the area that will make the proposed guesthouses and other existing establishments feasible as they were before.
- The applicant can apply to subdivide the property into two portions and construct a primary dwelling unit and a second dwelling unit on each portion that would be well within his rights. He could further legally utilise one dwelling on each portion as a self-catering unit for a single family without the requirement of a permanent manager on-site. Alternatively, the applicant could rent out all four dwellings to four individual families. In view of the afore-said, such alternatives would have much bigger impacts on the surrounding landowners than two guesthouses that will be managed by managers in a professional manner who must reside permanently on the property.
- All the single residential parameters for the development of the properties will be maintained, as well as the single residential zoning status of the properties and it will therefore not impact on the rights of the surrounding property owners. It will therefore be in line with the spatial planning for the area.
- Provision is made for accommodation of a manager on each of the properties and the approval must be subject thereto.
- Much needed temporary and permanent employment opportunities will be created.

Departure

- It should be noted that in the initial application it was proposed to provide all the required parking bays on the Remainder (front portion of the subdivision), as well as to have two access points from Piet Retief Crescent, being the 3m wide servitude to the back Portion A and a separate access point at the same boundary for the front Remainder portion. Both matters were regarded as undesirable from a planning perspective and communications followed with the applicant that four of the parking bays be provided on the rear Portion A and that only one access point be allowed for both properties, being the 3m wide servitude. The one additional parking bay required on Portion A would be provided on the Remainder. (It however still requires a departure application for

the one parking bay not provided on Portion A.) The applicant agreed thereto and submitted a revised application. It was not deemed to circulate the revised application to the commenters since the amended application is regarded as a “scaled down” application with a much lesser impact on adjacent property owners. The departure is therefore to deviate from the parking requirements by providing one of the required five parking bays for the three bedroom guesthouse on Portion A, on the Remainder portion and to tie the properties by means of notarial deed. If the owner then at any stage do want to sell the properties separately, the notarial tie can be cancelled, and the required parking must be provided on Portion A and the Remainder portion, whether the successors in title wish to proceed to conduct guesthouses from the properties or not.

- The parking bays will have to be properly demarcated and provided with a hard surface to the satisfaction of the Municipality. The latter must be a condition of approval should the application be successful.

Right of way servitude

- A 3m right of way access is provided for over the Remainder portion in favour of Portion A. Engineering Services however required that the minimum width of the right of way be 5m. The applicant submitted an amended Site Development Plan indicating a 5m servitude which the Engineering Department accepted via e-mail to the applicant. A condition must be laid down that the notarial tie and the 5m right of way servitude be simultaneously registered with the registration of the subdivision of the property.

Conclusion

- All services for the subdivided portions are available and is sufficient to accommodate the proposal.
- No internal objections were received.
- One access point from Piet Retief Crescent will be provided for both land portions by means of a 5m wide right of way servitude which servitude is regarded as wide enough for vehicles entering and leaving the properties without any congestions.
- Waste Management Provision requires a sufficient waste storage area and containers on the two properties that is to be billed on their monthly service account for the agreed number of containers to be utilized. It should however be noted that waste storage areas must comply with the new refuse rooms standards as per Chapter 17.4.1 of the Overstrand Land Use Scheme of 2020. The requirements as per Chapter 17.4.1 are quoted as follows:

“17.4.1 The Municipality may, for the purposes of collecting refuse, require the owner to install a refuse receptacle on the land unit which shall:

- a) be of sufficient size to accommodate the refuse generated from the land unit for one week;*
- b) be located adjacent to a public street or, at the Municipality’s discretion, in a position which will provide acceptable access to a refuse collection vehicle;*

- c) *be designed in a manner that is architecturally compatible with the surrounding structures and screen refuse bins from public view; and*
- d) *comply with any other reasonable condition the Municipality may impose relating to access, health, pollution control, safety or aesthetics."*

The above will be a condition of approval should the application be successful.

In view of the above, the proposal can be regarded as being desirable from a town planning perspective.

12. RECOMMENDATION

1. that the comments be noted;
2. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), applicable to Erf 322, Sandbaai for the amendment of restrictive Title Deed condition A.2.(a) as contained in Title Deed T39384/2019 applicable to Erf 322, Sandbaai to conduct a guesthouse from each portion after the subdivision of the property hereunder, which condition is to read as follows:

"That the above erf or erven be used for residential- and guesthouse purposes only."

be approved in terms of Section 61 of the By-Law;
3. that the application for the removal, in terms of Section 16.(2)(f) of the By-Law, of restrictive Title Deed condition A.2.(b) as contained in Title Deed T39384/2019 applicable to Erf 322, Sandbaai in order to subdivide the property in two portions, **be approved** in terms of Section 61 of the By-Law;
4. that the application for subdivision, in terms of Section 16(2)(d) of the By-Law, of Erf 322, Sandbaai in two portions, namely Portion A ±705m² in extent and a Remainder ±874m² in extent, **be approved** in terms of Section 61 of the By-Law;
5. that the application for consent use in terms of Section 16(2)(o) of the By-Law to conduct a three-bedroom guesthouse from the above Portion A and a five-bedroom guesthouse from the above Remainder portion, **be approved** in terms of Section 61 of the By-Law;
6. that the application for departure in terms of Section 16(2)(b) of the By-Law to deviate from the parking requirements by providing one of the five required parking bays for the three-bedroom guesthouse on the above Portion A, on the Remainder portion, **be approved** in terms of Section 61 of the By-Law;
7. that the above approvals be subject to the following conditions:
 - (a) that the notarial tie and the five meter right of way servitude in favour of Portion A be simultaneously registered with the registration of the subdivision of the property;

- (b) that the amended condition A.2.(a) as set out in 2. above be registered against the title deeds of both the subdivided portions in 4. above simultaneously with the registration of the notarial tie and subdivision of the property;
- (c) that should the owner/s at any stage sell the properties separately, the notarial tie must be cancelled, and the required parking bays must be provided on both properties whether the successors in title wish to proceed to conduct guesthouses from the properties or not;
- (d) that only on access- and exit point, being the 5m wide right of way servitude, be allowed for both land portions – no separate entrances are allowed;
- (e) that the development of the properties be restricted to the amended plans nos. Amended Plan 5, 6, 6.1, and 9 that was received by the Municipality on 1 March 2022;
- (f) that the accommodation establishments on both portions be restricted to eight (8) guest bedrooms in total - three guestrooms on Portion A and five guestrooms on the Remainder;
- (g) that the residential character must be maintained;
- (h) that meals may be provided to bona fide guests on the properties;
- (i) that a guest logbook must always be kept on the properties and that it be made available to Municipality immediately on request;
- (j) that should meals be provided to bona fide guests, R918 Certificates of Acceptability must be applied for at the Overberg District Municipality for both properties;
- (k) that subject to obtaining liquor licenses, alcohol beverages may be sold to resident guests for consumption with meals on the properties;
- (l) that entertainment activities such as pool tables or any associated entertainment activities that generates noise are strictly prohibited;
- (m) that no more than three staff members shall be employed in support of each of the establishments at any given time;
- (n) that none of the guestrooms may be utilised as self-catering units - no kitchenettes, cooking facilities, or prep bowls whatsoever are allowed in the guestrooms – kettles or alike and bar type fridges are allowed;
- (o) that building plans be submitted to the Building Department for approval and that all requirements of the Building Department and Fire Services at the time, be complied with;
- (p) that waste storage areas must be provided on both properties that comply with the refuse rooms standards as per Chapter 17.4.1 of the 2020 Overstrand Land Use Scheme (it must form part of the building plan submissions);

- (q) that the single residential parameters be retained on the property and that all other development parameters as prescribed in the relevant Land Use Scheme must be complied with;
 - (r) that each guesthouse must have its own manager that resides permanently on the properties and be responsible for the proper management of the accommodation establishments;
 - (s) that the managements of the establishments must implement noise control measurements within the establishments, as well as the outside area to reduce noise levels of any kind to the minimum;
 - (t) that the establishments be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area and no activities constituting a public nuisance shall be carried out on the properties;
 - (u) that no disturbance from loud music or any other source are allowed after 22:00 at each enterprise;
 - (v) that the developments must comply with the provisions of SANS-A:2016, 10400-T: 2020 and the By-Law relating to Community Fire Safety;
 - (w) that no advertising signs shall be displayed other than a single un-illuminated sign affixed to each dwelling or boundary wall, or fence and such sign must be in line with the Municipality's Signage By-Law at any given time and with the prior approval of the Building Department of the Municipality;
 - (x) that the conditions of Engineering Services and Telkom (attached as Annexures G & H), be complied with;
 - (y) that the applicant/landowner/s provide proof of compliance with the above conditions (a), (b), (j) and (x) prior to operating the establishments; and
 - (z) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with;
 - (aa) that these approvals do not absolve the applicant from compliance with any other relevant legislation;
8. that the applicant and persons who commented be notified of their respective appeal rights in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 regarding the above conditions and approvals.

13. REASONS FOR RECOMMENDATION

- ❖ The majority of properties in Sandbaai are burdened with restrictions regarding subdivision and land uses.
- ❖ The first title deeds of Sandbaai were issued approximately 60 years ago when times were different, but has changed into a mixed-use area, where, amongst

others, accommodation establishments are developed that also the tendency in the greater Hermanus and greater Overstrand areas.

- ❖ Since the insertion of the restrictions in the title deeds of Sandbaai, various land use tools came into force to ensure control over land uses and land use parameters like the Overstrand Land Use Scheme of which the parameters and land uses on single residential properties are much more lenient than the restrictions in the title deed of the subject property.
- ❖ The application contains sufficient merit to be considered favourably.
- ❖ One additional erf will be created that is in line with the erf sizes of the immediate area and will therefore not impact on the character of the specific area.
- ❖ During weekends, festive seasons, and holidays, the population of the greater Hermanus area increases dramatically and it is thus evident that the area is increasingly growing as a tourist destination and therefore the Municipality has a mandate in terms of its forward planning strategies to encourage the tourism industry.
- ❖ The greater Hermanus area is globally renowned as a tourist destination and the demand is growing for the establishment of upmarket accommodation businesses since it is lucrative businesses that impacts positively on the local economy.
- ❖ The establishments will create much needed temporary and permanent employment opportunities.
- ❖ The proposal is not something out of the ordinary for Sandbaai.
- ❖ The proposal complies with the parameters of the Municipality's Land Use Scheme.
- ❖ The additional traffic will not be problematic to the area.
- ❖ The approval of guesthouses is subject to very strict requirements regarding, amongst others, noise, the parking of vehicles, and the manner in which it must be operated.
- ❖ The guesthouses will be managed by managers in a professional manner who must reside permanently on the properties.
- ❖ All the single residential parameters for the development of the properties will be maintained, as well as the single residential zoning status of the properties and it will therefore not impact on the rights of the surrounding property owners.
- ❖ The departure to providing one of the five required parking bays for the three bedroom guesthouse on Portion A, on the Remainder portion and to tie the properties by means of notarial deed is regarded as insignificant.
- ❖ All parking for both guesthouses is practical with ample manoeuvrability space.
- ❖ All services for the subdivided portions are available and is sufficient to accommodate the proposal.
- ❖ The proposal is thus regarded as being desirable from a town planning perspective.

14. Annexures

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Title Deed
Annexure E:	Objections
Annexure F:	Comment on objections
Annexure G:	Services Report
Annexure H:	Telkom

SIGNATURES**REGISTERED PLANNER:**

Name:

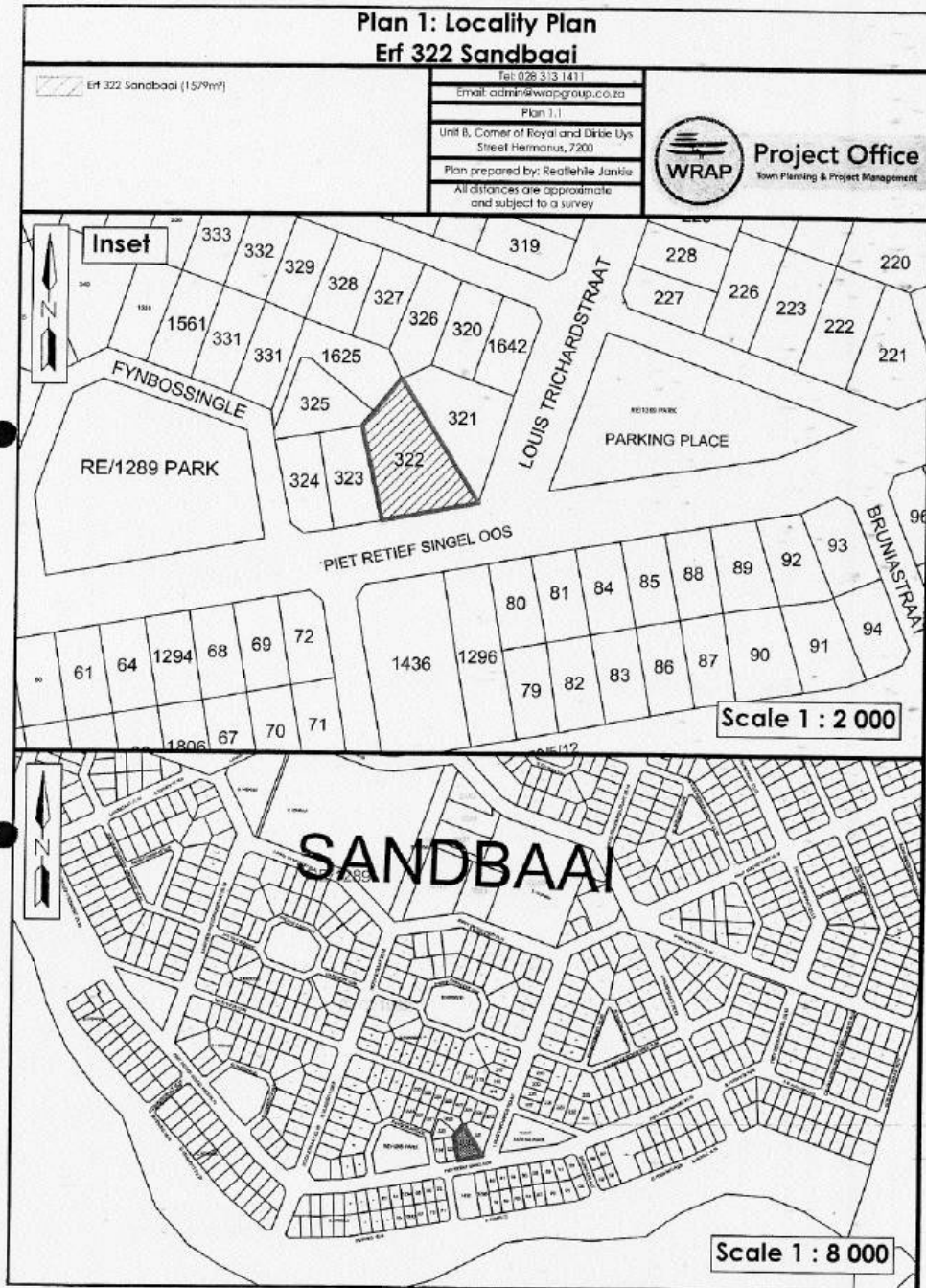
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SACPLAN Reg No:

A/1850//2014

Signature: _____

Date: _____





EXECUTIVE SUMMARY

1. ABBREVIATIONS

1.1	OMLUS	Overstrand Municipality Land Use Scheme, 2020
1.2	SDF	Overstrand Municipality Spatial Development Framework, 2020
1.3	OMGMS	Overstrand Municipal Growth Management Strategy, 2010
1.4	OM	Overstrand Municipality
1.5	OM By-Law	Overstrand Municipality By-Law on Municipal Land Use Planning, 2015, as amended
1.6	LUPA	Land Use Planning Act, 2014
1.7	DEADP	Western Cape Department of Environmental Affairs and Development Planning
1.8	PSDF	Western Cape Provincial Spatial Development Framework, 2014
1.9	SDP	Site Development Plan
1.10	SRI	Residential Zone 1: Single Residential

2. SUMMARY OF STATUS QUO PROPERTY DETAILS

2.1	Property description	Erf.322 Sandbaai
2.2	Registered owner	Philip Bart Lieve Vermeiren
2.3	Consultant	WRAP Project Office
2.4	Restrictive title deed conditions	A 2. (a) and A 2. (b)
2.5	Property extent	1579m ²
2.6	Current zoning	Residential Zone 1: Single Residential
2.7	Current land use	Vacant

3. BACKGROUND AND CLIENTS BRIEF

- 3.1 The owner of the subject property (hereafter referred to as the applicant) purchased the subject property in 2019.
- 3.2 The applicant envisages the following:
Subdividing the property into two erven that would be conferred with the following land use rights:

Erf	Size	Envisaged land use
Portion A	(±705m ²)	3-bedroom guest house
Remainder	(±874 m ²)	5-bedroom guest house

- 3.3 The applicant envisages both guest houses functioning as independent upmarket establishments that attract genteel guest.
- 3.4 **Portion A**
- 3.4.1 The applicant plans to appoint a manager that will reside permanently in the proposed 3- bedroom guest house; and
- 3.4.2 4 Parking Bays are provided on the proposed Portion A due to the shape of the erf.
- 3.5 **Remainder**
- 3.5.1 The applicant plans to appoint a manager to reside permanently in the proposed 5- bedroom guest house; and
- 3.5.2 The parking for the Remainder is proposed to be located on-site with an additional parking for Portion A.



EXECUTIVE SUMMARY

4. TECHNICAL PROCEDURE TO ACHIEVE THE OWNER'S INTENT

The following technical procedures are proposed for the applicant to obtain the necessary land use rights to conduct the activities that are listed in Section 3 of this report.

4.1 Removal of restrictive title deed condition A 2. (b) from title deed T39384/2019 in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

There is one title deed conditions that prohibit the land use rights sought by the applicant as described in Section 3 and the rationale for the removal of these conditions is discussed below:

- 4.1.1 A 2. (b) "That the above erf or erven be not subdivided".
The applicant wishes to subdivide the subject property to establish guest houses on each erf.
- 4.1.2 The rationale for the removal of the restrictive title deed conditions is to enable the applicant to achieve the development intent highlighted in Section 3.
- 4.1.3 The restrictive title deed conditions were inserted into the title deed in 1946 in response to trends and pressures which were prevalent in Sandbaai. There has been a circumstantial shift in development pressures and trends in Sandbaai since 1946 which results in these conditions not being responsive to the lived reality of residents.
- 4.1.4 The rationale for the removal of this restrictive title deed condition will be discussed in detail in Section 7 of this report.

4.2 Amendment of restrictive title deed conditions A 2. (a) from title deed T39384/2019 in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

There are two title deed conditions that prohibit the land use rights sought by the applicant as described in Section 3 and the rationale for the removal of these conditions is discussed below:

- 4.2.1 A 2. (a) "That the above erf or erven be used for residential purposes only"
This title deed condition is proposed for removal as the consent use for a guest house which is applied for unlocks additional land-use rights other than for the property to be used for the residential accommodation of a single-family.
- 4.2.2 The rationale for the amendment of the restrictive title deed condition is to enable the applicant to achieve the development intent highlighted in Section 3.
- 4.2.3 The proposal is to amend condition A 2. (a) to read as follows:

"That the above erf or erven be used for residential- and guesthouse purposes only."
- 4.2.4 The restrictive title deed conditions were inserted into the title deed in 1946 in response to trends and pressures which were prevalent in Sandbaai. There has been a circumstantial shift in development pressures and trends in Sandbaai since 1946 which results in these conditions not being responsive to the lived reality of residents.
- 4.2.5 The rationale for the amendment of the restrictive title deed condition will be discussed in detail in Section 7 of this report.



EXECUTIVE SUMMARY

4.3 Subdivision of Erf 322 Sandbaai to create Portion A ($\pm 705\text{m}^2$) and Remainder ($\pm 874\text{m}^2$) in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

- 4.3.1 The proposed subdivision is in harmony with the average erf sizes and shape in Sandbaai and will be discussed in detail in section 6 of this report.
- 4.3.2 The applicant has conducted extensive feasibility studies and discovered that it would be feasible to establish guest houses both the subdivided portions.
- 4.3.3 The rationale for the subdivision of the subject property is to create guest houses that are designed differently to cater to the accommodation needs and preferences of different guests.

4.4 Consent use on Portion A for a 3-bedroom guest house in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and Consent use on the Remainder for a 5-bedroom guest house in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

4.4.1 Portion A

- 4.4.1.1 The guest rooms on Portion A are all on the ground floor and there is a pool proposed on the premises. These guest rooms will therefore attract guests that require swimming facilities on the property and a relatively spacious outdoor area that can be used for relaxation purposes with a small communal lounge where guests can socialise;
- 4.4.1.2 The height of all the building on portion A is 3,8m and will not be visually imposing to the adjacent property owners on the north, east and west of the property;
- 4.4.1.3 There are numerous 3-bedroom guest houses that have been approved in Sandbaai by the OM and therefore make this proposal in conformity with past approvals; and
- 4.4.1.4 The drawings of the proposed guest is of high architectural integrity and is designed to appear like single residential dwelling. This will therefore blend in with the residential character of the surrounding.

4.4.2 Remainder

- 4.4.2.1 The ground floor of the guest house primarily consists of a lounge, kitchen, office and managers room. The ground floor is intended to be a space where tourists can socialise;
- 4.4.2.2 The first floor only comprises of guest rooms with balconies intentionally designed to overlook into the street thereby safeguarding the privacy of surrounding property owners;
- 4.4.2.3 The balconies are also designed to enable the guests to have a great view of the ocean;
- 4.4.2.4 The height of the building is 7m high thereby conforming to the height of other buildings used for residential purposes in Sandbaai;
- 4.4.2.5 There are numerous 5-bedroom guest houses that have been approved in Sandbaai by the OM and therefore make this proposal in conformity with past approvals; and
- 4.4.2.6 The drawings of the proposed guest is of high architectural integrity and is designed to appear like a double storey single residential dwelling. This will therefore blend in with the residential character of the surrounding.



EXECUTIVE SUMMARY

4.5 Exemption of the registration of a 5m wide right of way servitude over the Remainder in favour of Portion A in terms of Section 26 (1) (h) (v) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

4.5.1 The right of way servitude is proposed to be 5m wide. The servitude will only be used for vehicular access by guests to Portion A. The right of way servitude is proposed to gain access to Piet Relief Crescent, the access will be used by both Portion A and the Remainder. The proposed right of way servitude is proposed along a portion of the erf boundary of the Remainder and in the manoeuvring space of the parking bays; and

4.5.2 The proposed registration of a right of way servitude is exempt from a formal application but the exemption is sought in this application to illustrate that access related considerations have been carefully thought through.

4.6 Departure from the onsite parking requirements in Section 17.1 of the Overstrand Municipality Land Use Scheme, 2020 for all the parking of Portion A to be provided on the Remainder and request for the consent to register a notarial deed of servitude over the Remainder in favour of Portion A in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended

4.6.1 The existing shape of Erf 322 Sandbaai is triangular to the rear of the property and is narrower than the street frontage. This places significant limits on the developability of Portion A in terms of complying with prescribed total parking standards. The provision of parking on Portion A would also require that the parking dimensions be 2,5m by 5m with a manoeuvring space of 7,5m which would decrease the amount of space available for a communal pool and outside leisure are;

4.6.2 Portion A requires 5 parking bays and only 4 are provided, the last parking bay is proposed to be located on the Remainder which has ample space for the provision of on-site parking. Portion A is proposed to gain access via a right of way servitude; and

4.6.3 The proposed parking bays have dimensions of 2,5m by 5m and the manoeuvring space is a minimum of 7,5m which makes the proposed parking bays practical. The parking bays are allocated to accommodate the peak in terms of guests that would occupy the subject property at any given time and in practice are unlikely to be completely occupied due to the seasonal nature of guest house vacancy rates.

5. APPLICATION

Considering the land use rights which are sought by the applicant, the following is applied for:

5.1 Removal of restrictive title deed condition A 2. (b) from title deed T39384/2019 in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;

5.2 Amendment of restrictive title deed conditions A 2. (a) from title deed T39384/2019 in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;

5.3 Subdivision of Erf 322 Sandbaai to create Portion A ($\pm 705\text{m}^2$) and Remainder ($\pm 874\text{m}^2$) in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;

5.4 Consent use on Portion A for a 3-bedroom guest house in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;



EXECUTIVE SUMMARY

- 5.5 Consent use** on the Remainder for a 5-bedroom guest house in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and
- 5.6 Departure** from the onsite parking requirements in Section 17.1 of the Overstrand Municipality Land Use Scheme, 2020 for some of the parking of Portion A to be provided on the Remainder and request for the consent to register a notarial deed of servitude over the Remainder in favour of Portion A in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.



