



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

**A G E N D A**

<b>DATE:</b>	<b>30 MARCH 2023</b>
<b>VENUE:</b>	<b>TOWN PLANNING COMMITTEE ROOM</b>
<b>TIME:</b>	<b>10:00</b>

# OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT  
Civic Centre  
HERMANUS  
7200

**22 March 2023**

**TO : THE MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL**

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

**NOTICE IS HEREBY GIVEN** that the **Municipal Planning Tribunal (MPT)** will go into session on **Thursday, 30 March 2023 at 10:00** in the **Town Planning Committee Room**, to consider the attached agenda.

**H JANSER (MS)**  
**CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL**

**Distribution:**

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

**MUNICIPAL PLANNING TRIBUNAL  
(MPT)**

**30 March 2023**

**I N D E X**

<u>ITEM</u>		<u>PAGE NUMBER</u>
	<b>APPLICATIONS FOR LEAVE OF ABSENCE</b>	
<b>4.1</b>	<b>ERF 601 AND 602, 7 COMMERCIAL STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS, CONSOLIDATION, DEPARTURE, CONSENT USE AND AMENDMENT OF CONDITIONS OF APPROVAL (SITE DEVELOPMENT PLAN): MESSRS WRAP PROJECT OFFICE ON BEHALF OF STEADY GROW TRADING 33 CC</b>	<b>1</b>
<b>4.2</b>	<b>ERVEN 8408 &amp; 4096, 295 NINTH STREET &amp; 296 TENTH STREET, VOËLKLIP, HERMANUS: APPLICATION FOR CONSOLIDATION &amp; SUBDIVISION: MESSRS DAVE SAUNDERS PLANNER CC ON BEHALF OF LORD TRUST</b>	<b>78</b>
<b>4.3</b>	<b>REMAINDER OF ERF 243, 10 MOUNTAIN DRIVE, NORTHCLIFF, HERMANUS: APPLICATION FOR CONSENT USE: WARREN PETTERSON PLANNING ON BEHALF OF VODACOM AND OVERSTRAND MUNICIPALITY (HERMANUS WATERWORKS)</b>	<b>121</b>

**1. OPENING**

**2. APPLICATIONS FOR LEAVE OF ABSENCE**

**3. CONFIRMATION OF MINUTES**

**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 27 February 2023**

**4. ITEMS FOR CONSIDERATION**

**4.1 ERF 601 AND 602, 7 COMMERCIAL STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS, CONSOLIDATION, DEPARTURE, CONSENT USE AND AMENDMENT OF CONDITIONS OF APPROVAL (SITE DEVELOPMENT PLAN): MESSRS WRAP PROJECT OFFICE ON BEHALF OF STEADY GROW TRADING 33 CC**

Report attached

**4.2 ERVEN 8408 & 4096, 295 NINTH STREET & 296 TENTH STREET, VOËLKLIP, HERMANUS: APPLICATION FOR CONSOLIDATION & SUBDIVISION: MESSRS DAVE SAUNDERS PLANNER CC ON BEHALF OF LORD TRUST**

Report attached

**4.3 REMAINDER OF ERF 243, 10 MOUNTAIN DRIVE, NORTHCLIFF, HERMANUS: APPLICATION FOR CONSENT USE: WARREN PETTERSON PLANNING ON BEHALF OF VODACOM AND OVERSTRAND MUNICIPALITY (HERMANUS WATERWORKS)**

Report attached

## 4.1

**ERF 601 AND 602, 7 COMMERCIAL STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS, CONSOLIDATION, DEPARTURE, CONSENT USE AND AMENDMENT OF CONDITIONS OF APPROVAL (SITE DEVELOPMENT PLAN): MESSRS WRAP PROJECT OFFICE ON BEHALF OF STEADY GROW TRADING 33 CC**

**601 & 602 GPB (4007/2022)**

**SW van der Merwe  
22 February 2023**

**(028) 313 8900**

**Hermanus Administration**

## 1. EXECUTIVE SUMMARY

An application has been received on 13 January 2022 from Messrs WRAP Project Office on behalf of Steady Grow Trading 33 CC for the following:

- ❖ **removal of restrictive title conditions** with reference to Condition B.4(b) of Title Deed T1405/2021 applicable to Erf 601, Pearly Beach in terms of Section 16(2)(f) of the Overstrand Municipal Land Use Planning Amendment By-Law, 2020 (By-Law) in order to exercise the primary rights in terms of the zoning of the property;

Condition B.4(b) contained in Title Deed T1405/2021 to be removed, read as follows:

*“it shall be used for shop purposes only.”*

- ❖ **consolidation** in terms of Section 16(2)(e) of the By-Law of Erven 601 and 602, Pearly Beach to create a consolidated property of 1160m<sup>2</sup>;
- ❖ **departure** in terms of Section 16(2)(b) of the By-Law in order to relax the rear building line from 3m to 0m;
- ❖ **consent use** in terms of Section 16(2)(o) of the By-law to conduct a place of entertainment (live music), and
- ❖ **amendment of the approval condition** (Site Development Plan) in order to accommodate the proposed development.

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, the proposed Site Development Plan is attached as Annexure C and a copy of the Title Deed T1405/2021 is attached as Annexure D.

## 2. DECISION AUTHORITY

Municipal Planning Tribunal

## 3. BACKGROUND / SITE HISTORY

The application properties are situated within a commercial node at the entrance of Pearly Beach and zoned for Business Zone 3 purposes. Erf 602 is developed with a commercial building comprising a restaurant and micro-brewery.

Approval was granted on 31 October 2019 under the former Integrated Zoning Scheme for consent use permitting a restaurant (218m<sup>2</sup>) and the sale of liquor (42m<sup>2</sup>) from the shop that also accommodates a micro-brewery subject to conditions, amongst others the following:

- (a) *that the operation of a bar, tavern or place of entertainment is not permitted;*
- (b) *that provision be made for on-site parking in accordance with the Site Development Plan appended to the application as Plan 3 dated 31 October 2019;*
- (e) *that the micro-brewery be limited to 50% of the floor area of the shop;*

The Land Use Scheme permits a micro-brewery as a primary right, provided that the manufacturing component does not exceed 50% of the total area of the shop but exclude the sale of alcoholic beverages which is a consent use. Following the aforesaid approval, the establishment are conducted under the name of the Whale Coast Brewing Company without any history of complaints.

The current business has outgrown Erf 602, Pearly Beach. The applicant bought the adjacent vacant Erf 601 and now wishes to expand the current business across the consolidated erf. The applicant wishes to host events (live music limited to the inside of the restaurant and brewery; develop an outside seating area with children's playground as the clientele of the business mainly is families. The title deed of Erf 601 contains a "*shop purposes only*" condition.

Having had regard to the above the application entails the following:

- **removal of restrictive title conditions** with reference to clause B.4(b) of Title Deed T1405/2021 applicable to Erf 601, Pearly Beach;
- **consolidation** of Erf 601 and Erf 602 Pearly Beach<sup>2</sup>;
- **departure** in in order to encroach the rear building line from 3m to 0m to accommodate proposed addition to the existing building;
- **consent use** to conduct a place of entertainment (live music) limited to the restaurant and shop, and
- **amendment of the approval condition** (Site Development Plan) in order to accommodate the proposed development (brewery extension, place of entertainment and on-site parking area).

#### 4. SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation (refer to Annexure B) is summarised as follows:

##### Removal of restrictions

- ❖ The title deed contains a "*shop purposes only*" condition that limits the proposed development envisioned by the applicant.
- ❖ Removal will ensure the existing business is not affected / restricted following consolidation.
- ❖ The applicant wishes to expand the existing business in accordance with the Overstrand Land Use Scheme.
- ❖ As such to keep in line with current development trends which see Overstrand as a popular tourist destination historic constraint needs to be removed.

- ❖ Removal / amendment of the title deed require consent of the administrator which now vests with the municipality.

#### Consolidation

- ❖ Consolidation will permit current use to continue as well as expansion thereof.
- ❖ Proposal will increase production of the brewery and restaurant seating area.
- ❖ Consolidation will permit outside seating on the current parking area.
- ❖ Parking will be relocated to Erf 601.
- ❖ Consolidation will also allow a safe children's play area to be developed in proximity of the proposed outside seating area.

#### Departure

- ❖ The proposed additions will be in line with the existing building that was developed in terms of the former Gansbaai zoning scheme imposing a 0m rear building line.
- ❖ The property at the rear is an Authority Zone developed as a waste dumping site (transfer station).
- ❖ The applicant does not want to expose his business thereto and want to create a solid wall on the property boundary to buffer the application property.
- ❖ There will be no doors or windows on the rear boundary.
- ❖ Rainwater will be accommodated on the property.

#### Consent use (live music)

- ❖ Consent use limited to the existing building.
- ❖ Live music / small events will entertain guests enjoying meals and beverages.
- ❖ Live music will be conducted during normal business hours and will not create a nuisance to surrounding property owners.

#### Amendment of conditions of approval / SDP

- ❖ The applicant wishes to expand the current business operations, triggering the application for amendment of the approval conditions / SDP.