MOTIVATION

7. TITLE DEED

Title deed T39384/2019 (refer **Annexure B**) was perused and there are restrictive title deed conditions that were inserted in 1946 when Sandbaai was initially established. These title deed conditions prohibit this development proposal and the rationale for the removal/amendment thereof will herewith be motivated.

7.1	<p><u>Title deed restriction that is proposed to be amended</u></p> <p>A 2. (a) <i>"That the above erf or erven be used for residential purposes only</i></p> <p>AMENDED TO READ:</p> <p><i>"That the above erf or erven be used for residential- and <u>guesthouse</u> purposes only."</i></p> <p><u>Motivation</u></p> <p>The rationale for the proposed removal The subject property is proposed for the accommodation of a single-family and a maximum of 10 transient guests and a single family on the Remainder and a maximum of 6 transient guests and a single-family on Portion A. The nature and scale of the residential land uses which are sought in this application are beyond what this title deed condition initially intended each erf in Sandbaai to accommodate a single-family which is the rationale for this proposal.</p> <p>Title deed condition background The title deed condition intended to protect the residential character of Sandbaai for each property to exclusively be used for the accommodation of a single-family. This title deed condition was inserted in an era of low population growth and low-density development and the cap of residential use for a single-family was intended to protect this character.</p> <p>Status quo Figure 2 illustrates that the current land use trend in Sandbaai is for properties which are located along the coast or in proximity thereof to function as guest houses which accommodate a single-family permanently and several other families/couples in each of the guest rooms. This trend has been sparked by Sandbaai increasingly functioning as a tourist destination which was absent when the settlement was initially established. While the insertion of this restrictive condition made sense in 1946, the change in the character of Sandbaai which is increasingly functioning for guest house purposes nullifies the relevance of this condition within the current land use climate of the area.</p>
7.2	<p><u>Title deed restriction that is proposed to be removed</u></p> <p>A 2. (b) <i>"That the above erf or erven be not subdivided"</i></p> <p><u>Motivation</u></p> <p>The rationale for the proposed removal This proposal entails the subdivision of the subject property into two erven which is the rationale for the proposed removal of this restrictive title deed condition.</p>



MOTIVATION

Background

Most erven in the southern part of Sandbaai measure $\pm 800\text{m}^2$ and this restrictive condition was inserted to prohibit the subdivision of these erven which would result in the creation of erven measuring $\pm 400\text{m}^2$. This was intended to avoid these erven from becoming too small and impractical for development as would alter the urban form in a manner which was not envisaged by the initial planners of Sandbaai.

Status quo

The corner erven in Sandbaai tend to be excessively large and out of harmony with the average erf size in the area which is $\pm 800\text{m}^2$ and the subject property is exemplary of this. The current trend which has taken hold in Sandbaai is for the property owners that have large corner erven to apply for the subdivision of these erven to harmonise the size thereof with neighbouring properties. There are various applications of this nature which have been approved by the OM. This proposal is therefore in harmony with the development trends which are prevalent in Sandbaai.

- 7.3 The title deed of the subject property also contains the following conditions which are not proposed for removal considering that these are not restricting the subject application:
- 7.3.1 *"That not more than one dwelling together with the necessary outbuildings and accessories are erected on any one of the above erven and that not more than one-half of the area of any one of the above erven be built upon; and*
- 7.3.2 *That no building shall be erected on the above erf or erven within 4,72 meters of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as gardens but shall not be built upon."*

8. AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE CONDITIONS

The compliance of this proposal was assessed in conjunction with considerations for the removal of restrictive title deed conditions which is a relevant consideration in terms of Section 35(4) of the By-Law:

8.1 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 vest in the person as the owner of a dominant tenement.

It is unlikely that the existing restrictive title deed conditions add any value to the owners of erven in Sandbaai for the following reasons:

- 8.1.1 Title deed condition A 2. (a) was inserted to protect the residential character of Sandbaai for each property to only be occupied by a single-family. There are several properties as illustrated in figure 2 where guest houses are operated from and accommodate more than single-family. These guest houses have contributed towards improving the image of Sandbaai as a viable tourist destination which the approval and implementation of this proposal will contribute towards. The amendment of this restrictive condition will therefore be instrumental in contributing towards increasing property values in Sandbaai which is in the public interest; and
- 8.1.2 Title deed condition A 2. (b) was inserted to prevent erven in Sandbaai from becoming too small as that would ruin the prevailing urban form and consequently lead to property devaluation. Considering that the proposed erf sizes are of a similar size to surrounding properties, the approval and implementation of this proposal will not devalue the subject property or the Sandbaai settlement.



MOTIVATION

8.2 The personal benefits which accrue to the holder of rights in terms of the restrictive condition.

The use of the subject property for the establishment of upmarket guest houses and the resultant increase in the property value will result in personal benefits to other property owners in Sandbaai. This is given the positive impact that this development proposal will have on property values in Piet Retief Crescent as a whole. Apart from this, there are no personal benefits that accrue from the restrictive conditions remaining in place.

8.3 The personal benefits which will accrue to the person seeking the removal/amendment of the restrictive condition, if it is removed.

8.3.1 The applicant envisages establishing a 5-bedroom guest house on the Remainder and a 3-bedroom guest house on Portion A. The approval and implementation of this proposal will therefore enable the applicant to make a substantial investment in the subject property and generate an income; and

8.3.2 It is common knowledge that the impact of the Covid 19 regulations has generally decreased property values. Should the applicant sell the subject property in the future with the title deed conditions that are proposed for removal, the selling price will be negatively affected. Apart from the personal benefits that the applicant will derive, the actual property will benefit from the success of this application.

8.4 The social benefit of the restrictive condition remaining in place in its existing form.

There are no social benefits which will accrue from retaining the restrictive title deed conditions. If the title deed conditions are not removed/amended, an opportunity for the property owner to make architectural and visual improvements to the derelict subject property will be lost and disincentivise any future attempts to make property improvements. This would consequently restrict the ability of the owner from being one of the catalysers who actively seek to contribute towards the continual visual improvement of the subject property and the Sandbaai area which is a hallmark of good neighbourhood transformation.

8.5 The social benefit of the removal or amendment of the restrictive condition.

The removal/amendment of this restrictive condition will be to the visual benefit of property owners in Sandbaai due to the architectural improvements that will be made on the subject property. The operation of the proposed guest house will generate new employment opportunities which is a significant social benefit considering the current turbulent economic climate.

8.6 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/amendment of the restrictive title deed conditions will not completely remove the residential rights enjoyed by surrounding property owners as the SR1 zoning regulates the permissible residential land uses and development envelope which makes the retention of the title deed conditions superfluous.

9. ZONING

The proposed development on Portion A and Remainder will be assessed in conjunction with the permissible land use rights and development parameters of the SR1 zoning.



MOTIVATION

Portion A			
Residential Zone 1: Single Residential			
	Parameters	Proposal	Deviate or comply
9.1	(a) Primary use	crèche, dwelling house , guest rooms, home occupation, second dwelling unit and self-catering.	Dwelling house Comply
9.2	(b) Consent use which can be applied for	day care centre, green house, guest house , house shop, institution, place of instruction, place of worship, residential building and intensive horticulture.	3-bedroom Guest house Comply
Development rules			
9.3	Coverage	50%	30,4% Comply
9.4	Building lines	Street building line = 4m	NA
		Side and rear building line = 2m	2 Comply
9.5	Height	The maximum height of a building measured from the base level to the top of the structure is 8,0 m.	3,8m Comply
9.6	Garages and carports	Garages and carports may be constructed within building lines in accordance with Chapter 16.1.2.	No garages are proposed on the premises. N/A
9.7	Parking	Parking and access shall be provided on the land unit in accordance with Chapter 17.1. Dwelling house = 2 parking bays Guest rooms = 1 parking bay per room	There are 3 parking bays required for the guest rooms and 2 parking bays for the manager's room. 4 parking bays are proposed on portion A and the remaining parking bay will be provided on the Remainder that will ensure the on-site parking requirements are met. Comply
9.8	Subdivision and density standards	The following subdivision and density provisions apply: Minimum subdivision area Council may specify the minimum size of a subdivisional area in terms of an overlay zone and/or policy and may prescribe the minimum size of subdivided portions to be achieved in such zone. (b) Maximum density Council may specify a maximum density for a land unit in terms of an overlay zone	There are no minimum erf sizes specified in the zoning scheme. Section 6 of this report has illustrated that the proposed subdivision size is in harmony with the average erf size of the immediate surrounding and has been thoroughly motivated. Comply



MOTIVATION

Remainder				
Residential Zone 1: Single Residential				
		Parameters	Proposal	Deviate or comply
9.9	(a) Primary use	crèche, dwelling house, guest rooms, home occupation, second dwelling unit and self-catering.	Dwelling house	Comply
9.10	(b) Consent use which can be applied for	day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and intensive horticulture.	5-bedroom guest house in the dwelling house.	Comply
Development rules				
9.11	Coverage	50%	30,0%	
9.12	Building lines	Street building line = 4m	10m	Comply
		Side and rear building line = 2m	2m	Comply
9.13	Height	The maximum height of a building measured from the base level to the top of the structure is 8,0 m.	7m	Comply
9.14	Garages and carports	Garages and carports may be constructed within building lines in accordance with Chapter 16.1.2.	No garages are proposed on the premises.	
9.15	Parking	Parking and access shall be provided on the land unit in accordance with Chapter 17.1. Dwelling house = 2 parking bays Guest rooms = 1 parking bay per room	There are 5 parking bays required for the guest rooms and 2 parking bays for the manager's room. A total of 7 parking bays are provided on the property for the Remainder and 1 parking bays for Portion A.	Comply
9.16	Subdivision and density standards	The following subdivision and density provisions apply: Minimum subdivision area Council may specify the minimum size of a subdivisional area in terms of an overlay zone and/or policy and may prescribe the minimum size of subdivided portions to be achieved in such zone.	There are no minimum erf sizes specified in the zoning scheme. Section 6 of this report has illustrated that the proposed subdivision size is in harmony with the average erf size of the immediate surrounding zone.	Comply



MOTIVATION

		(b) Maximum density Council may specify a maximum density for a land unit in terms of an overlay zone	and has been thoroughly motivated.	
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The compliance of this proposal with the development parameters that relate to guest houses will herewith be illustrated.

Portion A			
	Prescript	Proposal	Compliance or non-compliance
9.17	The manager and/or owner shall reside in the main or second dwelling (excluding outbuildings) on the property.	An appointed manager will reside on the premises permanently.	Comply
9.18	A maximum of 5 bedrooms (10 persons) per property may be used for paying transient guests.	There are 3 guest bedrooms proposed for the maximum accommodation of 6 transient guests.	Comply
9.19	Guest rooms may not be converted to or used as separate dwelling units.	The guest rooms are all interleading in the dwelling and not intended to be used as separate dwelling units (refer Plan 6).	Comply
9.20	Meals may also be provided to bona fide guests on the property.	Should the applicant wish to provide meals, these will only be for bona fide guests.	Comply
9.21	The residential character must be retained.	The architectural styling of the dwelling conforms to architectural principles of dwellings and will therefore retain the residential character of Sandbaai (refer Plan 7 and 8).	Comply
9.22	Subject to obtaining a liquor licence, alcoholic beverages may only be sold to resident guests for consumption with meals on site.	Should the applicant wish to obtain a liquor licence, an appropriate application will be submitted to the Western Cape Liquor Authority.	Comply
9.23	Home occupation will not be permitted on the same property as a guest house.	The applicant does not envisage the establishment of a home occupation on the property. A small reception room is proposed on the property for where the operations of the guest house will be administered.	Comply



MOTIVATION

9.24	A place of entertainment shall not be permitted.	The applicant has no intention to operate a place of entertainment on the subject property.	Comply
9.25	No more than 3 staff members shall be employed in support of the establishment at any given time.	A maximum of 3 staff members will be employed on the subject property.	Comply
9.26	No advertising sign shall be displayed without the written approval of the Municipality other than a single, un-illuminated sign or notice affixed to the building or boundary wall or fence, and such sign must be in line with the Overstrand Signage By-Law at any given time.	Should the applicant wish to place advertisement boards on the subject property, an appropriate application will be submitted to the OM.	Comply
9.27	No activities constituting a source of public nuisance shall be carried out.	The management will impose strict rules to ensure that the activities of the guests do not devolve into a state of being a nuisance.	Comply
9.28	No disturbance from loud music and other sources are allowed after 22:00.	The rules of the guest house will include a provision that no music be played after 22:00.	Comply
9.29	The minimum parking provisions as listed in section 17.1.3 shall apply.	Parking is proposed in accordance with Section 17.1.3 of the OMLUS as illustrated in Section 9.7.	Comply
9.30	Occupation shall be subject to the submission of a site plan (for record purposes) demonstrating compliance with the requirements pertaining to guest rooms.	A site plan is submitted with the application and clearly demonstrates the compliance of the guest rooms with this condition.	Comply
9.31	No cooking facilities or prep bowl may be provided in the guest room.	There are no cooking facilities proposed in each of the individual rooms as there is a communal kitchen accessible to guests.	Comply

Remainder			
	Prescript	Proposal	Compliance or non-compliance
9.32	The manager and/or owner shall reside in the main or second dwelling (excluding outbuildings) on the property.	An appointed manager will reside on the premises permanently.	Comply



MOTIVATION

9.33	A maximum of 5 bedrooms (10 persons) per property may be used for paying transient guests.	There are 5 guest bedrooms proposed for the maximum accommodation of 10 transient guests.	Comply
9.34	Guest rooms may not be converted to or used as separate dwelling units.	The guest rooms are all interleading in the dwelling and not intended to be used as separate dwelling units (refer Plan 9).	Comply
9.35	Meals may also be provided to bona fide guests on the property.	Should the applicant wish to provide meals, these will only be for bona fide guests.	Comply
9.36	The residential character must be retained.	The architectural styling of the dwelling conforms to architectural principles of dwellings and will therefore retain the residential character of Sandbaai (refer Plan 10 and 11).	Comply
9.37	Subject to obtaining a liquor licence, alcoholic beverages may only be sold to resident guests for consumption with meals on site.	Should the applicant wish to obtain a liquor licence, an appropriate application will be submitted to the Western Cape Liquor Authority.	Comply
9.38	Home occupation will not be permitted on the same property as a guest house.	The applicant does not envisage the establishment of a home occupation on the property. A small reception room is proposed on the property for where the operations of the guest house will be administered.	Comply
9.39	A place of entertainment shall not be permitted.	The applicant has no intention to operate a place of entertainment on the subject property.	Comply
9.40	No more than 3 staff members shall be employed in support of the establishment at any given time.	A maximum of 3 staff members will be employed on the subject property.	Comply
9.41	No advertising sign shall be displayed without the written approval of the Municipality other than a single, un-illuminated sign or notice affixed to the building or boundary wall or fence, and such sign must be in line with the Overstrand Signage By-Law at any given time.	Should the applicant wish to place advertisement boards on the subject property, an appropriate application will be submitted to the OM.	Comply



MOTIVATION

9.42	No activities constituting a source of public nuisance shall be carried out.	The management will impose strict rules to ensure that the activities of the guests do not devolve into a state of being a nuisance.	Comply
9.43	No disturbance from loud music and other sources are allowed after 22:00.	The rules of the guest house will include a provision that no music be played after 22:00.	Comply
9.44	The minimum parking provisions as listed in section 17.1.3 shall apply.	Parking is proposed in accordance with Section 17.1.3 of the OMLUS as illustrated in Section 9.15.	Comply
9.46	Occupation shall be subject to the submission of a site plan (for record purposes) demonstrating compliance with the requirements pertaining to guest rooms.	A site plan is submitted with the application and clearly demonstrates the compliance with this condition.	Comply
9.47	No cooking facilities or prep bowl may be provided in the guest room.	There are no cooking facilities proposed in each of the individual rooms as there is a communal kitchen accessible to guests.	Comply

10. EMOZ AND HPOZ

The subject property is not designated for environmental protection in the EMOZ or heritage protection in the HPOZ.

11. SERVICES

The applicant will pay the prescribed bulk services levies to the OM for the proposed subdivided erf. The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is herewith illustrated:

11.1 Solid waste

The OM collects solid waste on a weekly basis in Sandbaai and the dwellings to be constructed on the proposed Portion A and Remainder will derive the same benefit.

11.2 Electricity

The dwellings proposed on Portion A and Remainder will connect to the existing municipal electricity network in Sandbaai.

11.3 Water

The dwellings proposed to be constructed on Portion A and Remainder will connect to the reliable potable municipal water network which is available in Sandbaai.

11.4 Sewage

The dwellings proposed on Portion A and the Remainder will connect to proposed small-bore tanks (refer **Plan 5**).



MOTIVATION

11.5 Access and egress (refer Plan 5).

11.5.1 Portion A

Access to the Remainder is gained directly from Piet Retief Crescent. Access to Portion A is proposed via a 5m wide right of way servitude registered over the Remainder.

11.5.2 Remainder

Access to the Remainder is gained directly from Piet Retief Crescent and all required onsite parking is provided in accordance with the requirements of the OMLUS.

12. SPLUMA MOTIVATION REQUIREMENTS

The following are relevant considerations in terms of Section 42 (c) of SPLUMA and are motivated as follows:

12.1 Public interest

- 12.1.1 The approval and Implementation of this proposal will increase the value of the subject property due to the construction work that is proposed. This will increase the rates that will be collected by the OM which will be used towards service delivery and is therefore in the public interest.
- 12.1.2 The proposed guest house will generate an income which will be taxed by SARS and will be used towards service delivery which is in the public interest.
- 12.1.3 The additional rates and taxes that will be collected by the OM and SARS are needed particularly amid the current turbulent economic times.

12.2 Opportunity costs

Opportunity cost in the context of land use planning refers to the devaluation of a valued land use right of interested and affected parties when an application is approved and implemented. This proposal entails the establishment of two guest houses on two subdivided portions which are proposed on erven that are of a similar size to the surrounding and does not entail a development proposal that is out of the ordinary within the Sandbaai context. The approval and implementation of this proposal are therefore not projected to result in any opportunity cost.

12.3 Respective rights and obligations of all those affected

- 12.3.1 The scale for the proposed guest house is proposed to be limited to 3 lettable rooms on Portion A and 5 lettable rooms on the Remainder. This size of the proposed guest houses is therefore not excessively large and therefore not projected to unlock land use rights that can lead to surrounding property owners occupying respective properties in discomfort;
- 12.3.2 The parking that is proposed on the Remainder is sufficient to cater to all the guests of the proposed guest house and this will avoid cars being parked along or on the pavement. This will thereby avert cars parked on pavements which would result in pedestrians walking in the street and competing with vehicular traffic; and
- 12.3.3 The applicant enjoys cordial relations with the residents in the neighbourhood. This proposal has therefore been carefully considered by the applicant to avoid the unlocking of land use rights that might lead to disputes with neighbours.



MOTIVATION

13. POLICY FRAMEWORK

13.1 The compliance of this proposal with the applicable spatial development policies will herewith be illustrated. These policies are instrumental in guiding spatial development and providing prescripts of what constitutes sound town planning development patterns in urban areas. The compliance of this proposal with provincial and local policy prescripts which are key development informants will be illustrated:

	Applicable policy	Authority
13.1.1	Western Cape Provincial Spatial Development Framework, 2014 (PSDF)	Provincial
13.1.2	Overstrand Municipality Spatial Development Framework, 2020 (SDF)	Provincial
13.1.3	Overstrand Municipal Growth Management Strategy, 2010	Municipal

13.2 PSDF

13.2.1 Policy preface

The PSDF is a product of a provincial inter departmental and inter-governmental collaboration under the guidance of the inter-departmental steering committee in collaboration with the private sector, academia, and non-governmental organisations. This broad participatory process has created a shared spatial vision which is intended to inform spatial development patterns in urban and rural areas in the province.

13.2.2 Broad policy objectives

The objective of the policy is to create an enabling policy environment and prioritises the creation of employment opportunities, social inclusion and improvement of the quality of life of the Western Cape inhabitants. The development principles in the PSDF are informed by other spatial planning policies which are aimed at creating a policy alignment between different spheres of government.

13.2.3 Consistency of the proposal with the policy

13.2.3.1 The policy highlights that the OM functions as a significant leisure, lifestyle and holiday economic centre. The approval and implementation of this proposal would enable the establishment of guest houses on Portion A and the Remainder which will enhance the image of the OM as a lifestyle and holiday economic centre as prescribed by the policy;

13.2.3.2 The policy cites those coastal economic activities include nature-based tourism. This proposal for guest houses on Portion A and the Remainder is located in Sandbaai and Hermanus which have a plethora of nature-based excursions. This is one of the drawcards to the region and this proposal is intended to capitalise on this nature-based tourism that is prevalent on the subject property; and

13.2.3.3 The PSDF promotes the transition of urban settlements from having limited economic opportunities to a variety of livelihoods and opportunities. The southern part of Sandbaai has limited economic opportunities apart from guest houses and a few offices. This proposal for guest houses is intended to unlock economic opportunities on the subject property which are compatible with the residential land use fabric and will contribute towards the provision of a variety of livelihoods as prescribed by the policy.



MOTIVATION

13.3 SDF

13.3.1 Policy preface

The broad policy objectives of the SDF include enhancing the image of the Overstrand as a liveable urban and rural area that accommodates a variety of life. Development proposals should also capitalise on the unique sense of place which settlements and urban areas in the Overstrand are renowned for. The SDF promotes developments that enhance the visual quality and attraction of the built environments while preserving the social and cultural attributes which are valued by inhabitants.

13.3.2 Broad policy objectives

The broad policy objectives of the SDF include enhancing the image of the Overstrand as a liveable urban area that provides a range of facilities and activities which tourists can enjoy. Development proposals should also capitalise on the unique sense of place which urban areas in the Overstrand are renowned for. The SDF promotes developments that enhance the visual quality and attraction of the built environments while preserving the social and cultural attributes which are valued by inhabitants.

13.3.3 Consistency of the proposal with the policy

13.3.3.1 The spatial proposal plan designates the subject property for residential purposes and the proposed guest houses on the proposed Portion A and Remainder are in harmony with this designation;

13.3.3.2 The policy cites that tourism destinations need to be accessible, safe and attractive through maintaining current facilities and developing new ones. This proposal entails the development of two guest houses to be located on Portion A and the Remainder and entails the creation of a new tourism facility that is accessible, attractive and with a variety of safety and security measures as prescribed by the policy; and

13.3.3.3 The policy highlights that development proposals should ideally protect the unique character of the Greater Hermanus. The proposed buildings are within the development bulk and scale of the SR1 zoning and the proposed guest houses are in harmony with the prevalence of other guest houses within Sandbaai.

13.4 OMGMS

13.4.1 Policy preface

The policy was created to manage the urban growth of the OM where densification would play a pivotal role in the effective implementation of infrastructure and community facilities provision. The policy carefully considered market cycles, municipal budgeting and capital spending.

13.4.2 Broad policy objectives

The policy acknowledges that low densities are expensive and inefficient and that certain economic activities can only be attained once densities reach a certain threshold. The policy therefore promotes densification through instruments such as second dwelling units (dual occupancy) and subdivisions. The overall rationale for the document is to create an enabling environment for residents in the OM to attain an enhanced quality of life.



MOTIVATION

13.4.3 Consistency of the proposal with the policy

- 13.4.3.1** The spatial proposal plan designates the subject property for residential purposes and this proposal for guest houses is in harmony with this designation;
- 13.4.3.2** The subject property is designated for no densification. Considering this, the principle of retaining the status quo density is applied whereby a subdivision proposal that is aligned with the surrounding erf sizes as illustrated in Section 6 of this report does not necessitate a deviation from the OMGMS;
- 13.4.3.3** The policy highlights that development proposals should ideally contribute towards place making and the development of attractive and safe urban environments. The subject property is currently derelict, and the proposed architectural drawings illustrate that the proposed guest house will be of high architectural integrity and will contribute towards making the subject property attractive; and
- 13.4.3.4** The policy highlights those proposals for higher density development should ideally be of the same scale, character, bulk, height and architectural styling of the immediate development. This proposal for a subdivision and establishment of two guest houses is in harmony with the average erf sizes of the surrounding and densities and will therefore retain the scale, character, bulk and height prevalent in the area.

14. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains planning principles by which each development application must be guided. Proposals in SPLUMA that are pertinent to this proposal are recorded below:

14.1 Spatial Justice

- 14.1.1** Spatial justice in the context of spatial and land use planning refers to development proposals that redress the past apartheid spatial development imbalances. The apartheid development model generally entailed suburbs exclusively functioning for residential purposes due to the monofunctional zoning applied at the time thereby constraining the emergence of income-generating activities on properties. This proposal for the subject property to function as a guest house would generate an income for the applicant and employees is in contrast with the monofunctional land use patterns of apartheid and therefore constitutes a hallmark of spatial justice; and
- 14.1.2** Most of the people who will be employed at the subject guest house during the construction and operational phase are the historically marginalised. The employees will use incomes earned to access housing, services which collectively ensures upward socio-economic mobility and is a hallmark of spatial justice.

14.2 Spatial Sustainability

Spatial sustainability refers to land use management systems that promote and stimulate the effective and equitable function of land markets. An equitable land market is generally characterised by entrepreneurs such as the applicant being afforded opportunities to generate an income and the public being afforded a variety of tourism accommodation options. Land markets which function effectively therefore contribute towards including entrepreneurs in new urban development and ensuring the public are spoiled for choice which is a hallmark of spatial sustainability.



20/22

MOTIVATION

14.3 Efficiency

Efficiency in the context of land use planning refers to the need to enable urban areas to optimally make use of space, land and resources. This proposal entails the optimal use of the proposed subdivided portions within the bulk and services capacity of the subject property which is a hallmark of efficiency.

14.4 Spatial Resilience

Spatial resilience in the context of land use planning refers to spatial plans, policies and land use management systems that should enable the communities to resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner. This proposal is aligned with the spatial resilience principles contained in the PSDF, SDF and OMGMS.

14.5 Good administration

The OM is the organ of state which is responsible for good administration through public participation and complying with the prescribed time frames in the By Law and the OM has a credible history of upholding the principles of good administration.

15. NEED AND DESIRABILITY

The need and desirability for the approval and implementation of this proposal will be illustrated in accordance with Section 66 (1) (c) of the OM By-Law and DEADP Provincial Support Document on Relevant Considerations:

15.1 Need and desirability

Desirability, amongst others, refers to two components where need refers to "time" and desirability refers to "place". In other words, is it the right time and is it the right place for locating the proposed type of land use/activity?

15.1.1 The South African economy is slowly recovering from the impact of Covid 19 as more sectors have been allowed to trade. The applicant therefore projects that by the time that this application has been approved and implemented, the economic dynamics would have improved substantially thereby making the operation of the proposed guest houses feasible. This proposal is therefore submitted at the right time as it accounts for probable future changes in the economy; and

15.1.2 The proposed 3-bedroom guest house on Portion A and 5-bedroom guest house on the Remainder are all of a small scale thereby blending into the residential fabric of the immediate surroundings and therefore proposed at the right place. Figure 2 illustrates that there is a plethora of guest houses located in proximity to the subject property and illustrates that the rights sought for the establishment of a guest house is proposed at the right place as it conforms to the land use character of the surrounding area.

15.2 Impact on views, sunlight and character of the area

The proposed Portion A and Remainder will both retain the SR1 zoning thereby ensuring that that the scale of the buildings is confined to that of surrounding properties thereby not unlocking any additional impact in terms of views, sunlight or the character of the area.

15.3 Economic impact

The approval and implementation of this proposal will entail the construction of two new buildings and the operation of two guest houses. This will have the following direct and indirect economic impacts.



MOTIVATION

- 15.3.1** The direct impact will be the employment that will be created during the construction phase and permanent employment during the operational phase of the two proposed guest houses; and
- 15.3.2** The indirect economic opportunities are the suppliers in the construction value chain who will be able to sell construction materials to the applicant. The guests of the proposed guest houses will also spend money in other establishments in Hermanus such as restaurant, retail outlets etc and therefore inject money into the broader Hermanus economy which is necessary amid the current turbulent economic climate.

15.4 Impact on safety and wellbeing

- 15.4.1** The subject property is currently vacant and if unattended for too long has the potential to attract unsavoury characters. The approval and implementation of this proposal therefore have the potential to avert a scenario where unsavoury characters will occupy the subject property.
- 15.4.2** The applicant bought the subject property in 2019 and it is currently vacant. The construction and operation of this proposal would attract guests to the subject property who would be additional surveillance into the street and surrounding properties thereby contributing towards increasing the safety and wellbeing of residents in the area.

15.5 Environmental Considerations

The subject property is not environmentally sensitive and there will be no need for any further environmental assessment.

15.6 Heritage considerations

The subject property is not listed in the heritage register and the proposal does not trigger any activities in terms of the National Heritage Resources Act.

16. EVALUATION

The rationale for this proposal is summarised as follow:

- 16.1 The applicant will be able to operate a guest house on Portion A and the Remainder and generate an income for prospective employees; and
- 16.2 Tourists tend to spend money on other businesses within the Overstrand and will enable other businesses to generate additional incomes amid the current turbulent economic times.

17. RECOMMENDATION

It is recommended that the following is approved:

- 17.1 **Removal of restrictive title deed condition A 2. (b)** from title deed T39384/2019 in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 17.2 **Amendment of restrictive title deed condition A 2. (a)** from title deed T39384/2019 in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 17.3 **Subdivision** of Erf 322 Sandbaai to create Portion A ($\pm 705\text{m}^2$) and Remainder ($\pm 874\text{m}^2$) in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 17.4 **Consent use** on Portion A for a 3-bedroom guest house in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 17.5 **Consent use** on the Remainder for a 5-bedroom guest house in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and
- 17.6 **Departure** from the onsite parking requirements in Section 17.1 of the Overstrand Municipality Land Use Scheme, 2020 for some of the parking of Portion A to be provided on the Remainder and request for the consent to register a notarial deed of servitude over the Remainder in favour of Portion A in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

Annexure C/4

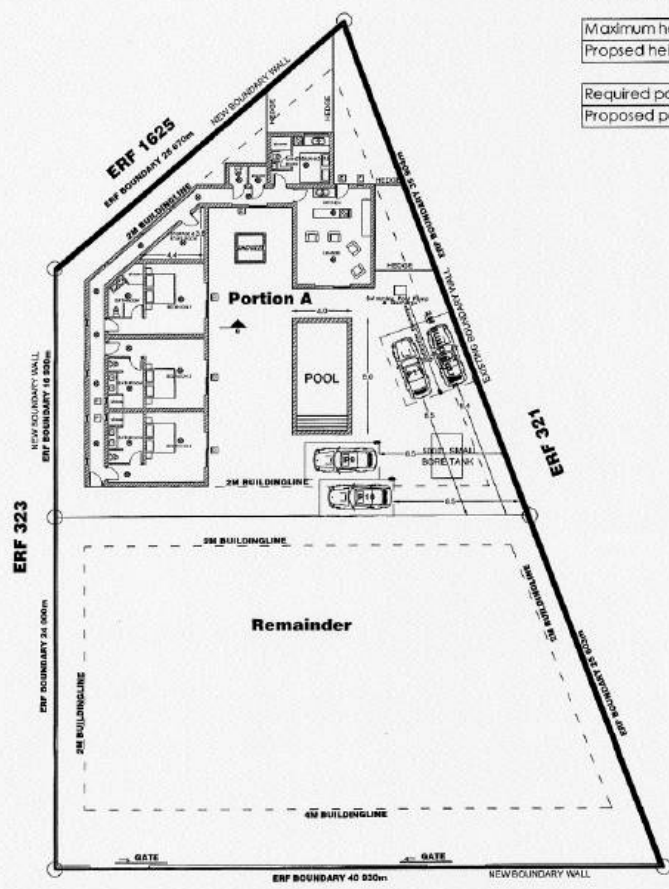
Amended Plan 6: Portion A: Floor Plan Erf 322 Sandbaai

Based on plans by Paulrid Goedeman
Tel: 028 313 1411
Email: admin@wrapgroup.co.za
Plan 6.1
Unit B, Corner of Royal and Dirkie Uys
Street Hermanus, 7200
Plan prepared by: Thion Jansen
All distances are approximate
and subject to a survey



Project Office
Town Planning & Project Management

Portion A	
Erf extent	705m ²
Maximum coverage	50%
Proposed coverage	30,0%
Maximum height	8m
Proposed height	3,5m
Required parking	5 bays
Proposed parking	4 bays



◊ PIET RETIEF SINGEL ◊

Scale 1 : 250

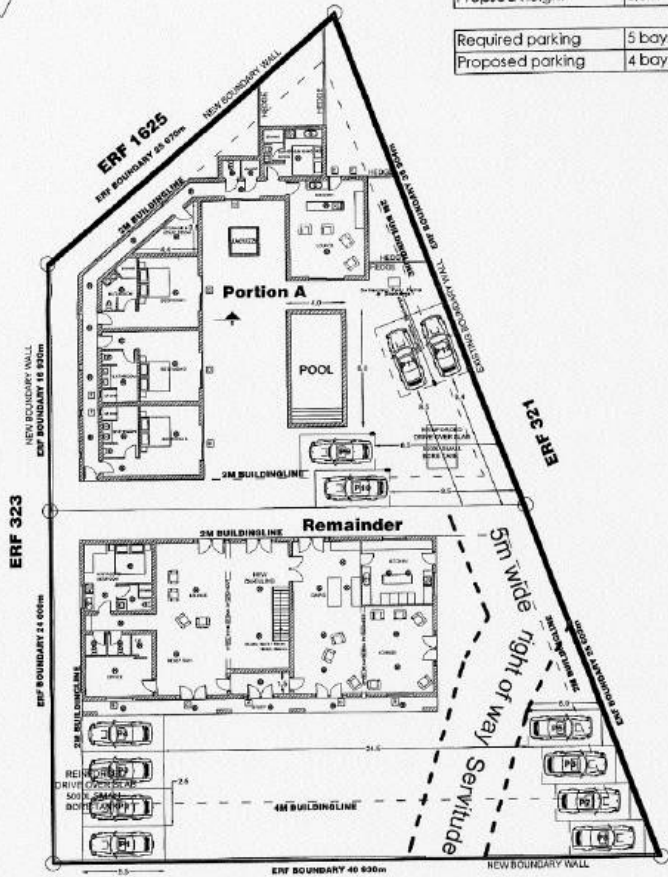
AMENDED Plan 6.1: Ground Floor Plan Erf 322 Sandbaai

Based on plans by Paulrid Goedeman
Tel: 026 313 1411
Email: admin@wrapgroup.co.za
Plan 6.1
Unit B, Corner of Royal and Dirke Lys
Street Hermanus, 7200
Plan prepared by: Thian Jansen
All distances are approximate
and subject to a survey



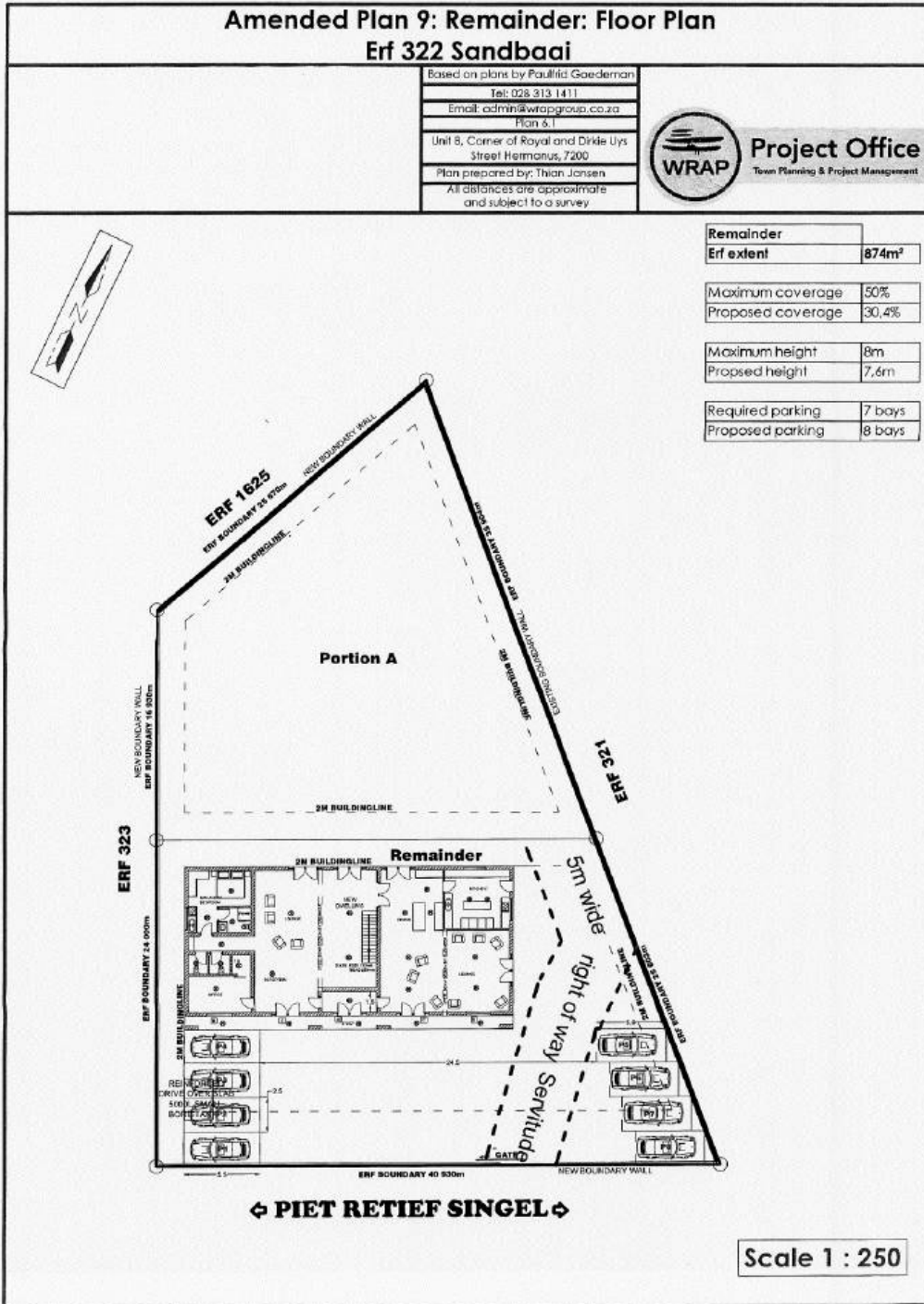
Project Office
Town Planning & Project Management

Portion A		Remainder	
Erf extent	705m ²	Erf extent	874m ²
Maximum coverage	50%	Maximum coverage	50%
Proposed coverage	30,0%	Proposed coverage	30,4%
Maximum height	8m	Maximum height	8m
Proposed height	3,5m	Proposed height	7,6m
Required parking	5 bays	Required parking	7 bays
Proposed parking	4 bays	Proposed parking	8 bays

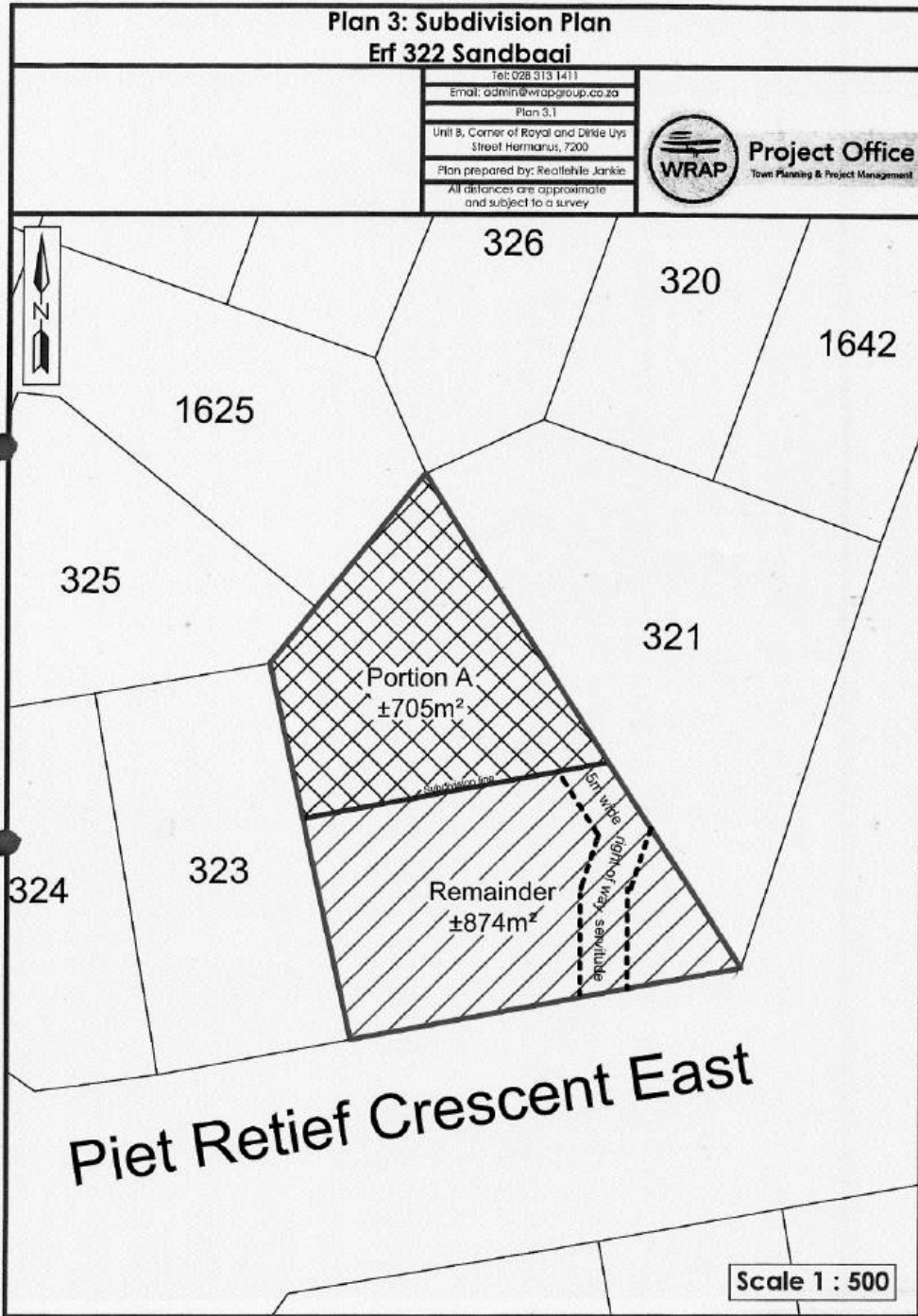


⇄ PIET RETIEF SINGEL ⇄

Scale 1 : 250



4/4



Deeds Reg A/C No
336
 Akte Kont Rok Nr. 19 SEP 2019

HANNES PRETORIUS BOCK & BRYANT PROKUREURS/ATTORNEYS
 TEL: 021 852 8315 TELEFAX: 021 852 8321 CELL: 082 448 4089

Ref No/Vers. Nr. **V 2 2 6 1 0 0 0 1**

EXECUTION/UITVOERING

A. VIR AKTEKANTOOR GEBRUIK/FOR DEEDS OFFICE USE

RATES CLEARANCE CERTIFICATE
 EXPIRES 11/11/2019

LODGED
 12-09-2019
INGEDIEN

	Ondersoekers/Examines	Kornets/ Rooms	Staking/Linking	Reject/ Verwerp	Passer / Pass
1.	N.T. KGAMPE	1185			
2.	G.NKOSI		2	1	Ⓢ
3.					

B. VIR AKTEBESORGER SE GEBRUIK/FOR CONVEYANCER'S USE.

Aard van Akte/Natura of Deed: TRANSPORT
VAN DIE MEENS
 I.g.v./i.o. VERMOEDEN

T 000039384 72019

Staking / Linking	Trekkies, ens. binne/nie deede, etc. within
2	T 31237/2014 T 29672/2005

GELYKTYDIGES/SIMULS

No. in sta/batch	Kode Code	Name van Partye/Names of Parties	Naam van Firma/Name of Firm	Firma/ Firm No.
1	T	VAN DIE MEENS / VERMOEDEN		33L
2	BC	VAN DIE MEENS / VERMOEDEN		33b
3				
4				
5				
6				
7				
8				
9				
10				

REGISTRASIE VERSOEK DEUR:
 REGISTRATION REQUESTED BY:

DATUM: 20 September 2019.
 DATE:

(Kort beskrywing van eiendom (slegs para 1 in Akte) & kort beskrywing van eiendom (slegs para 1 in Deed))
 ERF 322 G-08-01

A. VIR AKTEBESORGER SE GEBRUIK / FOR CONVEYANCER'S USE:			
(a) Gelyktydiges met ander registrasiekantore/deeltitels: Simult with other registries/sectional titles:			
Kode	Firma/Firm	Besiddom/Property	Kantoor/Office
1			
2			
3			
4			
(b) Klant afskrifte van aktes permanent in Aktekantoor geklassseer: Client copies of deed filed permanently in Deeds Office:			
Aard en nommer van akte / Nature and number of deed		Cover No. / Omslag Nr.	Parawe van ondersoekers Initials of Examiners
(c) Notas/Notes:			

BLACKBOOK
19 APR 2019
ELIZABETH VAN TONDER

B. VIR AKTEKANTOOR GEBRUIK/FOR DEEDS OFFICE USE:			
Inlardiere nagesien Intardicts checked	Paroof Initials	Opmerkinge / Remarks	Paroof Initials
Datum / Date		(1) Dorp goedgekeur (geproklameer) Township approved (proclaimed)	
		(2) Begiftigingsarwe Endowment arvan	
		(3) Begiftiging Endowment	
		(4) Voorwaardes Conditions	
		(5) Mikro Micro	
		(6) Algemene plan General Plan	
		(7) Titelskifte Title Deed	
		(8) Verbodskte teen doopstreek Bonds against township title	
		(9) Datum nagesien Date checked	
Kantoor instruksies/Office instructions:			
Seksie/Section:			

336

**Hannes Pretorius, Bock & Bryant
Attorneys**
81 HELDERBERG COLLEGE ROAD
SOMERSET WEST
CAPE TOWN
Tel: +27218528315

Prepared by me



CONVEYANCER
MARIANNE BRYANT

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 1 020 000,00	R. 1 146,00
Reason for Exemption	Category Exemption	Exemption l t o. Sec/Reg. Act/Proc.

DATA / VERIFY
23 -09- 2019
DEBRA TALJAARD

T 000039384 / 2019

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

JENNIFER NORRIS



appeared before me, the Registrar of Deeds at Cape Town, the said appearer, being duly authorised thereto by a power of attorney granted to him by

HENDRIK VAN DER MERWE
Identity Number 620319 5017 08 6
Married out of Community of Property

signed at SOMERSET WEST on 15 AUGUST 2019

DATA / CAPTURE
23 -09- 2019
DIPONTSHENG LEEUW

And the appearer declared that:

Whereas the Transferor had truly and legally sold the undermentioned property on **5 August 2019** by Private Treaty

Now therefore the Appearer on behalf of the Transferor, did by these presents, cede and transfer to and on behalf of

PHILIP BART LIEVE VERMEIREN
 Born on 21 December 1978
 Married, which marriage is governed by the laws of BELGIUM

his heirs, executors, administrators or assigns, in full and free property

ERF 322 SANDBAAI
IN THE OVERSTRAND MUNICIPALITY
DIVISION OF CALEDON
PROVINCE OF THE WESTERN CAPE

IN EXTENT 1579 (ONE THOUSAND FIVE HUNDRED AND SEVENTY NINE) SQUARE METRES

FIRST TRANSFERRED by Deed of Transfer No T5295/1946 with Diagram No 498/1946 relating thereto and held by Deeds of Transfer No's T29672/2005 and T31837/2014.

A. SUBJECT to the following conditions contained in the said Deed of Transfer No. T5295/1946:

1. Have been imposed for the benefit of Sandbaai Seaside Estate Company (Proprietary) Limited as owners of the remaining extent of Lot no 3 of the farm Onrust Rivier held by them by Deed of Transfer No. 11466/1929, and the owners of Lots in the said township already transferred or which may at any future date be transferred subject to similar conditions, namely:
 - (a) The Company reserves to itself and its successors in title the sole right to all hotels and all liquor licences and the Purchaser/s (Transferee/s) or his/their successors in title shall not have the right to erect any hotel or hold any liquor licence, without the written consent of the Directors of the Company, or its successors in title, first had and obtained.
 - (b) The Company and its successors shall not have the right to subdivide and/or sell in even the land between lots sold as seafront lots and the sea.
 - (c) That no building shall be erected on any stand unless and until the plans for such buildings have been submitted to and approved by the Directors of the said Company or its successors in title of the said Company.
 - (d) The Transferee/s and his/their successors in title of the hereinabove described property shall have the right to divert any stream or water running on the said property so as to run alongside any of the avenues or streets as laid down on the General Plan of the Township.
 - (e) The Company reserves to itself and its successors in title the right at any time hereafter to the free and undisturbed passage of electric, telegraph or telephone wires over and upon any portion of the property hereby purchased, with further right of causing them to be affixed to any building or erection not less than 3,05 metres from the ground with access at any time to such wires

for the purpose of removal or maintenance.