#### General

- ❖ Application property is located in a business node.
- ❖ Surrounding area has business, authority and residential zonings / uses.
- ❖ The proposal is compliant with the Overstrand Land Use Scheme.
- ❖ No impact upon municipal services.
- ❖ Access is obtained from Commercial Street.
- ❖ Expansion of restaurant and brewery will create additional employment opportunities.
- ❖ Land uses sought are in line with primary and consent uses, thus character of the area, views and sunlight is not affected.
- ❖ The development will not affect surrounding property values.
- ❖ No heritage or environmental impact.
- ❖ Overlay Zones (HPOZ & EMOZ) not affected.
- ❖ Proposal is consistent with the PSDF and SDF.
- ❖ The proposal complies with the planning principles in terms of LUPA and SPLUMA.

## 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Press	Yes	1 April 2022	06 May 2022
Gazette	Yes	01 April 2022	06 May 2022
Notices	Yes	30 March 2022	06 May 2022
Internal Departments	Yes	01 April 2022	06 May 2022
Ward councillor	Yes	01 April 2022	06 May 2022
Total comments	<b>Five (5)</b>		
Total letters of support	<b>None</b>		
Was public participation undertaken in accordance with Section 46 - 50 of the By-law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly (if no, elaborate below):			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			<b>Yes</b>
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?			<b>N/A</b>

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

Name	Date received	Summary of comments
Building Department	01/04/2022	No objection. The building plan application must comply with all applicable law including fire safety distances in terms of SANS 10400.
Fire Services	04/04/2022	No objection.
Waste Management	04/04/2022	No objection. Waste storage area is provided for on plan submitted.
Telkom	22/04/2022	Attached as Annexure G.
Health	09/05/2022	Attached as Annexure H.
Engineering Services	12/05/2022	Attached as Annexure I.
Eskom	17/05/2022	Attached as Annexure J.

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Five letters of objection were received from three residential properties in proximity of the application property namely PG Germishuys and AC Germishuys, owners of Erf 628, Pearly Beach, MM le Roux and IA le Roux, owners of Erf 626, Pearly Beach. A letter of comment had been received from KH Drake, owner of Erf 625 Pearly Beach stating he has no objection to the proposed place of entertainment provided that traffic calming measures are implemented. The comment is therefore dealt with as an objection.

The letters of objection are attached per Annexure E. The applicant's response to the objections received is attached as Annexure F.

Having had regard to the objections, it must be pointed out that no objections were received against the removal of restrictive title deed conditions and departure applications. One of the objectors', stated an objection against the application for consolidation and consent use (place of entertainment) whilst the other three objectors objected purely to the proposed consent use (place of entertainment) to conduct live music.

The main grounds of objection could be summarized as follows:

- Noise and disturbance resulting from live music due to close proximity to residential properties and associated impacts (i.e. human rights, health, vested rights, character / peacefulness of area, property value).
- Traffic impact due to proposed business expansion as a result from place of entertainment.

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

Comments
<p><b><u>Property Valuation</u></b></p> <ul style="list-style-type: none"> <li>• <i>"Indien die vergunning toegestaan sal word ten einde 'n plek van vermaak (lewendige musiek) te akkomodeer, sal die munisipaliteit al die residensiele erwe in die omgewing, insluitende die woonstelblokke, se munisipale waardasie moet afwaardeer tot zero.</i></li> </ul> <p><i>Daar sal daarna maar weinig indien enige belangstelling wees in enige van hierdie erwe of eiendomme. Dit sal dus 'n totale verlies van inkomste vir die munisipaliteit beteken. Eiendoms waarde sal beslis negatief beïnvloed word deur die toestaan van die versoekte vergunning. Let gerus op die een aspek onder "REASONS FOR APPROVAL" in u genoemde brief van 31 Augustus 2018:</i></p> <p><i>"The proposed development will not adversely impact upon the character of the area, or amenity of adjoining properties."</i></p>
Response to comments
<p>This statement is not backed by any evidence and the property owner has been operating the existing restaurant and brewery without any complaints for the past 3-4 years. The objector confirms that there have been no disturbances since the property owner has taken over the enterprise.</p>

Referring to the 2018 approval letter, it is not predicted that the place of entertainment will adversely impact on the area. Should the property owner receive approval, it does not mean he has free reign to go conduct business on the premises as he pleases. It is important to remember that there are numerous sets of legislation, by-laws and regulations that prohibit loud noise to which the property owner will be required to adhere to.