- (f) The Company further reserves to itself and its successors in title the right at any time hereafter to lay and to maintain piping under any portion of the above land or elsewhere and at all times to have access to such piping for removal, maintenance, extension or a or any other purpose, and to do all such acts and things as shall be required for the convenience of the inhabitants of the Township in regard to supplying them with water.
 - (g) The Company reserves it itself the sole right to all water arising on or flowing over the Company's property. There shall, however, be excluded from this reservation any water obtained by the owner of the above land by means of wells or boreholes sunk on such land.
2. Have been imposed by the Administrator:
- (a) That the above erf or erven be used for residential purposes only.
 - (b) That the above erf or erven be no subdivided.
 - (c) That not more than one dwelling together with the necessary outbuildings and accessories are erected on any one of the above erven and that not more than one-half of 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.

WHEREFORE the appearer, renouncing all the right and title the said

HENDRIK VAN DER MERWE, Married as aforesaid

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

PHILIP BART LIEVE VERMEIREN, Married as aforesaid

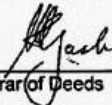
his heirs, executors, administrators or assigns, now is and henceforth shall be entitled thereto, conformably to local customs; the State, however, reserving its rights, and finally acknowledging that the purchase price is the amount of R1 020 000,00 (One Million Twenty Thousand Rand).

IN WITNESS WHEREOF I, the said Registrar, together with the appearer, have subscribed to these presents, and have caused the seal of office to be affixed thereto.

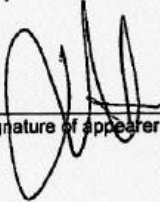
THUS SIGNED, EXECUTED AND SEALED at the Office of the Registrar of Deeds at Cape Town on

20 September 2019.

In my presence



Registrar of Deeds



Signature of appearer q.q.

MT



176
N.T.**336**

**Hannes Pretorius, Bock & Bryant
Attorneys**
81 HELDERBERG COLLEGE ROAD
SOMERSET WEST
CAPE TOWN
Tel: +27218528315

Prepared by me


CONVEYANCER
MARIANNE BRYANT

POWER OF ATTORNEY TO PASS TRANSFER

I, the undersigned

HENDRIK VAN DER MERWE ✓
Identity Number 620319 5017 08 6 ✓
Married out of Community of Property ✓

Do hereby nominate, constitute and appoint

ALICE VAN AARDE or DRISKE OLIVIER or JENNIFER NORRIS or JOHANNES
PETRUS PRETORIUS or MARIANNE BRYANT

with the power of substitution to be my true and lawful attorney and agent to appear before
the Registrar of Deeds at Cape Town, or any other competent official in the Republic of
South Africa

And then and there to declare that the Transferor did on 5 August 2019 sell by Private
Treaty to

PHILIP BART LIEVE VERMEIREN ✓
Born on 21 December 1976 ✓
Married, which marriage is governed by the laws of BELGIUM ✓

for the sum of R1 020 000,00 (One Million Twenty Thousand Rand)

the following property:

ERF 322 SANDBAAI ✓
IN THE OVERSTRAND MUNICIPALITY ✓
DIVISION OF CALEDON ✓
PROVINCE OF THE WESTERN CAPE ✓

**IN EXTENT 1579 (ONE THOUSAND FIVE HUNDRED AND SEVENTY NINE)
SQUARE METRES**

**HELD BY DEED OF TRANSFER T29672/2005 AND DEED OF TRANSFER
T31837/2014**

And further cede and transfer the said property to the said transferees; 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 Transferor might or could
do if personally present and acting therein, hereby ratifying, allowing and confirming all and
whatsoever the said agent shall lawfully do or cause to be done in the premises by virtue of
these presents.

Signed at SOMERSET WEST on 15 AUGUST 2019 in the presence of the undersigned witnesses.

WITNESSES:

1. [Signature]

[Signature]
HENDRIK VAN DER MERWE

2. Alw Oerde

NT.

[Handwritten mark]

2
N.T.



Transfer Duty Declaration

TDREP

Reference Details

Transfer Duty Reference Number: TDE034B784

Details

Details of Seller / Transferor / Time Share Company

Surname / Registered Name ID Number Company / CC / Trust Reg No. Marital Notes if applicable	VAN DER MERWE 0203195017066 A Out of Community	Full Name Date of Birth (CCYYMMDD) Marital Status Spouse Initials	HENDRIK 1963-03-19 M.O.C OF PROPERTY
-------------------------------------------------------------------------------------------------------	----------------------------------------------------------	----------------------------------------------------------------------------	--------------------------------------------

Details of Purchaser / Transferee

Full Name Date of Birth (CCYYMMDD) Passport Country Company / CC / Trust Reg No. Marital Status	PHILIP BART LIEVE 1970-12-21 BELGIUM M.O.C OF PROPERTY	Surname / Registered Name ID Number Passport Number Marital Notes if applicable Spouse Initials	VERMEEREN Erg16449 Laws of another country
-------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------	------------------------------------------------------

Details of the Property

Date of Transaction/Acquisition (CCYYMMDD)	2019-08-05	Total Fair Value	R 1026000.00	Total Consideration	R 1026000.00
--------------------------------------------	------------	------------------	--------------	---------------------	--------------

Calculation of Duty and Penalty / Interest

Transfer Duty Payable on Natural Person	R 1026000.00
-----------------------------------------	--------------

Property Description

1	ERF 322 SANDRAAI IN THE OVERSTRAND MUNICIPALITY DIVISION OF CALEDON PROVINCE OF THE WESTERN CAPE IN EXTENT 1579 (ONE THOUSAND FIVE HUNDRED AND SEVENTY NINE) SQUARE METRES
---	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------

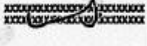
Receipt

Receipt Details

Transfer Duty Reference Number	TDE034B784	Receipt No.	120080827
Receipt Amount	R 3500.00		

Declaration by Conveyancer / Attorney

I certify that this is a true copy of the transfer duty declaration / receipt / exemption certificate drawn from the SARS eFiling site, which will be retained by me for 5 years from the date of registration of transfer.


 Please ensure you sign over the 2 lines of 'S' above
MARIANNE BRYANT
 06867730395305971

Date (CCYYMMDD): 20190811

For enquiries go to www.sars.gov.za or call 0800 00 SARS (7277)

10/13

3
NT

**CERTIFICATE IN TERMS OF SECTION 118 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT No. 32 OF 2000)
(AS PRESCRIBED IN TERMS OF SECTION 120 OF ACT No. 32 OF 2000)**

ISSUED BY OVERSTRAND MUNICIPALITY

In terms of Section 118 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), it is hereby certified that all amounts that became due to OVERSTRAND MUNICIPALITY in connection with the undermentioned property situated within that municipality for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for this certificate, have been fully paid.

DESCRIPTION OF PROPERTY

Municipal Reference Number	:	ERF 322 ✓	
Erven	:	322 ✓	
Portion	:		
Extension	:	SANDBAAI ✓	
Zoning	:		
Registration division / Administrative District	:	IN THE OVERSTRAND MUNICIPALITY, DIVISION OF CALEDON ✓	
Suburb	:	SANDBAAI (CALEDON)	
Town	:	SANDBAAI ✓	
Sectional Title unit number	:	0	
Exclusive use area and number as referred to on the registered plan	:		
Real right	:		
Scheme registration number	:		
Sectional Title Scheme Name	:		
Registered owner	:	HENDRIK VAN DER MERWE ✓	6203195017086
Name and identity / Registration number of all purchaser/s	:	PHILIP BART LIEVE VERMEIREN ✓	ENS16449

This Certificate is valid until: 2019/11/10

Given under my hand at HERMANUS on 2019/09/10

Declaration by Conveyancer:

I, MAREE LOUISE hereby certify that this is a print-out of a data message in respect of the original clearance certificate electronically issued by the OVERSTRAND MUNICIPALITY

Conveyancer

Date

Signed by Shantal Maree
Signed at: 2019-09-10 14:38:20
Reason: I approve this document

**MUNICIPAL MANAGER
OVERSTRAND MUNICIPALITY**

Date Issued: 2019/09/10
Authorised Official: Shantal Louise Maree

4
NT.**CONVEYANCER CERTIFICATE**

I, the undersigned,

MARIANNE BRYANT

In my capacity as Conveyancer, practicing in Somerset West, hereby certify in terms of regulation 18(2) of the Deeds Registries Act, No 47 of 1937 that

PHILIP BART LIEVE VERMEIREN have not been issued with South African Identity document and number.

SIGNED AT SOMERSET WEST ON 11 SEPTEMBER 2019.



MARIANNE BRYANT
CONVEYANCER

S
NFT.

PROD DEEDS REGISTRATION SYSTEM - CAPE TOWN
PREPARED BY : DRS68231 - MADAMA LITHA

DATE : 20190912 TIME : 11:23:05.1 PAGE : 1

TRACK NUMBER : 08887820167

BLACK-BOOKING ENJOYRY ON NAME - MERVE HENDRIK VAN DER
ID NUMBER - 6203195017086
BIRTH DATE - 19620819
MARITAL STATUS - MARRIED OUT
MAIDEN NAME -
TYPE OF PERSON - PRIVATE PERSON

PERSON NAME AND ID

CONTRACTS/INTERDICTIONS

NOTED ON SCAN/MICRO REF

MERVE HENDRIK VAN DER

6203195017086 18/08/1962

1989 0240 0213

** PLEASE NOTE : THE INFORMATION APPEARING ON THIS PRINTOUT IS FURNISHED FOR PURPOSES OF INFORMATION ONLY.
FOR MORE DETAILED INFORMATION, PLEASE REFER TO THE REGISTERED SOURCE DOCUMENTS.

*** END OF REPORT ***



6
NT

PROD DEEDS REGISTRATION SYSTEM - CAPE TOWN DATE : 20190912 TIME : 11:33:14.0 PAGE : 1
PREPARED BY : DRS08231 - MADARA LITHA

TRACK NUMBER : 98067920167

PROPERTY DETAILS FRONT FOR PORTION 0
ERF NO 322
TOWNSHIP SANDBAAL
REC DIV CALLEDOON RD

PROVINCE WESTERN CAPE
PREV DESCRIPTION TS255/1946
DIAGRAM DEED NO 1579 SQM
EXTENT HERMANUS MUN
CLEARANCE

NO INTERDLCTS

DOCUMENTS
043601/2005

HOLDER & SHARE AMOUNT O/P/A SCAN/PICTO REF PHOD
A B S A BANK LTD R000000.00 20141030004203 0419

OWNER DETAILS

FULL NAME & SHARE	PURCH DATE	AMOUNT/REASON	O/P/A	IDENTITY	TITLE DEED	PHOD	PICTOFILM REF
HERNE HENDRIK VAN DER 0.500000	20050121	R250000.00	0	6203195017086	T29672/2005	0419	20141030004109
HERNE HENDRIK VAN DER 0.500000 1/2	20131128	R500000.00		6203195017086	T31037/2014	0625	20141030004046

THE SUM OF THE SHARE TOTALS IS : 1.000000

* O/P/A - 0 - MULTIPLE OWNER P - MULTIPLE PROPERTY J A - MULTIPLE OWNER AND PROPERTY

** PLEASE NOTE : THE INFORMATION APPEARING ON THIS PRINTOUT IS FURNISHED FOR PURPOSES OF INFORMATION ONLY.
FOR MORE DETAILED INFORMATION, PLEASE REFER TO THE REGISTERED SOURCE DOCUMENTS.

*** END OF REPORT ***

IKHE E: IXABDA IKHE

TP. N. Ahearne
(1.1. Ollie)

ANNEXURE E 1/19



A Conradie

From:
Sent: Friday, 18 June 2021 19:50
To: A Conradie
Subject: Beswaar teen Erf 322, Piet Retiefsingel 200, Sandbaai

FILE NO:	Er 322 ✓
	Sandbaai
SCAN NO:	HSB 322
COLLABORATOR NO:	155066

Beste Alida

Ek hoop dit gaan nog goed.

Alida, met verwysing na bogenoemde Erf 322, Piet Retiefsingel 200, Sandbaai moet ons ongelukkig beswaar aanteken teen die oprigting van die gastehuse wat beplan word.

Eerstens bekommer dit ons dat die inligting oor die oprigting nie per aangetekende pos gestuur is nie. Hoe moet die bure wat ver bly weet van die gewraakte projek?

Ons as gesin is al jare lank Sandbaai inwoners, en my ouers nog langer. My ouers is hoogs ontsteld oor die aangeleentheid, hulle sloof hulle al jare lank af sodat hulle in rustigheid hul oudag en aftrede op Sandbaai kan gaan geniet. Hulle huis is ook hulle oudagbate, die waarde gaan kwaai val met so 'n ontwikkeling langsaan. Dit is kommerwekkend hoe hierdie moontlike oprigting alreeds my ouers affekteer en as hulle gesondheid hieronder gaan lei sal ons die "inkommers" ewig verwyf.

Net soos wat hierdie situasie vir my ouers affekteer, affekteer dit vir my en my broer ook. Ons liefde vir Sandbaai en sy rustigheid is net so groot. Ek en my broer met ons gesinne sien uit daarna om skoolvakansies by ouma en oupa te gaan kuier.

Ons sien uit om rustig op die stoep te sit en na die see te luister, nie na die gedruis van motorvoertuie wat heeldag kom en gaan nie. Motorvoertuie wat 'n gevaar vir my kinders gaan wees wat wil buite speel, krieket in die pad saam met die bure se kinders, want Sandbaai is nog een van daardie onversteurde dorpie wat dit toelaat.

Sandbaaiers leef in vrede saam, daar is nie plek vir sulke selfsugtige en geldgierige rykaards nie.

Erken asb ontvangs.

Vriendelike groete

18 JUN 2021

TP

A Conradie



From: [redacted]
 Sent: Saturday, 19 June 2021 12:31
 To: A Conradie
 Subject: Beplande Gastehuis te Sandbaai

TP - D. Incaut
 (M. Olivier)

Aan wie dit mag aangaan,

Ek wil graag net met die skrywe beswaar maak teen die beplande gastehuse te Erf 322, Piet Retief 200.

My gevoel is dat die konsentrasie van gastehuse in die area is al reeds te veel.

Die rustigheid van ons gebied gaan daaronder ly en Piet Retief is al reeds baie besig met motors.

Dankie.

FILE NO:	322 ✓ Sandbaai
SCAN NO:	HSB 322
COLLABORATOR NO:	1550659

18 JUN 2021
 TP



A Conradie

From:
Sent: Wednesday, 07 July 2021 14:56
To: A Conradie
Subject: Objection to new planned guest house in Piet Retief Cres

TP. N. Ahearne (H. Olivier)

Good day,

I would like to object to the newly planned guest house in Piet Retief Cres. I grew up in Sandbaai and every December go on holiday back to Sandbaai from Johannesburg. I have been saving up for a couple of years and am planning to buy a holiday/retirement property in Fynbos crescent.

Mr Swart showed me the sketches of the planned development and I truly feel it does not belong in this quiet part of Sandbaai.

There is already a very nice guest house just opposite the road, Sandbaai Country House. Also, just by doing a quick Google search there are six other places of accommodation within a 250m radius.

- 1. Sandbaai Country House
2. Family Tides
3. Whale Escape
4. Schulphoek House
5. RONDAWELS UNIQUE ACCOMMODATION
6. Seagull Luxury Self Catering

I also think adding another 8 room guest property to the already crowded space would rather lead to other job losses at the already established places than add new jobs in Sandbaai.

I hope Overstrand municipality will deny this application to build another guest house in Sandbaai.

Kind regards,

Handwritten file and scan numbers in a form: FILE NO: AF 322, SCAN NO: 158322, COLLABORATOR NO: 157196

TP
07 JUL 2021

TP - D. Ahear
(H. Olivia)

4/19

JWS Schoeman



To whom it may concern

Date: 07/07/2021

Hiermee bevestig ek HSB Schoeman dat ek ten sterkste beswaar maak ten opsigte van die aansoek gebring deur die eienaar van Erf 322 Piet Rertief singel Sandbaai vir die oprigting van twee gastehuise. My redes as volg:

Ek woon alreeds langs n groot gastehuis genaamd Sandbaai Country House

Die rustigheid sal baie versteur word met nog n gastehuis reg oorkant die pad van my eiendom

Geweldige toename aan verkeer asook n lawaai op onbepaalde tye van die dag of nag

Die veiligheid van my en my gesin sal in gedrang kom en my privaatheid bly in die slag

Ek is bekommerd dat my eiendom se waarde geaffekteer sal word en sal daal want wie sal nou n eiendom wil koop oorkant so n ontwikkeling

Gin mens sal weet watter gehalte van gaste daar sal tuis gaan nie en dit ook nog met die moontlike doel om n drank lisensie te verkry...

Ek weet nie waar al die gaste se voertuie geparkeer gaan word nie en is ook bekommerd dat gaste sommer op my gras sypaadjie sal parkeer

EK HET NOG GEEN SKRIFTELIKE KENNIS ONTVANG AANGAANDE HIERDIE PROJEK NIE

FILE NO:	322 Sandbaai
SCAN NO:	1158
COLLABORATOR NO:	1557498

07 JUL 2021

TP

Sandbaai

Hermanus

7200

Munisipaliteit

16 Paterson straat

Hermanus

7200

Re: ERF 322 Sandbaai: Aansoek om opheffing van beperkende titelaktevoorwaardes, onderverdeling, vergunningsgebruik en afwyking: WRAP namens PBL Vermeiren

Hiermee die volgende kommentaar rakende die bogenoemde aansoek.

1. Ons woonhuis is gelee op ERF 80 oorkant erf ter bespreking. Hierdie area is gekies omdat dit in 'n redelike stil area asook 'n area met min verkeer is, en ons geweet het dat op enige oop erwe oorkant ons uiteindelik slegs woonhuise opgerig mag word. Aan die voorkant van ons in Kusweg is daar ook 'n paar jaar gelede 'n huis in 'n groot gastehuis omskep, wat nie tot gebruik kon kom ek glo as gevolg van die gebrek aan parkeerarea. Dit het tot gevolg gelei dat hierdie huls nou naweke aan gesinne uitgehuur word en dus elke naweek lei tot 'n gedrinkery, geskreeury asook harde musiek wat tot in die vroeë oggendure aanhou. So die voorwaarde dat daar nie lawaai gaan word na 10:00 by voorgestelde gastehuls nie, kan nie gewaarborg word nie, al word dit gestaaf. Die verkeer dag en nag gaan ook baie toeneem soos gaste sal in- en uitbeweeg op konstante basies.
2. Slegs in Piet Retiefsingel aan die kant van die Hoofweg na Zhwelile se kant is reeds 3 gastehuse waarvan Sandbaai Country house regoor hierdie erf is. Country House se parkeerarea bied alreeds 'n onaantreklike parkeerarea en die feit dat die parkering vir al die motors van beplande gastehuse alle motors aan die voorkant wil akkommodeer is onaanvaarbaar. Ons is nie oortuig dat Sandbaai enige meer Gastehuse nodig het nie. Aar is alreeds +- 46 gastehuse of selfsorgeenhede gelys wat in elk geval in hierdie tye nie genoeg beset word agv die Covid-19 pandemie nie. Eienaar verlaag ook hul pryse om inkomste te verkry end it lei tot die verkeerde tipe gaste wat lok.
3. Ons is van siening dat die 2 gastehuse tussen die 2 aanliggende woonhuise hierdie gesinne se rustige leefwyse gaan beïnvloed. Eerstens die hoe mure wat beplan is asook die aanhoudende geraas van diensvoertuie wat bv skoonmaakmiddels, linne, kos moet voorsien.

4. Waardasies van ons eiendomme rondom die gastehuis sal daal agv nog 'n eiendom in die omgewing.
5. Ons merk dat daar vir 'n dranklisensie aansoek gedoen kan word, end us kan lei tot die beskikbaarheid daarvan en die sogenaamde gevolge wat daarmee gepaard gaan.
6. Daar is reeds gastehuse wat hulle deure moes sluit agv die huidige ekonomie en agv die pandemie, so ons kan nie sien hoe die eienaar wil bydra tot Sandbaai vir toeriste nie. Aan die een kant is sy doel om geld te maak ten koste van dig beboude erf wat nie esteties gaan vertoon in hierdie omgewing nie. Werkskepping in hierdie geval gaan nie 'n duit maak in die duisende werkloos wat na Hermanus toe stroom nie. Dit gaan juis mense hier akkommodeer wat die geleentheid het om die kom en gaan van die bure te bespied, veral vanaf die verdiepings.

Ter samevatting is ons nie ten gunste van die ondersonering van hierdie erf nie, die oprigting van gastehuse daarop nie asook die groot parkeerarea aan die voorkant vir beide gastehuse nie. Ons as inwoners is ten gunste van 'n enkel woonhuis struktuur wat sal inskakel by die res van die rustige omgewing waarin ons tans bly.

Ons hoop daar sal vanuit 'n inwoner se oogpunt na hierdie aansoek gekyk word.

Groete

A Conradie

From:
Sent: Thursday, 08 July 2021 16:06
To: A Conradie
Subject: Notice 82/2021: ERF 322 Sandbaai

a>

Dear Mr Boshoff

The above notice for the application of title deed conditions, subdivision and use departure refers. My interest in the matter is as owner of erf 81, across the road from the said property, and I wish to make the following comments regarding the application.

- 1) I agree that the vacant stand is not favourable to the neighbourhood and would support the erection of a residential home on the site.
- 2) The current application, however, seems to simply circumvent current municipal regulation to allow the owner to develop an 8-bedroom guesthouse on the property. This is evident through the fact that except for a subdivision on paper, the entire construction supports a single site guesthouse operation:
 - a. There is no application for a servitude, meaning that despite the so-called subdivision, Portion A cannot be developed and operated as a residential home before this has taken effect.
 - b. The construction on Portion A is such that no provision is made for the construction of a garage or parking space. Again, Portion A cannot be operated as a residential home.
 - c. All the parking provision for guests is done on Portion B, clearly indicating an 8-bedroom operation in practice.
 - d. For us as neighbours there will be the distinct experience of living next door to a large single site guesthouse. Due to the specifics of the design and construction, this is also likely to remain so indefinitely.
- 3) Whilst the application is fraught with numerous factual inaccuracies (Eg. 12.3.3 "The applicant enjoys cordial relations with the residents in the neighbourhood" – what utter nonsense, none of the neighbours I spoke to have even met the applicant), the most concerning are the assumption that such a large guest house is feasible (Eg 4.2.2) or even desirable ("a plethora of guesthouses in Sandbaai"). A quick survey with the operators of guesthouses in the immediate vicinity indicates current occupancy rates of around 50% of pre-Covid levels. Overall occupancy rates in Sandbaai is actually usually low as a result of mainly seasonal and week-end based tourism. So, the many economic benefits cited in the application is unlikely to materialise. The applicant may be likely to only exist by taking market share from the existing, already struggling guesthouses.
- 4) It is true that there are many guesthouses in Sandbaai, but that does not define our neighbourhood, nor does it imply that we are comfortable with becoming a resort/hotel neighbourhood with excessive traffic, noise and visual obstruction. We would like to remain a quiet, peaceful seaside residential area as envisaged by the town planners.

I would therefore recommend that subdivision is only approved with the proper servitudes, parking and construction layout that would allow for two separate erfen.

I do not agree with the establishment of either an 8-bedroom or two separate adjacent guesthouses. I would be sensitive to existing operators, and either delay any approval now, or at best only approve one guesthouse that meet the municipal requirements.

Thank you for your consideration.



Volwasse Menswees
gesonde persoon, gesin & samelewing



TP-A Theart
(Holivier)

GEAGTE OVERSTRAND MUNISIPALITEIT

Ontvang asseblief hiermee die gemotiveerde kommentaar- en beswaarskrif van die elenaar van Erf 321, Sandbaai, Mature Personhood NPC PBO | Volwasse Menswees NWO PWO, rakende PBL Vermeiren (Erf 322, Piet Retiefsingel 200, Sandbaai) se aansoek om opheffing van beperkende titelaktevoorwaardes in verband met onderverdeling, vergunningsgebruik en afwyking.

Dit sal waardeer word, en daar word daarop staatgemaak met vertroue in u, as hierdie beswaarskrif se inhoud deeglike en oorwoë aandag geniet. Daar is wydverspreide kommer en ongelukkigheid onder belanghebbende Sandbaaiers oor bovermelde aansoek. Die saak geniet ook publieke aandag in die media.

Indien bovermelde aansoek van PBL Vermeiren desnieteenstaande hierdie en ander beswaarskrifte goedgekeur word, word u vriendelik versoek om skriftelik verduidelikende terugvoer te gee op elke punt van gemotiveerde beswaar in hierdie skrywe oor waarom die betrokke beswaar nie geldig was nie en wát spesifiek vir u om welke redes swaarder geweeg het.

U word ook vriendelik versoek om erkenning van ontvangs van hierdie epos te gee.

Baie dankie vir u noukeurige aandag aan hierdie kommentaar- en beswaarskrif.

Waarderend,

(UITVOERENDE DIREKTEUR)

DR IS DE W SNYMAN
(DIREKTEUR)

FILE NO:	EL 322- HSB
SCAN NO:	HSB 322
COLLABORATOR NO:	1558402

VOLWASSE MENSWEES NWO PWO

Nie-winsgerige Organisasie (Verw. nrs. 9278/191/14/4; Reg. 2000/024599/08)

Publieke Weldaadsorganisasie (Reg. 130002887)

08 JUL 2021

TP

BESWAARSKRIF
VAN DIE EIENAAR VAN OVERSTRAND MUNISIPALITEIT ERF 321
rakende

OVERSTRAND MUNISIPALITEIT ERF 322, PIET RETIEFSINGEL 200.
 SANDBAAI: OVERSTRAND MUNISIPALE AREA: AANSOEK OM OPHEFFING VAN BEPERKENDE
 TITELAKTEVOORWAARDES ONDERVERDELING,
 VERGUNNINGSGEBRUIK EN AFWYKING:
 WRAP NAMENS PBL VERMEIREN

1. EIENAAR VAN ERF 321

Die eienaar sedert 2001 van Erf 321 (aangrensend aan Erf 322), Louis Trichardtstraat 1, Sandbaai is:

MATURE PERSONHOOD NPC PBO | VOLWASSE MENSWEES NWO PWO: Nie-winsgerigde Organisasie nommer 9278/191/14/4 ooreenkomstig Artikel 21 (Registrasie nommer 2000/024599/08), en **Publieke Weldaadsorganisasie** (Registrasie nommer 130002887).

2. DOEL VAN VOLWASSE MENSWEES NWO PWO EN GEBRUIK VAN ERF 321

OORHOOFSE DOEL	MIKPUNTE EN UITKOMSTE
<p>1. Die aanbieding van veeldoelige en omvattende Christelik-terapeutiese mensweeshulp en onderrig aan egpare en individue om hulle bemagtig met verantwoordelike selfbestuur, geestelike en emosionele gesondheid, volwasse sosiale verhoudinge, effektiewe konflik-/ trauma hanteringsmeganismes en vaardige gedragsaanpassingsvermoëns, ten einde psigies-emosioneel en volwasse te kan funksioneer in hulle uitgebreide gesinsverbande en in die breëre samelewing.</p> <p>2. Dit geskied retreat-gewys in 'n stil, afgesonderde, huislike en mooi natuur omgewing met die oog op nadenke, en waar kalm fisiese en psigies-emosionele rus belangrike boublokke en voorwaardes vir die geslaagde terapeutiese program met suksesvolle uitkomst is.</p>	<p>1: Die bevordering of beskerming van individue se persoonlike geestes-, psigies-emosionele en verhoudingstabiliteit.</p> <p>2: Terapeutiese berading van getraumatiseerde individue met betrekking tot fisiese, psigies-emosionele of geestelike misbruik.</p> <p>3: Konflikbeslegting, die bevordering van versoening, wedersydse respek en verdraagsaamheid tussen die verskillende mense van Suid-Afrika.</p> <p>4: Die fasilitering van genesing en heraanpassing vir persone wat emosionele trauma en verhoudingsmisbruik ondergaan (het).</p>

3. KOMMENTAAR EN BESWARE

3.1 GEEN AANGETEKENDE PERSOONLIKE POSKENNISGEWING ONTVANG

Volgens die regte administratiewe prosedure vir sulke sake behoort aangetekende persoonlike kennisgewings uitgestuur te word aan alle belanghebbendes voordat openbare kennisgewingsborde aangebring word. Geen sodanige aangetekende persoonlike kennisgewing in enige vorm is ontvang voordat die klein wit kennisgewingsbordjie stilweg voor Erf 322 aangebring is nie. Die eienaar van Erf 321 is eers terloops twee weke gelede daaroor ingelig deur ander inwoners van Sandbaai. Dit is regstegnies onreëlmatig en verskil byvoorbeeld van die prosedure wat 'n tyd gelede gevolg is toe die munisipaliteit persoonlik kennis gegee het aan elke belanghebbende in die omgewing met beoogde instemminge wat verleen moes word ten opsigte van die oorskreiding van munisipale regulasies by Erf 80, Piet Retiefsingel Oos. Hoe kan belanghebbende eienaars wie nie voltyds woon in Sandbaai of vir lang tye uistedig is, bewus wees van Erf 322 se aansoek? Die prosedure wat gevolg is verhoed wye kennis en bewusmaking van die saak en dus beperkende en heelwat minder kommentaar- en beswaargeleentheid van alle moontlike belanghebbendes.

Indien bogenoemde begrip van die regte prosedure inkorrekt is word vriendelik versoek dat die spesifieke wetlike bepaling rakende die prosedure en tydsaspek van persoonlike kennisgewings aan belanghebbendes op skrif aan die eienaar van Erf 321 voorsien word, Daarin moet dit duidelik aangedui wees dat slegs 'n publieke kennisgewing deur middel van 'n klein bordjie met kleinskrif die wetlike vereiste is, en dat geen belanghebbendes (veral aangrensende eienaars) op geen wyse van kommunikasie persoonlik (vooraf) hoef en behoort ingelig te word nie.

Dit moet ook vermeld word dat die eienaar van Erf 322 ook op geen stadium persoonlik of andersins die eienaar van Erf 321 ingelig het oor sy beoogde ontwikkelingsplanne nie, wyl hy sekerlik wel tog besef dat dit laasgenoemde grotesk raak, soos uit die volgende punte sal blyk.

3.2 NEGATIEWE IMPAK OP ERF 321

3.2.1 VERYDELING VAN ERF 321 SE LIEFDADIGHEIDSAANWENDING

a) Volwasse Menswees het hierdie eiendom 20 jaar gelede baie spesifiek bekom omdat dit in 'n stil area geleë is in 'n doodloopstraat en begrens is slegs met gewone enkel-residensiële eiendomme met normale residensiële eienaarsaktiwiteite, wat geen probleem verskaf vir die terapeutiese onderrig- en weldaadsdiens van Volwasse Menswees nie. Die buurt en omringende strate is ook stil en rustig. Rustigheid en stilte is 'n voorwaarde vir die mensweeshulp in kalm en huislike afsondering en woninglewe wat aan onder andere getraumatiseerde individue gebied word. Diesulkes moet ook gehelp word om van slaapsteurnisse ontslae te raak en word deur geroetineerde vroegslaap in stilte gehelp om gesonde diepslaap-ritme te ontwikkel. Die herstelprogram vereis ook daaglikse geskeduleerde tye van nadenke en die beoefening van "mindfulness"-meditasie wat plaasvind in die binnehof wat grens aan Erf 321. Steurvrye konsentrasie tydens terapeutiese gesprekke en programme is nodig. Individue kom vanoor die hele land en aangrensende lande, selfs van oorsee, om mensweeshulp hier te verkry.

b) Die volgende gereelde rumoerige en onrustige besigheidsaktiwiteite van die beoogde twee gastehuse op Erf 322 gaan bogenoemde stil-terapeutiese omgewing en programme heeltemaal verydel en onuitvoerbaar maak, en veroorsaak dat die liefdadigheidsdiens (wat al vir 20 jaar gedoen word op Erf 321) gestaak sal moet word, asook dat Volwasse Menswees waarskynlik geforseer sal word om die eiendom te verkoop omdat die ekonomiese winsbejagdoel van 'n nuwe (buitelandse) inwoner van Sandbaai, en die bietjie geld wat die munisipaliteit daaruit gaan verdien, groter oorweging verdien as liefdadigheidprogramme wat gesonde mense help kweek vir die hele SA samelewing:

i) Beide die twee gastehuse word struktuurgewys duidelik so beplan dat al die klank van die gaste se sosiale aktiwiteite in die sitkamers en buitemuurs, wat slegs 3m van Erf 321 se grensmuur is, deur die geboueplasing, asook deur oop deure en vensters, alles ge-eggo en gereflekteer gaan word na Erf 321: geselskap en uitbundige kuier-gelag van groepe toeriste wat ook van alkohol bedien gaan wees en dus 'n mini-kroeg en -restaurant situasie gaan skep; die gebêr van televisie en musiek; verlengde restaurant-tipe kuiers as ander maaltye (soos wat voorsien word) behalwe ontbyte ook aangebied word.

ii) Daar is natuurlik die onafwendbare aanhoudende aanskakeling en in- en uitbeweeg van voertuie by parkeerplekke wat letterlik teen Erf 321 se grensmuur is, bv. 2 meter van Erf 321 se hoofslaapkamervenster. Daar is die geklank van voertuie wat baie vroeg vertrek en baie laat in die aand inkom, met die geklap van deure se toemaak. Daar is die "right of way servitude" wat letterlik teen Erf 321 se grensmuur afloop en wat deur die personeel en gereelde afleweringvoertuie gebruik gaan word. Gaste laat dikwels voertuie luier of "ref" die enjins vir enjinopwarming. Afleweringvoertuie toet dikwels om aandag van mense in die kombuis te kry. Die ligte van voertuie wat donker vroeg-oggend en saans uitry en weer inkom gaan onafwendbaar aanhoudend die slaapkamers van Erf 321 verlig en slaapsteurnis veroorsaak vir mense wie juis diepslaap-ritme roetine moet ontwikkel.

iii) Die buitelig aktiwiteite van die swembad en borrelbad is baie na aan Erf 321 se grensmuur en teen die binnehof waar Volwasse Menswees se getraumatiseerde persone wat vir herstel en lewensafrigting gekom het, slaap en tye van "mindfulness" en meditasie deurbring onder die rustige geklank van die duiwe en ander voëls in die grensmuur-bome van Erf 321. Gaste baljaar van vroeg tot laat in die aand uitbundig in 'n swembad met geroep, gelag, geskreeu en geplas. Die swembadpomp met die enjin se geraas is reg langs Erf 321 se grensmuur en gaan deurentyd in die drie kamers waar onder andere getraumatiseerde persone tuis is gehoor word, veral deur die nag, wanneer goeie nagrus verseker moet word.

iv) Daar is die tipiese kombuis- en personeelgeraas van twee (!) kombuise naby aan Erf 321 se grensmuur. Personeel kom baie vroeg in, vertrek laat saans en praat, lag en roep dikwels hard ongeag die oggend- of aanduur.

v) Dit word beklemtoon dat die struktuur van beide die beoogde gastehuse sodanig is dat die binnehofmure daarvan die gastehuse se bedrywigste klanke reflekteer en eggo direk in die rigting van Erf 321 se binnehof en die drie slaapkamers waar getraumatiseerde persone tuis is en wég van die slaapkamers van die gastehuse.

c) Die aanhoudende gaste-/voertuiggeraas en druk-onrustige kom-en-gaan-besighedsaktiwiteite van die twee gastehuse soos bo uitgewys gaan, anders as 'n normale enkel-residensiële woning, 'n onoorkomelike probleem vir die belangrike spesialiteitsdiens van Volwasse Menswees as Publieke Weldaadsorganisasie veroorsaak, wat waarskynlik kan lei tot die beëindiging van die afgelope 20 jaar se liefdadigheidswerk, wat tog sekerlik trots deur Sandbaai gehuisves is. Dit kan ook lei tot verlies van werksgeleentheid vir personeel uit Zwelihle in diens van Volwasse Menswees, vir wie werk moeilik bekombaar is in die groter Hermanus. Hoekom werksgeleentheid (3) van enkeles in gedrang bring ter wille van werksgeleentheid van andere en wel slegs drie meer persone?

Praat kommersialisering harder as die genesing en herstel van mense? Het Sandbaai só 'n nypende tekort aan gastehuse en toeriste? Moet die eiendom en Publieke Weldaadswerk van 'n organisasie wat reeds 20 jaar lank deur Sandbaai gehuisves word tot 'n einde gebring word deur nóg twee nuwe alkoholverkopende raserige gastehuse in te prop in 'n kalm en rustige deel van Sandbaai, en dit tussen enkel-residensiële eiendomme te maak staan? Wat sal die keuse van die stadsvaders en -moeders wees?

3.2.2 FINANSIËLE VERLIES

a) Volwasse Menswees is as Publieke Weldaadsorganisasie hoofsaaklik van donasies afhanklik vir sy bestaan en funksionering. Indien die terapeutiese stil-atmosfeer en onmiddellike rustige omgewing, wat noodsaaklike voorwaarde vir die herstelprogramme is, nie langer gewaarborg word nie, gaan mense nie meer hier ontvang en gehelp kan word nie.

Dit nullifiseer die doel van donateurs se skenkings en gaan veroorsaak dat Volwasse Menswees se bestaan en funksionering in gedrang gaan kom as gevolg van fondstekorte en -verliese omdat donateurs skenkings gaan opskort en daar gaan baie moeilik nuwe donateurs gewerf kan word vir 'n in-die-wiele-geryde terapeutiese herstelprogram.

b) Die goedkeuring en vestiging van twee winsgerigte besighede letterlik teenaan mekaar, getoebroodjje tussen drie residensiële eiendomme, veroorsaak groot waardevermindering van laasgenoemde eiendomme. Mense van oral in die land koop eiendom in Sandbaai om af te tree of om in 'n landelike en rustige woonbuurt te bly. Dis presies waarvoor Sandbaai karakteristiek landswyd al vir baie dekades bekend is. Niemand stel belang om eiendom reg langs twee druk-besige gastehuse te bekom wyl hulle juis leefstyl veranderinge weg van die gejaag van die stedelike lewe en lawaaiëre kommersiële sentrums wil hê nie. Niemand wat rustig vakansie wil kom hou gaan belangstel om reg langs twee bedrywige besighede, waar soveel drukte en lawaai plaasvind met so baie beweging, fisiese en sielorus te kom kry nie.

Daarom is dit wensdenkery om te beweer dat die twee gastehuisbesighede die aangrensende eiendomme, asook die straat se eiendomme, se waarde gaan verhoog. Daar gaan eerder waardevermindering plaasvind as gevolg van geraasbesoedeling, privaatheidsteuring en onrustige rusverstoring.

3.3 DIE TITELAKTE VAN ERF 322 VERBOD ONDERVEDELING

3.3.1 DIE BEPALING, BEPERKING EN GEES VAN DIE TITELAKTE WORD NIE GERESPEKTEER

Dis respekloos om die visie en kernbepaling van Erf 322 se titelakte wat onderverdeling uitdruklik verbied, sommer net so in die wind te slaan ter wille van iemand uit die buiteland wat pas hier aangekom het, en nou die atmosfeer van die eiendom se geestesbetekenis en doeltouwyding ter wille van suiwer ekonomiese winsmotiewe tot niet wil maak. Dit was duidelik die bedoeling van die titelakte dat die erf juis so groot moes bly om heerlike fisiese vryheid en ruimte te bied waar rustige enkel-woninglewe geleef kon word in ontspanning en dankbaarheid vir die mooi natuur en landelikheid van die straat en die Sandbaai woonbuurt. Die nuwe eienaar van Erf 322 moes homself mos voor die koop van die erf vergewis het van die feit dat onderverdeling nie toelaatbaar is nie en hy moes dus twee ander erwe bekom het wat geskik sou wees vir sy beoogde twee winsgerigde besighede.

3.3.2 DAAR IS NIE NET GELDWAARDE AAN EIENDOM VERBONDE NIE.

Die grond het siels- en geesteswaarde, asook doelstoegewydheid wat respekvol geseen was deur die opstellers van die titelakte om nie die deursneë beperkte ruimte te bied van die kleiner erwe in Sandbaai nie. Daar is heelwat ander pragtige erwe, groot erwe, selfs met see-uitsig, beskikbaar in Sandbaai waarop winsgerigde gastehuisbesighede gebou kon word. Waarom moet hierdie erf se identiteit as mooi en ruim erf, wat juis Sandbaai se rustige en landelike ruimte en vryheid vergestalt, versnipper word met onderverdeling ter wille van kommersiële gewin? Hierdie tipe erwe is mos juis ook 'n mooi en tipiese historiese karakterkenmerk van Sandbaai. Die kil winsgerigde argument om onderverdeling te motiveer en twee gastehuisbesighede ingepronp te kry sonder om die tradisionele wesenskarakter van Sandbaai in aanmerking te neem, tas Sandbaai se wyd-gewaardeerde historiese identiteit aan. Dit is eiendomskultureel-degraderend.

3.4 GEOGRAFIESE SPASIERING VAN GASTEHUISE

a) Daar rus 'n verpligting op die munisipaliteit se raadslede as stadsvaders en –moeders om Sandbaai se kenmerkende tradisionele landelike karakter en atmosfeer te beskerm en te handhaaf in die proses van die toelating van winsgerigde besighede wat tussen enkel-residensiële eiendomme opspring. Dit is die wil en wens van die Sandbaai inwoners en dis juis die rede hoekom mense in Sandbaai residensiële eiendom aanskaf.

b) Daarom rus daar die verpligting op die munisipaliteit om toe te sien dat daar nie 'n ooraanbod van gastehuse, en spesifiek nuut-geboues, in Sandbaai ontstaan wat die stil-rustige en landelike karakter van Sandbaai in gedrang bring nie. Daar is werklik reeds oorgenoeg gastehuse in Sandbaai.

c) Daar rus 'n verpligting op die munisipaliteit om toe te sien dat daar 'n genoegsame geografiese verspreiding van gastehuse in Sandbaai is om sodoende die tipiese landelikk-rustige karakter van Sandbaai te bly bewaar en 'n oormaat van verkeer te voorkom sodat die strate waarin vryelik gestap/gedraf word en kinders vryelik fietsry/loop/rolskaats (soos in Piet Retiefstraat Oos) veilig bly.

d) Regoorkant Erf 322 is daar reeds die besige en meer-as-twee-dekades-oue en gewaardeerde Sandbaai Country House. Daar is ook reeds verskeie ander gastehuse in Piet Retiefstraat Oos en almal is goëd-gespasieerd van mekaar om nie die straat baie besig te maak nie, asook om die kenmerkende kalm atmosfeer van hierdie deel van Sandbaai se residensiële buurt te bewaar.

3.5 VOERTUIG BOTTELNEK EN VERKEERSGEVAAR

Sandbaai Country House het 13 parkeerplekke vir voertuie en daar beweeg gemiddeld 20 voertuie in en uit per gewone dag, aldus die huidige bestuurder. Indien Erf 322 se twee gastehuse regoorkant Sandbaai Country House goedgekeur gaan word, gaan daar minstens 'n verdere 12 voertuie aktief wees (aldus die hoeveelheid parkeerplekke), benewens aflewings- en diensvoertuie, asook voertuie van ander gaste wat hulle mense kom besoek in die twee beplande gastehuse. Altesame gaan daar 'n bottelnek aktiwiteit van 'n minimum van 25 voertuie wees wat in- en uitry, benewens die voertuie van dienste en ander besoekers. Dis geen oordrewe scenario om dan te verwag dat daar 'n in en uit miernes-beweging van tot 31 voertuie per dag binne die smal breedte spasie van die erwe van die drie gastehuse oorkant mekaar kan wees. Dis werklik 'n gevaarlike situasie vir die groot hoeveelheid mense wat elke dag daar verby wandel, draf en fietsry, asook die talle kinders wat gewoonlik veilig in die straat loop, fietsry en rolskaats. Die straat het geen behoorlike sypaadjies nie en die noodsaaklik-geplante bome op die huidige sykant van die pad veroorsaak dat daar nie ongehinderd daar geloop/gedraf kan word nie en forseer voetgangers noodwendig in die huidige stil straat in. Daarbenewens oorskrei die verwagte hoeveelheid voertuie se geraas- en uitlaatgasbesoedelvakkie die straat en omgewing met hierdie opeenhoping.

3.6 EKOLOGIESE VERSTEURING

Binne die 100 meter afstand weerskante van Erf 322 is daar 'n singelpark en 'n onontwikkelde parkeerarea park. Beide parke met onder andere inheemse fynbos is tuiste vir die tallose fisante, dikkoppe en skilpaaie. Daar is selfs al 'n klein bokkie opgemerk en ystervarkpenne opgetel. Die voëls en skilpaaie groei daar in hulle neste en Piet Retiefstraat is in hierdie area juis bekend vir klein fisantjies en skilpaadjies wat gereeld en ongehinderd bedags in en oor die straat loop. Die gedrang van mense en motors gaan hierdie diere verskrik en laat vlug, bring gevaar vir die kleintjies in die pad en versteur dus die diere-ekologie wat so kenmerkend van verskillende dele van die doelbewuste beplande ekologiese opset van Sandbaai met sy baie singel-parke is.

3.7 AANLOK VAN KRIMINELE

Dis bekend dat gastehuse deur kriminele geteiken word as gevolg van die geleentheid om ontspanne en nie-waaksame toeriste van kosbaarhede te beroof, asook vanweë die vermoede dat daar baie kontant teenwoordig sal wees op die perseel. Dit ondanks sekuriteitsmaatreëls van gastehuse. Sandbaai Country House is hiervan getuie en het al verskeie kere deurgeloopt onder inbrake. Inbrake het juis die afgelope maande toegeneem in Sandbaai, aldus ADT en Alfa Buurtwag van Afriforum. Die 12 geparkeerde voertuie lok weer kriminele met die oog op poging tot inbraak.

3.8 COVID-RISIKO

Die konsentrasie van die hoeveelheid mense in hoë-digtheidsverblyf van akkommodasiebesighede verhoog juis die risiko van covid-19 infeksie-oordrag.

Dis juis waarom in die pandemie daar sulke streng maatreëls was en is vir hotelle en gastehuse, omdat dié besighede super-verspreiders is en kan wees. Volgens navorsers, wetenskaplikes en medici is daar geen teken dat die pandemie in die nabye toekoms onder beheer gebring gaan word of totaal onskadelik gemaak kan word nie. Dit word globaal en ook deur die WGO voorsien dat daar in die toekoms met hierdie virus en sy muterende variante saamgeleef sal moet word. Die beplande konsentrasie van 28 mense in die twee beplande gastehuse (en dan is die twee permanente bestuurders se gades en kinders nie ingereken nie), is 'n risiko gevaar vir die buurt. Navorsing toon toenemend dat die covid-virus in sy nuwere en steeds muterende, hoogs-aansteeklike variante soos Delta en Lambda nie net fisies oordraagbaar is nie, maar ook lug-oordraagbaar.

4. OPSOMMENDERWYS

4.1 Daar word beswaar aangeteken teen die kennisgewingsprosedure wat slegs die oprigting van 'n publieke kennisgewingsbord inhou sonder dat enige persoonlike aangetekende poskennisgewings aan ondergetekende eienaar van Erf 321 (en moontlik alle belanghebbendes) vooraf gestuur is.

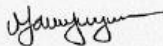
4.2 Daar word beswaar aangeteken teen die opheffing en wysiging van die titelakte se beperking op onderverdeling, vergunningsgebruik en afwyking van 'n enkel-residensiële woning, met die beplande "right of way" servituutpad.

4.3 Daar word beswaar aangeteken teen die beplande oprigting op Erf 322 van een óf twee gastehuse.

ONDERTEKEN OP 7 JULIE 2021 AS VERTEENWOORDIGEND VAN DIE DIREKSIE VAN
VOLWASSE MENSWEES NWO PWO:



(DIREKTEUR)



(DIREKTEUR)

A Conradie

From: n>
Sent: Friday, 09 July 2021 16:11
To: A Conradie
Subject: Erf 322 Sandbaai sub division

Good day

I wish to inform you that I am against the proposed sub division of the above property and the building of 2 units on it. There are plenty of open plots in Sandbaai and thus no shortage of land. I am also concerned about the planned parking deviations and extra traffic there will be on the already busy Pier Retief St.

Regards

80 Kus Rd
Sandbaai

A Conradie

From: Reinhold <info@saagselsfurniture.co.za>
Sent: Friday, 13 August 2021 13:07
To: A Conradie
Subject: Fw: Sandbaai-besware teen Erf 322-ontwikkeling.

Hi Alida

Stuur asb. bewys as jy dit nou gekry het.

Dankie.

Reinhold Swart

From: Reinhold <mailto:info@saagselsfurniture.co.za>
 Sent: Wednesday, June 30, 2021 2:54 PM
 To: alida@overstrand.gov.za <mailto:alida@overstrand.gov.za>
 Subject: Sandbaai-besware teen Erf 322-ontwikkeling.

Reinhold en Fransonette Swart
 Piet Retiefsingel 202
 Sandbaai
 28 Junie 2021

Beste Alida

Ons is al 35 jaar Sandbaaiers en het nou verneem dat langs ons aftreehuis twee gastehuse op Erf 322, Piet Retiefsingel 200, beplan word. Ironies dat my aftrede waarna ek so uitgesien het, binne 24 uur versuur is. Ek het op 20 November 2020 afgetree en 21 November het ek die eienaar van Erf 322 ontmoet, wat my toe meegedeel het van sy planne. Ek het hom vriendelik gevra om geen kostes aan te gaan nie, want ons sal NOOIT vir die oprig van hierdie gastehuse bestemming gee nie.

Ons het van die faktore wat 'n negatiewe impak op ons gaan hê, aangeheg. Jy moet net asb. ons laat weet indien jy ons besware ontvang het. Baie dankie.

BESKRYWING VAN TITELAKTE. Toe ons aanvanklik ons erf gekoop het, was ons onrustig oor die stand van die groot erf 322, maar ons het die versekering gekry dat sedert 1946 is die titelakte van die erf so beskryf dat Sandbaai sy rustige, ouwêreldse karakter behou: Die erf is gesoneer vir enkel residensiele bewoning, dus slegs een gesin. En die erf mag nooit onderverdeel word nie. Dit is vir ons tragies dat 'n nie-Sandbaaier nie kans sien om die wense van ons voorsate te eerbiedig nie.

TOENAME IN VERKEER. Voertuie van personeel en gaste sal van vroeg tot laat kom en gaan. Asook voertuie van ander dienste soos wasserye, die wat rantsone verskaf en algemene dienste lewer. Sommige gaste vertrek baie vroeg of arriveer baie laat. Met twaalf parkeerplekke op die perseel word vir 'n groot toeloop voorsiening gemaak. Sypaadjie-verkeer van personeel sal ook toeneem. Die beplande gastehuse se 12 parkeerplekke aan die een kant, plus Sandbaai Country House se 10 parkeerplekke, asook die aanliggende huise se familie en vriende wat naweke, langnaweke en skoolvakansies kom kuier, plus die voertuie wat dienste lewer, sal gou-gou 'n verkeerskongestie van oor die dertig

voertuie tot gevolg kan hê. Honderd meter verder is Schulphoekgastehuis se voertuie en 50 meter aan die anderkant is Family Tides gastehuis se voertuie. Een straat met 5 gastehuse in bestek van skaars 200 meter. 'n Nagmerrie ... dit sal lyk soos nagmaal op Garies.

BESKIKBAARHEID VAN AKKOMMODASIE. Ooraanbod van akkommodasie. By LEKKERSLAAP alleen is daar 46 gastehuse en selfsorgeenhede in Sandbaai geregistreer. Weens onder andere die pandemie geniet hierdie fasiliteite 'n baie lae besetting. Ook nêrens in ons omgewing is twee gastehuse langs mekaar nie. Ek het teen slaapyd die voertuie by Sandbaai Country House, wat ag kamers vir besoekers het, getel. Vrydag 18 Junie 2 voertuie, Saterdag 19 Junie 4 voertuie, Vrydag 25 Junie 4 voertuie en Saterdag 26 Junie 5 voertuie. Die Family Tides gastehuis het die eerste naweek wel 'n voertuig gehad, maar die tweede naweek nie 'n dooie siel nie. Volgens Schulphoek se personeel is dit maar stil by hulle. Dit wys mos daar is geen behoefte vir nog akkommodasie nie.

GASTEHUISBESTUURDERS. Die eienaar gaan nie self die gastehuse bewoon nie. Daar is net vir bestuurders voorsiening gemaak. 'n Swak bestuurder sal sy gaste nie ordentlik beheer nie en dit voorsien groot probleme. Sandbaai Country House se huurders, die Brink-egpaar, is elke liewe dag by die gastehuis en bewoon self 'n vleuel. Met 'n dekade se ondervinding in die gasvryheidsbedryf is hulle in staat om die gaste te hanteer, beheer en sorg dat hul die reëls nougeset nakom. Dit is hoe hulle verhoed dat hul besoekers nie die bure aanstoot gee nie. Dit is egter 'n harde, voltydse werk.

WINSBEJAG. So 'n groot uitleg, groot personeel en voltydse bestuurders sal vra dat daar soveel moontlik gaste daar moet bly om kostes te regverdig. In ons swak ekonomiese klimaat en midde-in 'n pandemie kan dit slegs met lae tariewe bereik word, en dit het 'n negatiewe invloed op die kwaliteit van jou gaste.

GEHALTE VAN GASTE. Deesdae is dit die geval dat mense van ook 'n swak karakter, waar daar geen gebrek aan fondse is nie, van hierdie fasiliteite gebruik maak. Met hul rumoerigheid en laakbare gedrag ontsien hul niks of niemand nie. Dit het ons onlangs eerstehands beleef waar dit drie SAPD-voertuie, 'n sekuriteitsfirma en die buurtwag geveer het om Family Tides gastehuis se besoekers stil te kry.

VEILIGHEIDSAKTOR IN GEDRANG. Daar is geen beheer oor die personeel en terreinspan wat aangestel word nie. Daar word nie noodwendig van keuring en agtergrondsonavorsing gebruik gemaak nie. Die aanliggende erwe kan maklik vanuit die boonste kamers bespied word, want dit is by hierdie mense wat die misdadigers hul inligting bekom. Deesdae is gastehuse ook 'n sagte teiken vir kriminele.

PRIVAATHEID BLY IN DIE SLAG. In gastehuse se geval bly die aangrensende bure se privaatheid altyd in die slag. Die gaste is gewoonlik ook uit hul nate, want dus waarom hul kom naweek hou.

EIENDOM SE WAARDE VAL. Dit is die groot tragedie. Die selfsugtige rykes wil hul net verder verryk, al is dit ten koste van ander. Die waarde van die aanliggende eiendomme val skerp, want wie wil langs 'n onderneming bly, of veral, kom aftree.

DRANKLISENSIE. Hierdie soort ontwikkeling maak die deur oop om 'n dranklisensie te bekom. Kan naweekgaste hul drank hanteer!? Nie sommer nie.

EDELE MOTIEWE. Die eienaar skuil agter motiewe soos: werkskepping, stimulering van die ekonomie en om Sandbaai as toeriste-mekka te help vestig. Maar wie se beursie bult? Jy kan nie werk skep, maar in die proses lei die ander gevestigde gastehuse daaronder nie. Sodra jou besetting daal, moet jy poste prys gee. Dus, aan die een kant van die pad word mense aangestel, maar aan die oorkant verloor ander weer hul werk. Hierdie edele motiewe dra ook nie water nie, want dit is regtig stofgetrapte motiverings om enige projek te loods. Ek kan 'n bordeel op Sandbaai begin en sê dat ek nie net werk gaan skep nie, maar die wandade van apartheid gaan reg stel deur alle lede van ons diverse samelewing aan te stel. So sal ek die ekonomie stimuleer en van Sandbaai, soos Phuket, 'n toeriste mekka maak soos daar gaste agter hierdie 'stoutigheid' aanry. En na die tyd sal die besoekers in die dorp by restaurante gaan eet, wat ook hierby sal baat vind.

VERSKUILDE AGENDA. Ek is my hele lewe lank 'n sakeman en kleinhandelaar en ek kan nie sien hoe hierdie beplande gastehuse ekonomies-winsgewend bedryf kan word nie. 'n Reuse uitleg en somme wat glad nie klop nie. Dit is werklik waansinnig om te midde van 'n pandemie wat nog lank met ons kan wees, 'n treurige ekonomiese klimaat, 'n ooraanbod van akkommodasie en SA wat as toeriste-bestemming in vele oorsese lande onder verdenking is, so 'n ambisieuse projek aan te pak. Skuil daar dalk iets anders daaragter?

SEKERE PERSELE SWAARDER GETREF.

Ons sal op ons oosgrens deur 'n 12 meter lange feitlik soliede muur van 7 meter hoog begrens word en dan volg 'n 3.8 meter hoë een langs die res van die grenslyn. Dit is soos om langs 'n tronk te bly. Aan die voorkant sal die parkeerarea 'n negatiewe impak hê.

Erf 321 word baie sleg getref. Die agterste wooneenhede leef deur skuifdeure in hul rigting uit en die swembad en kombuis is direk langs hul grensmuur. Asook die dienspad. Hierdie gastehuis is juis ontwerp om in die behoeftes van die besoekers wat van buitelig-aktiwiteite soos swem hou, te voorsien. Die voorste een se kombuis, leefarea en parkeerplekke is ook direk langs hul erf. Groot ontwrigting is hul voorland en konflik onafwendbaar.

Erwe 325, 326 en 1625 sal deur die meeste faktore negatief geraak word.

Die huise en gastehuis oorkant die pad sal in hierdie woonstelagtige dubbelverdieping en geparkeerde motors vaskyk. Esteties ook maar treurig versorg.

MEDIA-DEKKING. Die besware in die media-berigte is ook van toepassing:

- * Die gastehuse nie welkom. Hermanus Times. 16.6
- * Beplande gastehuis laat inwoners rooi sien. Netwerk 24. Hermanus Times. 23.6
- * Projek gaan Sandbaai-rustigheid versteur. Netwerk 24. Die Burger. 28.6
- * Inwoners van Sandbaai sien rooi en sê nee. Hermanus Times. 30.6

EK hoop jul het begrip en agting vir ons besware.

Vriendelike groete.

Reinhold en Fransonette Swart
083 270 4263



Project Office

Town Planning & Project Management

TP. N. Ahearne
(H. Olliver)

Our Reference: 19/133
Your reference: 322 HSB

27 July 2021

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

Attention: Mr H Boshoff

Sir

FILE NO:	Et 322
	Sandbaai
SCAN NO:	322 156
COLLABORATOR NO:	1569283

ERF 322, SANDBAAL: RESPONSE TO OBJECTIONS: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, SUBDIVISION, CONSENT USE, DEPARTURE AND NOTARY TIE AGREEMENT FOR PARKING

Your letter dated 14 July 2021, refers.

Due to the implementation of the provisions the Protection of Personal Information Act, 4 of 2013 (POPIA) by the Overstrand Municipality, it is impossible to verify if the objections comply with the requirements set out in Section 52 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

Regardless thereof, copies of eight (8) letters were received and all comments received were addressed to ensure comprehensiveness.

Although some comments were received in Afrikaans, the application was submitted in English and the response will therefore also be in English.

29 JUL 2021



Response to the comments received to the removal of restrictive title deed conditions, subdivision, consent use, departure, and notary fee agreement for parking.

Public Participation	Response to comment
<p>Comments from the public participation process</p> <p>"Eerstens bekommer dit ons dat die inligting oor die oprigting nie per aange tekende pos gestuur is nie. Hoe moet die bure wat ver by weef van die gewaakte projek?"</p>	<p>The standard public participation process was followed in terms of Section 46, 47, 48, 49 and 50 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.</p> <p>The methods used to notify the public of the application included the following:</p>
<p>"EK HET NOG GEEN SKRIFTELIKE KENNIS ONTVANG AANGAANDE HIERDIE PROJEK NIE"</p> <p>"3.1 GEEN AANGETEKENDE PERSOONLIKE POSKENNISGEWING ONTVANG Volgens die regte administratiewe prosedure vir sulke sake behoort aange tekende persoonlike kennisgewings uitgestuur te word aan alle belanghebbendes voordat openbare kennisgewingsboarde aangebring word. Geen sodanige aange tekende persoonlike kennisgewing in enige vorm is onivang voordat die klein wit kennisgewingsbordjie sliweg voor Erf 322 aangebring is nie. Die eienaar van Erf 321 is eers terloops twee weke gelede daaroor ingelig deur ander inwoners van Sandbaai. Dit is regstreeks onreëlmatig en verskil byvoorbeeld van die prosedure wat in Erf 322 aangebring is toe die munisipaliteit persoonlik kennis gegee het aan elke belanghebbende in die omgewing met beoogde instemminge wat verleen moes word ten opsigte van die oorskeiding van munisipale regulasies by Erf 80, Plet Reifelsingel Oos. Hoe kan belanghebbende eienaars wie nie voltyds woon in Sandbaai of vir lang tye uistedig is, bewus wees van Erf 322 se aansoek? Die prosedure wat gevolg is verhoed wye kennis en bewusmaking van die saak en dus beperkende en heelwat minder kommentaar- en beswaargeleentheid van alle moontlike belanghebbendes.</p>	<p>An on-site notice was placed on the subject property (Erf 322 Sandbaai). The onsite notice was required to be a specific size and to contain certain information which is determined by section 50 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.</p> <p>Registered letters were sent on 31st of May 2021 to all relevant property owners of the surrounding area. It is the prerogative of the Overstrand Municipality to determine which particular property owners needed to be informed.</p> <p>The notices sent with registered mail were required to contain certain information and the date sent had to be recorded as determined by section 48 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.</p> <p>The application was advertised in the Village News for public comment in three official languages as per the requirements set out within the relevant Overstrand Municipal By-Law.</p>
<p>Indien bogenoemde begrip van die regte prosedure inkorek is word vriendelik versoek dat die spesifieke wettlike bepaling rakende die</p>	<p>The notices published in the media contained specific information and were published on a specific date that correlates with the registered letters that were sent out and the onsite notice that was displayed, all of</p>

<p>prosedure en tydspek van persoonlike kennisgewings aan belanghebbendes op skrif aan die eienaar van Erf 321 voarsien word. Daarin moet dit duidelik aangedui wees dat slegs 'n publieke kennisgewing deur middel van 'n klein bordjie met kleinskif die wettike vereiste is, en dat geen belanghebbendes (veral aangrensende eienaars) op geen wyse van kommunikasie persoonlik (vooraf) hoef en behoort ingelig te word nie.</p> <p>Dit moet ook vermeld word dat die eienaar van Erf 322 ook op geen stadium persoonlik of andersins die eienaar van Erf 321 ingelig het oor sy beoogde ontwikkelingsplanne nie, wyl hy sekerlik wel tog beset dat dit laasgenoemde groter raak, soos uit die volgende puntjie sal blyk."</p>	<p>which is determined by Section 47 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.</p> <p>Proof of registered letters sent, is on record with the Overstrand Municipality and can be provided on request.</p>
<p>Title deed restrictions</p> <p>"3.3 DIE TITELAKTE VAN ERF 322 VERBOD ONDERVEDELING 3.3.1 DIE BEPALING, BEPERKING EN GEES VAN DIE TITELAKTE WORD NIE GERESPEKTEER</p> <p>Dis respekloos om die visie en kernbepaling van Erf 322 se titelakte wat onderverdeling uitdruklik verbied, sommer net so in die wind te staan ter wille van iemand uit die buiteland wat pas hier aangekom het, en nou die atmosfeer van die etendom se geestesbetekenis en doeltoewyding ter wille van suiwer ekonomiese winsmotiewe tot niet wil maak. Dit was duidelik die bedoeling van die titelakte dat die erf juis so groot moes bly om heerlike fisiese vryheid en ruimte te bied waar rustige enkel-woninglewe geleef kon word in ontspanning en dankbaarheid vir die mooi natuur en landelikeheid van die straat en die Sandbaai woonbuurt. Die nuwe eienaar van Erf 322 moes homself mos voor die koop van die erf vergewis het van die feit dat onderverdeling nie toelaatbaar is nie en hy moes dus twee ander erwe bekom het wat geskik sou wees vir sy beoogde twee winsgerige besighede.</p>	<p>The first title deed for the property was issued approximately 50-60 years ago and times were different then. Sandbaai was just a residential area. Where now Sandbaai is turning into a mixed-use area, where businesses, old age homes, residences and institutions function together as one to form a community. To assume that the original developers of the Sandbaai township who registered the first title deed for Erf 322 would take personal offence to the removal of a 50+ year old restriction, does not make sense in 2021.</p> <p>As motivated in the application document, Sandbaai is changing into an inclusive and modern area that allows for more than just single-family homes. The applicant has a right to 'enjoy' and optimise his property to his benefit.</p> <p>The applicant will operate the guest houses in a reasonable way that will not disrupt the surrounding property owners.</p> <p>It is also important to point out that the applicant is not "iemand wat uit die buiteland so pas hier aangekom het nie", but the owner of other residential properties in Sandbaai which he owns and reside in for quite a while.</p>

<p>3.3.2 DAAR IS NIE NET GELDWAARDE AAN EIENDOM VERBONDE NIE. Die grond het seis- en geesteswaarde, asook doektoegewydheid wat respekvol geseën was deur die opstellers van die titelakte om nie die deursnee beperkte ruimte te bied van die kleiner erwe in Sandbaai nie. Daar is heelwat ander pragtige erwe, groot erwe, selfs met see-uitsig, beskikbaar in Sandbaai waarop winsgerige gastehuisbesighede gebou kon word. Waarom moet hierdie erf se identiteit as mooi en ruim erf, wat juis Sandbaai se rustige en landelike ruimte en vyheid vergesalt, versnipper word met onderverdeling ter wille van kommersiële gewin? Hierdie tipe erwe is mos juis ook 'n mooi en tipiese historiese karakterkenmerk van Sandbaai. Die kil winsgerige argument om onderverdeling te motiveer en twee gastehuisbesighede ingeprop te kry sonder om die tradisionele wesenkarakter van Sandbaai in aanmerking te neem, las Sandbaai se wyd-gewaardeerde historiese identiteit aan. Dit is eiendoms-kultuureel-degraderend."</p> <p>"There are plenty of open plots in Sandbaai and thus no shortage of land."</p>	<p>Servitude application and the parking issue of Portion A which does not have a garage.</p> <p>"There is no application for a servitude, meaning that despite the so-called subdivision, Portion A cannot be developed and operated as a residential home before this has taken effect."</p> <p>"The construction on Portion A is such that no provision is made for the construction of a garage or parking space. Again, Portion A cannot be operated as a residential home."</p> <p>"All the parking provision for guests is done on Portion B, clearly indicating an 8-bedroom operation in practice."</p>
	<p>The application made provision for 2 servitudes. Please refer to Section 4.4 and 4.5 of the application.</p> <p>Item 4.4 includes an application for the registration of a right of way servitude that will provide access to Portion A.</p> <p>Item 4.5 includes an application for the registration of a notarial deed of servitude that will allow the parking required for Portion A be provided on Portion B of the subdivided property.</p> <p>If the one property is for one or other reason sold separately in future, the access servitude will remain in place to provide access to the rear erf on which the parking required can be provided.</p>

Impact on traffic

"Ons sien uit om rustig op die stoep te sit en na die see te luister, nie na die gedruis van motorvoertuie wat heeldag kom en gaan nie. Motorvoertuie wat 'n gevaar vir my kinders gaan wees wat wil buite speel, krikeel in die pad saam met die bure se kinders, want Sandbaai is nog een van daardie onversteurde dorpie wat dit toelaat"

"Die rustigheid van ons gebied gaan daaronder ly en Piet Reijer is alreeds baie besig met motors."

"Geweldige toename aan verkeer asook 'n lawaai op onbepaalde tye van die dag of nag"

"d) Regoorkant Erf 322 is daar reeds die besige en meer-as-twee-dekades-oue en gewaardeerde Sandbaai Country House. Daar is ook reeds verskeie ander gastehuise in Piet Reijersstraat Oos en almal is goed-gespasieer van mekaar om nie die straat baie besig te maak nie, asook om die kenmerkende kalm atmosfeer van hierdie deel van Sandbaai se residiensieële buurt te bewaar."

"3.5 VOERTUIG BOTTELNEK EN VERKEERSGEVAAR

Sandbaai Country House het 13 parkeerplekke vir voertuie en daar beweeg gemiddeld 20 voertuie in en uit per gewone dag, aldaas die huidige bestuurder. Indien Erf 322 se twee gastehuise reg oorkant Sandbaai Country House goedgekeur gaan word, gaan daar minstens 'n verdere 12 voertuie aktief wees (aldas die hoeveelheid parkeerplekke), benewens aflewerings- en diensvoertuie, asook voertuie van ander gasie wat hulle mense kom besoek in die twee beplande gastehuise. Altesame gaan daar 'n bottelnek aktiwiteit van 'n minimum van 25 voertuie wees wat in- en uitry, benewens die voertuie van dienste en ander besoekers. Dis geen oordrewe scenario om dan te verwag dat daar 'n in en uit miernes-beweging van tot 31 voertuie per dag binne die smal breedte spasie van die erwe van die drie gastehuise oorkant mekaar kan wees. Dis werklik 'n gevaarlike situasie vir die groot hoeveelheid mense wat elke

It is acknowledged that the proposed guest house will add traffic to the area. It is however not predicted to be an issue to the surrounding property owners, as the roads surrounding the subject property have the capacity to accommodate the additional flow of traffic.

A guest house generally does not generate concentrated traffic as guests arrive and leave at different times.

Regarding children playing in the street, this practice is not advised and could result in an unforeseen accident that could occur at any time, with or without a new guesthouse in the area.

It is acknowledged that Sandbaai Country House has 13 parking bays and approximately 20 vehicles enter and exit the property per day. However, these are two different enterprises and should not be compared.

These numbers being mentioned are estimates and speculative. The application is being circulated to the Overstrand Municipality engineering department for comment which will inform the decision makers.

With the number of bedrooms proposed for the two guest houses, the applicant is required to provide 12 parking bays, as per the proposed Site Development Plan included in the application.

Guests will be required to utilise the provided parking bays and the managers of the proposed guest houses will ensure that guests do not park in on surrounding properties.

dag daar verby wandel, draf en fietsry, asook die talle kinders wat gewoonlik veilig in die straat loop, fietsry en rolskaats. Die straat het geen behoorlike sypaadjies nie en die noodsaaklik geplante bome op die huidige sykante van die pad veroorsaak dat daar nie ongehinderd daar geloop/gedraf kan word nie en forseer voetgangers noodwendig in die huidige stil straat in. Daarbenewens oorskrei die verwagte hoeveelheid voertuie se geraas- en uitlaatgasbesoedelvingsvlakke die straat en omgewing met hierdie opeenhoping."

"I am also concerned about the planned parking deviations and extra traffic there will be on the already busy Pter Reiter St."

"Ons woonhuis is geleë op ERF 80 oorkant erf ter bespreking. Hierdie area is gekies omdat dit in 'n redelike stil area asook 'n area met min verkeer is, en ons gewet het dat op enige oop erwe oorkant ons uiteindelik slegs woonhuise opgerig mag word. Aan die voorkant van ons in Kusweg is daar ook 'n paar jaar gelede 'n huis in 'n groot gastehuis omskep, wat nie tot gebruik kon kom ek glo as gevolg van die gebrek aan parkeerarea. Dit het tot gevolg gelei dat hierdie huis nou naweke aan gesjinne uitgehuur word en dus elke naweek lei tot 'n gedrinkery, geskreeury asook harde musiek wat tot in die vroeë oggendure aanhou. So die voorwaarde dat daar nie lawaai gaan word na 10:00 by voorgestelde gastehuis nie, kan nie gewaarborg word nie, al word dit gestaf. Die verkeer dag en nag gaan ook baie toeneem soos gaste sal in- en uitbeweeg op konstante basis."

"Ek weet nie waar al die gaste se voertuie geparkeer gaan word nie en is ook bekommerd dat gaste sommer op my gras sypaadjie sal parkeer"

"Country House se parkeerarea bied alreeds 'n onaantreklike parkeerarea en die feit dat die parkering vir al die motors van beplande gastehuse alle motors aan die voorkant wil akkommodeer is onaantwoordbaar."

Effect on the surrounding area	
<p>"Net soos wat hierdie situasie vir my ouers affekteer, affekteer dit vir my en my broer ook. Ons liefde vir Sandbaai en sy rustigheid is net so groot. Ek en my broer met ons gesinne sien uit daarna om skoolvakansies by ouma en oupa te gaan kuier."</p> <p>"Mr Swart showed me the sketches of the planned development and I truly feel it does not belong in this quiet part of Sandbaai."</p> <p>"Die rustigheid sal baie versteur word met nog n gastehuis reg oorkant die pad van my eiendom".</p> <p>"Ons is van siening dat die 2 gastehuise tussen die 2 aanliggende woonhuise hierdie gesinne se rustige leefwyse gaan beïnvloed. Eerstens die hoë mure wat beplan is asook die aanhoudende geraas van diensvoertuie wat by skoonmaakmiddels, linne, kos moet voorstien."</p> <p>"For us as neighbours there will be the distinct experience of living next door to a large single site guesthouse. Due to the specifics of the design and construction, this is also likely to remain so indefinitely."</p> <p>"It is true that there are many guesthouses in Sandbaai, but that does not define our neighbourhood, nor does it imply that we are comfortable with becoming a resort/hotel neighbourhood with excessive traffic, noise and visual obstruction. We would like to remain a quiet, peaceful seaside residential area as envisaged by the town planners."</p> <p>"3.2 NEGATIEWE IMPAK OP ERF 321 3.2.1 VERDELING VAN ERF 321 SE LIEFDADIGHEIDSAANWENDING a) Volwasse Menswees het hierdie eiendom 20 jaar gelede baie spesifiek bekom omdat dit in 'n stil area geleë is in 'n doodloopstraat en begrens is slegs met gewone enkelresidensiële eiendomme met normale residensiële eiensaarskifteite, wat geen probleem verskaf vir die terapeutiese onderrig- en weldaatsdiens van Volwasse Menswees nie.</p>	<p>The proposed guest house fits into the surrounding nature of the Sandbaai area. It is understood that the Sandbaai area is a tranquil and calm area. The applicant does not have the intention to affect this and the guests that will visit the proposed guest houses will also want to experience the tranquil and calm of the area. As indicated by the objectors there are several guest houses in the area all of which are in operation.</p> <p>Such a small-scale development is not foreseen to affect the surrounding area and it is not expected to have an impact on the area as a whole.</p> <p>To ensure this, there will always be a manager on-site. The sketch plans included in the application indicates the accommodation area for the managers to reside on site.</p> <p>This will contribute to ensure that the calmness and tranquility of the Sandbaai area will be retained.</p> <p>The applicant has made great efforts to ensure the right number of rooms and the aesthetic of the proposed development is not something out of the ordinary for the Sandbaai area.</p> <p>The proposed development complies with the parameters set out by the Overstrand Municipality Land Use Management Scheme. This is of great importance to the applicant.</p> <p>The applicant would never develop the property in a manner that would be aesthetically displeasing. The sketch plans that were submitted with the application indicated this.</p> <p>The proposed development will not intrude on the privacy of the surrounding properties. The applicant wants to ensure the privacy of the</p>

<p>Die buurt en omringende strate is ook stil en rustig. Rustigheid en stilte is 'n voorwaarde vir die menseweeshulp in kalm en huislike afsondering en woningtwee wat aan onder andere getraumatiseerde individue gebied word. Diesulkes moet ook gehelp word om van slaapsteurnisse ontlaas te raak en word deur gereëlde vroeëslap in stilte gehelp om gesonde diepslaap-ritme te ontwikkel. Die herstelprogram vereis ook daaglikse geskeduleerde tye van nodenke en die beoefening van "mindfulness"-meditasie wat plaasvind in die binnehof wat grens aan Ef 321. Steunvrye konsentrasie tydens terapeutiese gesprekke en programme is nodig. Individue kom vandoor die hele land en aangrensende lande, selfs van oorsee, om menseweeshulp hier te verkry."</p> <p>"3.4 GEOGRAFIESE SPASIERING VAN GASTEHUISE</p> <p>a) Daarrus 'n verpligting op die munisipaliteit se raadslede as stadsvaders en -moeders om Sandbaai se kenmerkende tradisionele landelike karakter en atmosfeer te beskerm en te handhaaf in die proses van die toelating van winsgerigte besighede wat tussen enkelresidensiële eiendomme opspring. Dit is die wil en wens van die Sandbaai inwoners en dis juis die rede hoekom mense in Sandbaai residensiële eiendom aansoek."</p>	<p>guests that stay in the guest houses, to ensure that both parties are being protected.</p>
<p>There is no concrete evidence backing these statements that the proposed guest houses will affect property values.</p> <p>It is however an established principal in property valuation that an area has a median or average value. With two, high value and upmarket buildings to be established in the area, the median or average value will definitely be raised, which will rather increase than decrease the value of properties in the area.</p>	<p>Property Value</p> <p>"'Ek is bekommerd dat my eiendom se waarde geaffekteer sal word en sal daal want wie sal nou 'n eiendom wil koop oorkant so 'n ontwikkeling"</p> <p>"Waardasies van ons eiendomme rondom die gastehuis sal daal agv nog 'n eiendom in die omgewing."</p> <p>"b) Die goedkeuring en vestiging van twee winsgerigte besighede letterlik teenaan mekaar, getoebroodjige tussen drie residensiële eiendomme, veroorsaak groot waardevermindering van laasgenoemde eiendomme. Mense van oral in die land koop eiendom in Sandbaai om af te tree of om in 'n landelike en rustige woonbuurt te bly. Dis presies waarvoor Sandbaai karakteristiek landswyd al vir baie dekaades bekend is.</p>

<p>Niemand stel belang om eiendom reg langs twee druk-besige gastehuisse te bekom wyl hulle juis leestyl veranderings weg van die gejaag van die stedelike lewe en lawaaterige kommersiële sentrums wil hê nie. Niemand wat rustig vakansie wil kom hou gaan belangstel om reg langs twee bedrywige besighede, waar soveel drukte en lawaai plaasvind met so baie beweging, fisiese en sielrus te kom kry nie.</p> <p>Daarom is dit wensdenkery om te beweer dat die twee gastehuisbesighede die aangrensende eiendomme, asook die straat se eiendomme, se waarde gaan verhoog. Daar gaan eerder waardevermindering plaasvind as gevolg van geraasbesoedeling, privaatheidsteuring en onrustige rusverstooring."</p>	
<p>Existing guest houses in the Sandbaai area</p> <p>"My gevoel is dat die konsentrasie van gastehuisse in die area is al reeds te veel."</p> <p>"There is already a very nice guest house just opposite the road, Sandbaai Country House. Also, just by doing a quick Google search there are six other places of accommodation within a 250m radius.</p> <ol style="list-style-type: none"> 1. Sandbaai Country House 2. Family Tides 3. Whale Escape 4. Schulphoek House 5. Rondawels Unique Accommodation 6. Seagull Luxury Self Catering" <p>"Slegs in Piet Reileisingel aan die kant van die Hoofweg na Zhwellie se kant is reeds 3 gastehuisse waarvan Sandbaai Country house regoor hierdie erf is."</p> <p>"Ons is nie oortuig dat Sandbaai enige meer gastehuisse nodig het nie. Daar is alreeds +- 46 gastehuisse of selfsorgeenhede gelys wat in elk geval in hierdie tye nie genoeg beset word agv die Covid-19 pandemie nie."</p>	<p>It is acknowledged that the surrounding area does in fact have existing guest houses. This fact was indicated in the application as well. The applicant however has a vision to run a successful guest house from the subject property and is aware of the competition present.</p> <p>Competition in business is always healthy and may be an inspiration to competition to upgrade their facilities and their tourism offering.</p> <p>By having competition, all involved are required to raise the imaginary bar of standard.</p> <p>The proposed guest houses will however be of such a nature that it will encourage existing establishments to evaluate their offering and increase service levels and standards to remain competitive.</p> <p>South Africa has a free-market system, and a municipality cannot decide on the number of guest houses to be allowed in an area.</p>

Eiemaars verlaag ook hul pryse om inkomste te verkry en dit lei tot die verkeerde tipe gaste wat lok."

"b) Daarom rus daar die verpligting op die munisipaliteit om toe te sien dat daar nie 'n ooraanbod van gastehuise, en spesifiek nuut-geboudes, in Sandbaai ontstaan wat die stil-rustige en landelike karakter van Sandbaai in gedrang bring nie. Daar is werklik reeds oorgenoeg gastehuise in Sandbaai."

"c) Daar rus 'n verpligting op die munisipaliteit om toe te sien dat daar 'n genoegsame geografiese verspreiding van gastehuise in Sandbaai is om sodoende die tipiese landelike-rustige karakter van Sandbaai te bly bewaar en 'n oormaat van verkeer te voorkom sodat die strate waarin vryelik gestap/gedraf word en kinders vryelik fietsry/loop/tolskaats (soos in Piet Reeliesstraat Oos) veilig bly."

"3.) Whilst the application is fraught with numerous factual inaccuracies (Eg. 12.3.3 "The applicant enjoys cordial relations with the residents in the neighbourhood" - what utter nonsense, none of the neighbours I spoke to have even met the applicant), the most concerning are the assumption that such a large guest house is feasible (Eg 4.2.2) or even desirable ("a plethora of guesthouses in Sandbaai"). A quick survey with the operators of guesthouses in the immediate vicinity indicates current occupancy rates of around 50% of pre-Covid levels. Overall occupancy rates in Sandbaai are actually usually low as a result of mainly seasonal and week-end based tourism. So, the many economic benefits cited in the application is unlikely to materialise. The applicant may be likely to only exist by taking market share from the existing, already struggling guesthouses."

Job losses will occur & no impact will be made on job creation

"I also think adding another 8-room guest property to the already crowded space would rather lead to other job losses at the already established places than add new jobs in Sandbaai."

"Daar is reeds gaste-huise wat hulle deure moes sluit agy die huidige ekonomie en agy die pandemie, so ons kan nie sien hoe die elenaar wil bydra tot Sandbaai vir toeriste nie. Aan die eenkant is sy doel om geld te maak ten koste van dig beboude erf wat nie esteeties gaan verloor in hierdie omgewing nie. Werkskepping in hierdie geval gaan nie 'n duif maak in die duisende werkloos wat na Hermanus toe stroom nie. Dit gaan juis mense hier akkommodeer wat die geleentheid het om die karn en gaan van die bure te bespied, veral vanaf die verdieplings."

"c) Die aanhoudende gaste-/voertuigeras en druk-onrustige kom- en-gaanbesighoudingskwaliteite van die twee gaste-huise soos bo uitgewys gaan, anders as 'n normale enkelresidensiële woning, 'n onoorkomlike probleem vir die belangrike spesialiteitsdiens van Volwassee Menswees as Publieke Weidaarsorganisasie veroorsaak, wat waarskynlik kan lei tot die beëindiging van die afgelope 20 jaar se liefdadigheds-werk, wat tog sekerlik trots deur Sandbaai gehuisves is. Dit kan ook lei tot verlies van werksgeleentheid vir personeel uit Zwellhle in diens van Volwassee Menswees, vir wie werk moeilik bekombaar is in die groter Hermanus. Hoekom werksgeleentheid (3) van enkeles in gedrang bring ter wille van werksgeleentheid van andere en wel slegs drie meer persone?"

If the proposed development is approved, firstly, the construction phase will create temporary jobs.

It is of importance to note that any opportunity to provide employment opportunities should be encouraged.

Managers, kitchen staff, cleaners, and other domestic support staff will be employed by the facilities.

As previously mentioned, healthy competition amongst the guest houses will occur. The applicant has no intention in 'poaching' employees from other establishments.

Regarding point c), the applicant will never intentionally affect another person's livelihood or propose a development that will do so. The proposed development is not expected to affect the operation that is occurring on Erf 321, the Mature Personhood NPC PBO.

It should however be mentioned that Erf 321 is operating a Self-Catering business, and the question needs to be raised if their land use rights are in place? See website - <https://www.oceansong.org.za/>.

It is also not clear if "Volwassee Menswees" is regarded as the practising of an occupation or if it is a business? Surely the latter should be established in a central business district and not in a residential area?

<p>Health Concerns</p> <p>"Ons as gesin is al jare lank Sandbaai inwoners, en my ouers nog langer. My ouers is hoogs ontsteld oor die aangeleentheid, hulle sloof hulle al jare lank af sodat hulle in rustigheid hul oudag en affrede op Sandbaai kan gaan geniet. Hulle huis is ook hulle oudagbare, die waarde gaan kwaai val met so 'n ontwikkeling langsaan. Dit is kommerwekkend hoe hierdie maontlike oprigting al reeds my ouers affekteer en as hulle gesondheid hieronder gaan lei sal ons die "inkommers" ewig verwyf."</p>	<p>It is predicted that the proposed development will not have any effect on the health of the surrounding owners.</p> <p>It is also not clear how an upmarket guest house will have a negative effect on the value of adjacent properties.</p> <p>To refer to the applicant as "inkommers" is regarded as derogatory and said previously, the applicant is an established ratepayer of the Overstrand and owns other residential properties in which he resides for quite a while.</p>
<p>Safety Concern</p> <p>"Die veiligheid van my en my gesin sal in gedrang kom en my privaatheid bly in die slag"</p> <p>"3,7 AANLOK VAN KRIMINELE</p> <p>Dis bekend dat gastehuise deur kriminele geteiken word as gevolg van die geleentheid om ontspanne en nie-waaksame toeriste van kosbaarhede te beroof, asook vanweë die vermoede dat daar baie konstant teenwoordig sal wees op die perseel. Dit ondanks sekuriteitsmaatreëls van gastehuise, Sandbaai Coutry House is hiervan getuie en het al verskeie kere deurgeloopt onder inbrake. Inbrake het juis die afgelope maande toegeneem in Sandbaai, aldus ADT en Alta Buurtwag van Afriforum. Die 12 geparkerde voertuie lok weer kriminele met die oog op poging tot inbraak."</p>	<p>Safety of the guests and their possessions is of great importance for the applicant and therefor will be one of the priority duties of the manager on duty.</p> <p>The cars will be locked behind gates during the evening deterring criminals from attempting to breaking in. This is indicated on the plans submitted as Plan 4.</p> <p>In addition, with the constant awareness of people on the property this also serves as great deterrent for criminals.</p>
<p>Liquor Licence concern</p> <p>"Gin mens sal weet watter gehalte van gaste daar sal huis gaan nie en dit ook nog met die moontlike doel om 'n drank lisensie te verkry ..."</p> <p>"Ons merk dat daar vir 'n dranklisensie aansoek gedoen kan word, en dus kan lei tot die beskikbaarheid daarvan en die sogenaamde gevolge wat daarmee gepaard gaan."</p>	<p>Although the application states that a liquor licence MAY be applied for, it is not objective of this application.</p> <p>If required by the applicant, it will be a separate application process and the public will have the opportunity to comment on such application.</p>

Noise concern

"i) Beide die twee gastehuise word struktuurgewys duidelik so beplan dat al die klank van die gaste se sosiale aktiwiteite in die sifkammers en buitemuurs, wat slegs 3m van Erf 321 se grensmuur is, deur die geboueplasing, asook deur oop deure en vensters, alles ge-eggo en gereflekteer gaan word na Erf 321: geselskap en uitbundige kuier-gelag van groepe toeriste wat ook van alkohol bedien gaan wees en dus 'n mini-kroeg en -restaurant situasie gaan skep; die gebier van televisie en musiek; verlengde restaurant-tipe kuiers as ander maaltye (soos wat voorstien word) behalwe ontbyle ook aangebied word."

"b) Die volgende gereelde rumoerige en onrustige besigheidsaktiwiteite van die beoogde twee gastehuise op Erf 322 gaan bogenoemde sif-terapeutiese omgewing en programme heeltemal veryd en onuitvoerbaar maak, en veroorsaak dat die liefdadighedsadfers (wat al vir 20 jaar gedoen word op Erf 321) gestaak sal moet word, asook dat Volwasse Menswees waarskynlik gefarseer sal word om die eiendom te verkoop omdat die ekonomiese winsbelagdoel van 'n nuwe (buitelandse) inwoner van Sandbaai, en die bietjie geld wat die munisipaliteit daaruit gaan verdien, groter oorweging verdien as liefdadighedsprogramme wat gesonde mense help kweek vir die hele SA samelewing"

"ii) Daar is natuurlik die onafwendbare aanhoudende aanskakeling en in- en uitbeweeg van voertuie by parkeerplekke wat letterlik teen Erf 321 se grensmuur is, bv. 2-meter van Erf 321 se hoofslaapkamervenster. Daar is die geklank van voertuie wat baie vroeg vertrek en baie laat in die aand inkom, met die geklap van deure se toemaak. Daar is die "right of way servitude" wat letterlik teen Erf 321 se grensmuur afoop en wat deur die personeel en gereelde afleweringsvoertuie gebruik gaan word. Gaste laat dikwels voertuie luter of "ref" die enjins vir enjinopwarming. Afleweringsvoertuie toet dikwels om aandag van mense in die kombuis te kry. Die ligte van voertuie wat donker vroeg-oggend en saans uitry en weer inkom gaan onafwendbaar aanhoudend die slaapkammers van Erf

The applicant's intention is not to create any negative effect on the surrounding properties.

As mentioned previously, to ensure the noise is kept at a reasonable level there will always be a manager on-site.

This will aid in the reassurance of the surrounding property owners that the calmness and tranquillity of the Sandbaai area will be kept.

In addition, the proposed guest houses are not planned with any ill intention and the proposed building were designed to utilise the subject property's shape and size.

The objector makes a lot of assumptions regarding guests and staff that will be a nuisance and will be creating excessive noise. The applicant bought the property with the intention to develop it as an asset to himself as well as the area.

The applicant and his managers will ensure that guests are considerate and respect other property owners in the area.

In various relevant case law the universal principle is that that every person is entitled to the use and **enjoy his or her property**, provided that the use of the property should not intrude unreasonably on the use and enjoyment by the neighbours of their properties. What constitutes reasonable usage in any given case is dependent on various factors, including the general character of the area in question.

It is also of importance to note that the common law places a duty on a property owner to act reasonably in the exercise his right of ownership, which, if the applicant does not do so, actions can be taken.

The applicant will operate his establishment as a reasonable guest house owner, if the surrounding property owners at any time are of the

<p>321 veilig en slaapsteurnis veroorsaak vir mense wie juis alepslaap-ritme roetine moet ontwikkel.</p> <p>'ij) Die buitelig aktiwiteit van die swembad en borelbad is baie na aan Erf 321 se grensmuur en teen die binnehof waar Volwasse Menswees se getraumatiseerde persone wat vir herstel en lewensafrigting gekom het, slaap en tye van "mindfulness" en meditasie deurbring onder die rustige geklank van die duwe en ander voëls in die grensmuur-bome van Erf 321. Gaste baljaar van vroeg tot laat in die aand uitbundig in 'n swembad met geroep, gelag, geskreeu en geblas. Die swembadpomp met die entjin se geraas is reg langs Erf 321 se grensmuur en gaan deurentyd in die drie kamers waar ander getraumatiseerde persone tuis is gehoor word, veral deur die nag, wanneer goeie nagrus verseker moet word.</p> <p>'iv) Daar is die tipiese kombuis- en personeelgeraas van twee ljl kombuise naby aan Erf 321 se grensmuur. Personeel kom baie vroeg in, vertrek laat saans en praat, lag en roep dikwels hard ongeag die oggend- of aanduur.</p> <p>'v) Dit word beklemtoon dat die struktuur van beide die beoogde gastehuise sodanig is dat die binnehofmure daarvan die gastehuise se bedrywige klank reflekteer en eggo direk in die rigting van Erf 321 se binnehof en die slaapkamers waar getraumatiseerde persone tuis is en weg van die slaapkamers van die gastehuise."</p>	<p>opinion that the guesthouses are not operated within acceptable "reasonable guest house" principles, a complaint can submitted to the Overstrand Law Enforcement Department for investigation and action.</p>
<p>NPC PBO Concerns</p> <p>"Praat kommersialisering harder as die genesing en herstel van mense? Het Sandbaai so 'n nypende tekort aan gastehuise en toeristie? Moet die eiendom en Publieke Weldaadswerk van 'n organisasie wat reeds 20 jaar lank deur Sandbaai gehuisves word tot 'n einde gebring word deur nog twee nuwe alkoholverkopende raserige gastehuise in te prop in 'n kalm en rustige deel van Sandbaai, en dit tussen enkel-residensiële eiendomme te maak staan? Wat sal die keuse van die stadsvaders en -moeders wees?"</p>	<p>The proposed guest houses are not seen as 'commercial enterprises' however enterprises allowed on a Single Residential property with consent from the Overstrand Municipality.</p> <p>It is not the intention of the applicant to affect anyone's source of income and it not expected that the proposal will affect the enterprise being run on Erf 321. Both these enterprises may co-exist peacefully, even complementing each other.</p>

<p>"a) Volwasse Menswees is as Publieke Weldaatsorganisasie hoofsaaklik van donasies afhanklik vir sy bestaan en funksionering. Indien die terapeutiese stil-atmosfeer en onmiddellike rustige omgewing, wat noodsaaklike voorwaarde vir die herstelprogramme is, nie langer gewaarborg word nie, gaan mense nie meer hier ontvang en gehelp kan word nie."</p> <p>"Dit nullifiseer die doel van donateurs se skenkings en gaan veroorsaak dat Volwasse Menswees se bestaan en funksionering in gedrang gaan kom as gevolg van fondstekorte en -verliese omdat donateurs skenkings gaan opskarf en daar gaan baie moeilik nuwe donateurs gewerf kan word vir 'n in-die-wiele-geryde terapeutiese herstelprogram."</p>	<p>Family members of the individuals being treated on Erf 321 can be accommodated close to where their loved ones are being treated.</p>
<p>Ecological Impact</p> <p>"Binne die 100 meter afstand weerskante van Erf 322 is daar 'n singelpark en 'n onontwikkelde parkeerarea park. Beide parke met onder andere inheemse fynbos is tuis vir die lallose fisante, dikkoppe en skilpaale. Daar is selfs af 'n klein bokkie opgemerk en ystervarkpenne opgetel. Die voëls en skilpaale braet daar in hul te neste en Piet Reiterstraat is in hierdie area juis bekend vir klein fisantjies en skilpaadjies wat gereeld en ongehinderd bedags in en oor die straat loop. Die gedrang van mense en motors gaan hierdie diere verskrik en laat vlug, bring gevaar vir die kleinjies in die pad en versteur dus die diere ekologie wat so kenmerkend van verskillende dele van die doelbewuste beplande ekologiese opset van Sandbaai met sy baie singel-parke is."</p>	<p>It is not clear from the comment how the proposed development of the two guest houses will impact on these two parks being indicated by the objector. No impact is foreseen on an ecological level.</p> <p>On an ecological level, the proposed guest houses will not have more impact as the existing improved erven in the area.</p>
<p>COVID Risk</p> <p>"3.8 COVID-RISIKO Die konsentrasie van die hoeveelheid mense in hoë-aigheidsverblyf van akkommodasie besigheids verhoog juis die risiko van covid-19 infeksie-oordrag. Dis juis waarom in die pandemie daar sulke streng maatreels was en is vir hotelle en gastehuise, omdat die besigheids super-</p>	<p>The proposed development will not affect surrounding property owners' risk to COVID.</p> <p>The property will be managed with strict COVID guidelines based on scientific evidence.</p>

verspreiders is en kan wees. Volgens navorsers, wetenskaplikes en medici is daar geen teken dat die pandemie in die nabye toekoms onder beheer gebring gaan word of totaal onskadelik gemaak kan word nie. Dit word glabaal en ook deur die WGO voorsien dat daar in die toekoms met hierdie virus en sy muterende variante saamgeleef sal moet word. Die beplande konsentrasie van 28 mense in die twee beplande gastehuise (en dan is die twee permanente bestuurders se gades en kinders nie ingereken nie), is 'n risiko gevaar vir die buurt. Navorsing toon toeneemend dat die covidvirus in sy nuwere en steeds muterende, hoogs-aansteeklike variante soos Delta en Lambda nie net fisies oordraagbaar is nie, maar ook lug-oordraagbaar."

Tourism enterprises are allowed to operate, with the assurance that they meet the requirement set out by the South African Government, which the applicant is willing to do.



Conclusion

The comments revealed that the objectors are concerned about aspects of their wellbeing and rights that may be infringed upon. Our original submitted application and comments on the objections however indicate that the proposed guest houses will not affect these aspects.

The applicant has no intention to impact on any person or property and the nature, scale and design of the proposed guest houses, within the development parameters of the land use scheme, confirm this.

The applicant owns other property in Sandbaai, not far from the subject property and share the sentiment and concerns of the objectors with regards to retaining the tranquillity and ambience of the neighbourhood.

Considering that this response has adequately addressed all the comments raised by the objectors, it is recommended that the planning application be approved as submitted.

Yours faithfully

A handwritten signature in black ink, appearing to read "T. Jansen", is written in a cursive style.

T JANSEN

PROFESSIONAL TOWN PLANNER (A/2858/2019)



18/25

Project Office

Town Planning & Project Management

TP. n. Alhout
(H. Boshoff)

Our Reference: 19/133
Your reference: 322 HSB

19 August 2021

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

Attention: Mr H Boshoff

Sir

FILE NO:	322
	Sandbaai
SCAN NO:	1583221
COLLABORATOR NO:	
	1574463

ERF 322, SANDBAAI: RESPONSE TO OBJECTIONS: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, SUBDIVISION, CONSENT USE, DEPARTURE AND NOTARY TIE AGREEMENT FOR PARKING

The letter of objection from Reinhold and Fransonette Swart, dated 28 June 2021, refers.

Additional information contained in this letter will be addressed and comments already addressed in our previous response to comments and objections will be indicated as such.

Although some comments were received in Afrikaans, the application was submitted in English and the response will therefore also be in English.

TP 23 AUG 2021



Response to the comments received to the removal of restrictive title deed conditions, subdivision, consent use, departure, and notary fee agreement for parking.

Title deed restrictions	Comments from the public participation process	Response to comment
<p>"BESKRYWING VAN TITELAKTIE. Toe ons aanvanklik ons erf gekoop het, was ons onrusig oor die stand van die groot erf 322, maar ons het die versekering gekry dat sedert 1946 is die titelakte van die erf so beskryf dat Sandbaai sy rustige, ouwerelidse karakter behou. Die erf is gesoneer vir enkel residensiële bewoning, dus slegs een gesin. En die erf mag nooit onderverdeel word nie. Dit is vir ons tragies dat 'n nie-Sandbaaier nie kans sien om die wense van ons voorsate te eerbiedig nie."</p>	<p>No additional information is contained in this comment and this aspect has been addressed in our previous response to comments (17/11/11).</p> <p>We do not have any comment to add.</p>	<p>No additional information is contained in this comment and this aspect has been addressed in our previous response to comments (17/11/11).</p> <p>We do not have any comment to add.</p>
<p>Impact on traffic</p> <p>"TOENAME IN VERKEER.</p> <p>Voertuie van personeel en gaste sal van vroeg tot laat kom en gaan. Asook voertuie van ander dienste soos wasserie, die wat rantsoene verskat en algemene dienste-lewer. Sommige gaste vertrek baie vroeg of arriveer baie laat. Met twaalf parkeerplekke op die perseel word vir 'n groot toeloop voorsiening gemaak. Sypaadjieverkeer van personeel sal ook toeneem. Die beplande gaste-huise se 12 parkeerplekke aan die een kant, plus Sandbaai County House se 10 parkeerplekke, asook die aanliggende huise se familie en vriende wat naweke, langnaweke en skoolvakansies kom kuler, plus die voertuie wat dienste-lewer, sal gou-gou 'n verkeerskongestie van oor die dertig voertuie tot gevolg kan hê. Handlêr meter verder is Schulphoekgastehuis se voertuie en 50 meter aan die anderkant is Family Tides gastehuis se voertuie. Een straat met 5 gastehuisse in bestek van skaars 200 meter. 'n Nagmeirite ... dit sat lyk soos nagmaal op Garies."</p>	<p>No additional information is contained in this comment and this aspect has been addressed in our previous response to comments (17/11/11).</p> <p>We do not have any comment to add.</p>	<p>No additional information is contained in this comment and this aspect has been addressed in our previous response to comments (17/11/11).</p> <p>We do not have any comment to add.</p>

<p>Effect on the surrounding area</p> <p>"PRIVAATHEID BLY IN DIE SLAG. in gaste-huise se geval bly die aangrensende bure se privaatheid altyd in die slag. Die gaste is gewoonlik ook uit hul note, want dus waarom hul kom naweek hou."</p>	<p>No additional information is contained in this comment and this aspect has been addressed in our previous response to comments and objections.</p> <p>We do not have any comment to add.</p>
<p>Property Value</p> <p>"EIENDOM SE WAARDE VAL. Dit is die groot tragedie. Die selfsugtige rykes wil hul net verder verryk, al is dit ten koste van ander. Die waarde van die aanliggende eiendomme val skerp, want wie wil langs 'n onderneming bly, of veral, kom affree."</p>	<p>No additional information is contained in this comment and this aspect has been addressed in our previous response to comments and objections.</p> <p>We do not have any comment to add.</p>
<p>Existing guest houses in the Sandbaai area</p> <p>"BESKIKBAARHEID VAN AKKOMMODASIE. Oorambod van akkommodasie. By LEKKERSLAAP alleen is daar 46 gaste-huise en selfsorgehede in Sandbaai geregisreer. Weens onder andere die pandemie geniet hierdie fasiliteite 'n baie lae besetting. Ook nérens in ons omgewing is twee gaste-huise langs mekaar nie. Ek het teen slaaptyd die voertuie by Sandbaai Country House, wat agt kamers vir besoekers het, getel. Vrydag 18 Junie 2 voertuie, Saterdag 19 Junie 4 voertuie, Vrydag 25 Junie 4 voertuie en Saterdag 26 Junie 5 voertuie. Die Family Ides gaste-huis het die eerste naweek wel 'n voertuig gehad, maar die tweede naweek nie 'n doolie siel nie. Volgens Schulphoek se personeel is dit maar stíl by hulle. Dit wys mos daar is geen behoefte vir nog akkommodasie nie."</p>	<p>No additional information is contained in this comment and this aspect has been addressed in our previous response to comments and objections.</p> <p>We do not have any comment to add.</p>

<p><u>Safety Concern</u></p> <p>"VEILIGHEIDSFAKTOR IN GEDRANG.</p> <p>Daar is geen beheer oor die personeel en terreinspan wat aangestel word nie. Daar word nie noodwendig van keuring en agtergrondnavorsing gebruik gemaak nie. Die aanliggende erwe kan maklik vanuit die boonste kamers bespied word, want dit is by hierdie mense wat die misdadigers hul inligting bekom. Deesdae is gastehuise ook 'n sagte teiken vir kriminele."</p>	<p>No additional information is contained in this comment and this aspect has been addressed in our previous response to comments and objections.</p> <p>We do not have any comment to add.</p>
<p><u>Liquor Licence concern</u></p> <p>"DRANKLISENSIE.</p> <p>Hierdie soort ontwikkeling maak die deur oop om 'n dranklisensie te bekom. Kan noweegaste hul drank hanteer? Nie sommer nie."</p>	<p>No additional information is contained in this comment and this aspect has been addressed in our previous response to comments and objections.</p> <p>We do not have any comment to add.</p>
<p><u>Noise concern</u></p> <p>"GEHALTE VAN GASTE.</p> <p>Deesdae is dit die geval dat mense van ook 'n swak karakter, waar daar geen gebrek aan fondse is nie, van hierdie fasiliteite gebruik maak. Met hul rumoerigheid en laakbare gedrag ontsien hul niks of niemand nie. Dit het ons onlangs eersheids beleving waar dit drie SAPD-voertuie, 'n sekuriteitsfirma en die buurtwag geveg het om Family Tides gastehuis se besoekers stil te kry."</p>	<p>No additional information is contained in this comment and this aspect has been addressed in our previous response to comments and objections.</p> <p>We do not have any comment to add.</p>

<p>Management of the proposed guest houses</p> <p>"GASTEHUISBESTUURERS.</p> <p>Die eienaar gaan nie self die gastehuise bewoon nie. Daar is net vier bestuurders voorsiening gemaak. 'n Swak bestuurder sal sy gaste nie ordentlik beheer nie en dit voorsien groot probleme. Sandbaai County House se huurders, die Brink-egpaar, is eke lewende dag by die gastehuis en bewoon self 'n vleuel. Met 'n dekade se ondervinding in die gasvryheidsbedryf is hulle in staat om die gaste te hanteer, beheer en sorg dat hul die reëls noudeset nakom. Dit is hoe hulle verhoed dat hul besoekeers nie die bure aanstoot gee nie. Dit is egter 'n harde, voltydse werk."</p>	<p>Assumptions being made by the objector states that the applicant will not be employing a manager who is fit for the position. The applicant would like to ensure that all staff members of the establishment will be qualified to undertake the position in which they are employed.</p> <p>The applicant would like to reassure all the objectors that with the provision of manager quarters inside of the proposed guest house, that a hands-on approach will be taken.</p> <p>As stated by the objector the job of manager is a fulltime job, employing a separate person to manage the establishment will leave other pressing matters to the applicant to resolve if such matters arise.</p>
<p>Profit Chasing</p> <p>"WINSEJAG.</p> <p>So 'n groot uitleg, groot personeel en voltydse bestuurders sal vra dat daar soveel moontlik gaste daar moet bly om kostes te regverdig. In ons swak ekonomiese klimaat en midde-in 'n pandemie kan dit slegs met lae tariewe bereik word, en dit het 'n negatiewe invloed op die kwaliteit van jou gaste."</p>	<p>The objector states the main objective of any business or enterprise. The applicant has the objective to operate and establish a profitable enterprise.</p> <p>The pandemic will also pass and is only a current situation that we are experiencing. Short-term aspects cannot be used to make long term decisions.</p>
<p>'Noble Motives'</p> <p>"EDELE MOTIEWE.</p> <p>Die eienaar skuil agter moitiese soos: werkskepping, stimulering van die ekonomie en om Sandbaai as toeriste-mekka te help vestig. Maar wie se beursie built? Jy kan nie werk skep, maar in die proses lei die ander gevestigde gastehuise daarander nie. Soora jou besetting daal, moet jy poste prys gee. Dus, aan die een kant van die pad word mense aangestel, maar aan die oorkant verloor ander weer hul werk. Hierdie edele motiewe dra ook nie water nie, want dit is regtig stofgetrapte</p>	<p>The motivations used were based on facts and were not made up. The new establishment will create jobs and aid the Overstrand Municipality to ensure Hermanus is an area where tourists are welcomed.</p> <p>The applicant's intent was never to affect any person negatively and his only intention is to use his property as being applied for, which is in line with the requirements set out by the Overstrand Municipality.</p> <p>The case made by the objector is ridiculous stating that he can start a brothel with the same motivations. However, unlike a brothel a guest</p>

<p>motiverings om enige projek te loods. Ek kan 'n bordeel op Sandbaai begin en sê dat ek nie net werk gaan skep nie, maar die wandade van apartheid gaan reg stel deur alle lede van ons diverse samelewing aan te stel. So sal ek die ekonomie stimuleer en van Sandbaai, soos Phuket, 'n toeriste mekka maak soos daar gaste agter hierdie stoutigheid 'aanry. En na die tyd sal die besoekers in die dorp by restaurante gaan eet, wat ook hierby sal baat vind."</p>	<p>house is allowed in a residential area and is supported by the legislative and policies set out by the Overstrand Municipality.</p> <p>By using the objectors' words 'dit is regtig 'stoggetrapte' objections it is being thrown around at the moment and does not hold much water"</p>
<p>Hidden Agenda</p> <p>"VERSKUILDE AGENDA.</p> <p>Ek is my hele lewe lank 'n sakeman en kleinhandelaar en ek kan nie sien hoe hierdie beplande gaste-huse ekonomies-wingsgewend bedryf kan word nie. 'n Reuse uitleg en somme wat glad nie kloep nie. Dit is werklik waarsinnig om te midde van 'n pandemie wat nog lank met ons kan wees, 'n treurige ekonomiese klimaat, 'n ooraanbod van akkommodasie en SA wat as toeriste-bestemming in vele oorsese lande onder verdenking is, so 'n ambisieuse projek aan te pak. Skuil daar dalk iets anders daaragter?"</p>	<p>To answer the objector's question in short: No</p> <p>There is no hidden agenda, everything that the applicant envisions for the subject property was included into the application.</p> <p>The applicant appreciates the concern that the objector has, regarding the financial viability of the establishment. Through personal diligence a decision was made that Erf 322 was the ideal location to establish a guest house.</p>
<p>Other Affected Properties</p> <p>"SEKERE PERSELE SWAARDER GETREF.</p> <p>Ons sal op ons oosgrens deur 'n 12 meter lange feilijk soliede muur van 7 meter hoog begrens word en dan volg 'n 3.8 meter hoe een langs die res van die grenslyn. Dit is soos om langs 'n tronk te bly. Aan die voorkant sal die parkeerarea 'n negatiewe impak hê. Erf 321 word baie sleg getref. Die agterste wooneenhede leef deur skuifdeure in hul rigting uit en die swembad en kombuis is direk langs hul grensmuur. Asook die oenspad. Hierdie gaste-huis is juis ontwerp om in die behoeftes van die besoekers wat van buitelug-aktiwiteite soos swem hou, te voorsien. Die voorste een se kombuis, leefarea en parkeerplekke is ook direk langs hul erf. Groot ontwrigting is hul voorland en konflik onafwendbaar. Erwe 325, 326 en</p>	<p>All these measurements are in line with the Overstrand Municipality's Land Use Scheme and the applicant is complying with the requirements set out in this scheme.</p> <p>The 7m high building is the same height as a regular double storey house and the objectors was fine with a single family living next to them. However is this structure different from a large double storey home?</p> <p>The objector cannot make a case for other property owners who had to submit an objection personally within the 30-day timeframe of the Public Participation process. It will therefore not be commenting on the statements made by the objector in this regard.</p>

1625 sal deur die meeste faktore negatief geraak word. Die huise en gaslehuis oorkant die pad sal in hierdie woonstelagtige dubbelverdieping en geparkeerde motors vaskyk. Esteties ook maar freunig versorg."

**Conclusion**

The comments revealed that the objector is concerned about aspects of their wellbeing and rights that may be infringed upon. Our original submitted application and comments on the objections however indicate that the proposed guest houses will not affect these aspects.

The applicant has no intention to impact on any person or property and the nature, scale and design of the proposed guest houses, within the development parameters of the land use scheme, confirm this.

The applicant owns other property in Sandbaai, not far from the subject property and share the sentiment and concerns of the objectors with regards to retaining the tranquillity and ambience of the neighbourhood.

Considering that this response has adequately addressed all the comments raised by the objectors, it is recommended that the planning application be approved as submitted.

Yours faithfully

A handwritten signature in black ink, appearing to read "T. Jansen", is written in a cursive style.

T. JANSEN

PROFESSIONAL TOWN PLANNER (A/2858/2019)

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS,
SUBDIVISION, CONSENT USE AND DEPARTURE: ERF 322, SANDBAAI**

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

Conditions:

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

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

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

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

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

The contribution according to the current policy (**2020/2021**) is as follows:


Freehold erven:

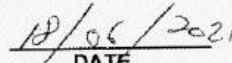
Water	R 23 957.00 x 1	=	R 23 957.00
Sewerage	R 16 153.00 x 1	=	R 16 153.00
Roads	R 7 243.00 x 1	=	R 7 243.00
Stormwater	R 8 357.00 x 1	=	R 8 357.00
Solid Waste	R 1 448.00 x 1	=	R 1 448.00
Electricity	R 33 586.00 x 1	=	<u>R 33 586.00</u>
TOTAL (inclusive of VAT)		=	R 90 744.00

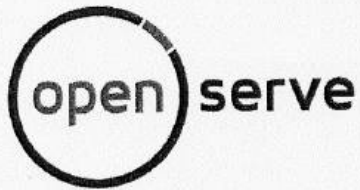
Note:

- 1.3 The above figures are estimates**
- 1.4 The above figures do not include evaluation/investigation levies and connection fees**
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 owner's cost;

3. that only a standard 60 Amp single phase electricity connection will be available per erf;
4. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage;
5. that on-site parking facility be provided as per the Planning Schedule, and to the satisfaction of the Directorate: Infrastructure and Planning;
6. 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;
7. that any additional and / or extended vehicle entrances will be for the owner's account;
8. that stormwater be allowed to discharge through the proposed Erven, Sandbaai, unobstructed.


DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES


DATE



61 Oak Avenue, Highveld,
P.O. Box 1142, Port Elizabeth
6000
Private Bag X881, Pretoria, Gauteng, 0001
Techno Park, Centurion 0157,

Our reference: WWIP_WCPT1919_21
Your reference: Erf 322 Piet Retief Cr

Enquiries: P. Ngqakayi
TEL: 0437056236/0813922403
EMAIL: Portlan@openserve.co.za / Ngqakayz@telkom.co.za

18 JUNE 2021

Attention: S. Muller

Overstrand Municipality
P O Box 20
Hermanus
7200

OPTIC FIBRE & COPPER PLANT AFFECTED

WAY LEAVE APPLICATION: ERF 322, 200 PIET RETIEF CRESCENT, SANDBAAI, OVERSTRAND MUNICIPALITY AREA;
APPLICATION FOR THE REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, SUBDIVISION, CONSENT USE AND
DEPARTURE: WRAP ON BEHALF OF PBL VERMEIREN

With reference to your application received 2 JUNE 2021.

As important cables are affected, please contact our representative Marius Makler at telephone number 081 348 2317 at least 48 hours prior of commencement on construction work

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

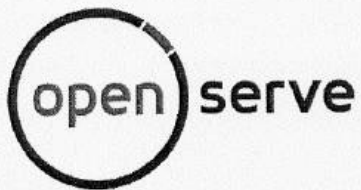
Any changes or deviations from the original planning during or prior to construction must immediately be communicated to this office.

Approval is granted, subject to the following conditions.

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

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

Telkom SA SOC Limited: Reg no 1991/005476/30. Directors: MS Meloko (Chairperson), SN Masoko (Group Chief Executive Officer), D Rayneke (Acting Group Chief Financial Officer), N Kapila*, PCS Luthuli, DD Mekgatle, KW Mzandeki, F Petersen-Cook, KA Rayner, A Samuel, SP Sibisi, H Singh, RG Tomlinson, LL Von Zeuner.
Company Secretary: AC Cebe *India



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

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

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

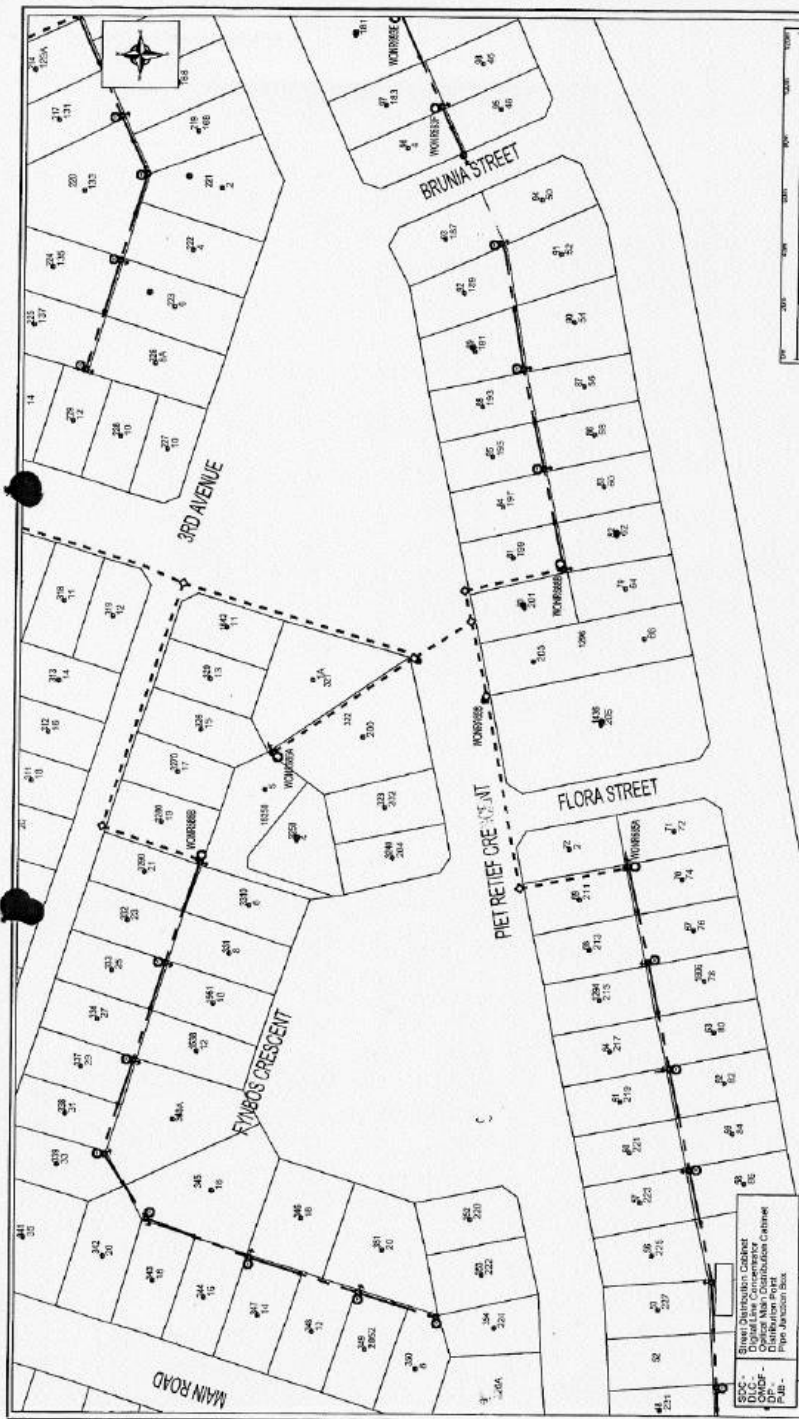
Should Open Serve infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Open Serve rights remain reserved.

Yours faithfully

P Ngqakayi

For Selwyn Bowers
Operations Manager
Wayleave Management: Southern and Western Region



SSC - Street Substation Cabinet
 DLG - Digital Line Concentrator
 DP - Distribution Pole
 PAB - Pole Junction Box

Legend

<input checked="" type="checkbox"/> Existing Manhole	<input checked="" type="checkbox"/> Existing SSC	<input checked="" type="checkbox"/> Existing Inocer DP	<input checked="" type="checkbox"/> Existing Underpass Route
<input checked="" type="checkbox"/> Planned Manhole	<input checked="" type="checkbox"/> Planned SSC	<input checked="" type="checkbox"/> Planned Inocer DP	<input checked="" type="checkbox"/> Planned Underground Route
<input checked="" type="checkbox"/> To Be Abandoned Manhole	<input checked="" type="checkbox"/> To Be Recouped SSC	<input checked="" type="checkbox"/> To Be Recouped DP	<input checked="" type="checkbox"/> To Be Abandoned Underground Route
<input checked="" type="checkbox"/> Existing Joisting Pt	<input checked="" type="checkbox"/> Existing DLG	<input checked="" type="checkbox"/> Existing DP	<input checked="" type="checkbox"/> Existing Overhead Route
<input checked="" type="checkbox"/> Planned Joisting Pt	<input checked="" type="checkbox"/> Planned DLG	<input checked="" type="checkbox"/> Planned DP	<input checked="" type="checkbox"/> Planned Overhead Route
<input checked="" type="checkbox"/> To Be Abandoned Joisting Pt	<input checked="" type="checkbox"/> To Be Recouped DLG	<input checked="" type="checkbox"/> To Be Recouped DP	<input checked="" type="checkbox"/> To Be Recouped Overhead Route
<input checked="" type="checkbox"/> Existing PAB	<input checked="" type="checkbox"/> Existing PAB Joint	<input checked="" type="checkbox"/> Existing Pole	<input checked="" type="checkbox"/> Existing MHT OMDP
<input checked="" type="checkbox"/> Planned PAB	<input checked="" type="checkbox"/> Planned PAB Joint	<input checked="" type="checkbox"/> Planned Pole	<input checked="" type="checkbox"/> Planned MHT OMDP
<input checked="" type="checkbox"/> To Be Abandoned PAB	<input checked="" type="checkbox"/> To Be Recouped PAB Joint	<input checked="" type="checkbox"/> To Be Recouped Pole	<input checked="" type="checkbox"/> Existing Street and Stay

Region	TELKOM REGIONAL EXECUTIVE		
Exchange area	150052921		
Drawn By	Date	Project No.	
Checked By			
Approved			
Details			
Drawing No.	1-1932	Page Size	A4
Scale	1	Sheet No	1 of 1