### Comments

#### Historic Approval

- "GEEN WOORD EN GEEN SAAK

*Ons het 'n skrywe van die Direkteur van Infrastruktuur en Beplanning, Mnr S. Muller, geskryf op 8 November 2019 ontvang met verwysing 602 GPB, waar die goedkeuring deur u departement verleen is vir die bedryf van 'n bierbrouery en restaurant. Dit is opvallend dat paragraaf 4a dit duidelik stel dat die goedkeuring onderhewig is daaraan:*

*"That the operation of a place of entertainment is not permitted".*

*Wat opvallend is, is dat alhoewel niks intussen in hierdie omgewing verander het nie, Mnr le Roux nou versoek dat hierdie bepaling sondermeer opgehef moet word. Dit was teen ons uitdruklike en duidelike besware dat die dranklisensie toegestaan is en ek maak steeds 100% beswaar daarteen! Alles wat ons toe gesê het geld nog steeds.*

*Verder moes ons destyds op ons eie koste na 'n vergadering van die Drankraad in Belville reis om daar ons beswaar persoonlik te herhaal. Daar het ek duidelik gesê dat hierdie aansoek vir my lyk na 'n poging om 'n voet in die deur te kry, Daarom het ek gevra wat gebeur in die toekoms? Hier is ons nou by die plek waar ons, myns insiens, kan sien waarheen dit eintlik gaan. Mnr le Roux het destyds op ons beswaar pertinent onderneem om nie lewendige musiek daar toe te laat nie. (Sien sy aangehegde brief). Uit hierdie nuwe versoek van hom blyk dit vir my dat 'n mens versigtig moet wees om sy woord en ondernemings ernstig op te neem. Dit blyk vir my verder dat hy net mooi geen saak het met ons as permanente inwoners in die omgewing nie."*

- *"2. U skrywe van 8 November 2019 met verwysing 602 GPB, waar die goedkeuring deur u departement verleen is vir die bedryf van 'n bierbrouery en restaurant, goedgekeur was onder die voorwaarde (paragraaf 4a) "That the operation of a place of entertainment is not permitted". Daar het niks in die omgewing verander wat kan veroorsaak dat daardie beperkende voorwaarde opgehef kan word nie.*

- *"2.2 U skrywe van 8 November 2019 met verwysing 602 GPB, waar goedkeuring deur u Departement verleen is vir die bedryf van n bier brouery en restaurant, goedgekeur word onder die voorwaarde (paragraaf 4a) "That the operation of a place of entertainment is not permitted" - die aansoek om lewendige musiek te verskaf (entertainment) is een van die beperkende voorwaardes.*

*Om lewendige musiek (entertainment) te verskaf was een van die beperkende voorwaardes. En daarom versoek ek ernstig dat die aansoek vir plek van vermaak (lewendige musiek) te akkomodeer, nie goedgekeur word nie."*

Response to comments
----------------------

It is acknowledged that the historic approval received by the property owner in 2019 stated "That the operation of a place of entertainment is not permitted".

This was a condition of approval for the existing rights, and this is the entire reason for the current application.

The property owner is not allowed to operate a place of entertainment and is therefore applying to legally operate a place of entertainment.

This condition is not a restriction that he may never operate a place of entertainment, but if required, he should apply to operate a place of entertainment, which he has done through this process.

Comment
---------

**Historic Letter of the Property Owner**

- *"Toe Mnr le Roux aansoek gedoen het vir die dranklisensie het ons reeds beswaar gemaak en hy het toe onderneem om nie lewendige musiek daar toe te laat nie. (Sien aangehegde brief). Ons kan dus nou sien dat hy nie sy woord hou nie, en geensins die inwoners in die omgewing in aanmerking neem wanneer hy sy sake op sy perseel bedryf nie."*

Response to comment
---------------------

The letter attached from the property owner was received in 2018 by the objector, some 4 years ago. Since then, numerous aspects have changed. The property owner has acquired Erf 601 Pearly Beach and has a vision to expand his business.

Businesses evolve and the proposal to embark on operating a place of entertainment is also part of the property owner's vision. The property owner is following the prescribed process to ensure the community is aware of the proposed changes.

Comment
---------

**Surrounding Places of Entertainment**

- *"5. Daar is reeds 3 plekke van vermaak in die area wat lewendige musiek maak en wat veral oor naweke die lewe baie moeilik maak vir diegene van ons wat hier kom aftree het om die rustigheid van hierdie kusdorp te geniet."*

Response to comments
----------------------

The owner of Erven 601 and 602 is applying for a place of entertainment. It should be questioned if these other three (3) places that have been making live music have the Is in place, which would have been granted, subject to specific conditions of approval.

It is the Overstrand Municipality's responsibility to 'police' illegal land uses and it is proposed that the objector submit these statements and complaints to the Overstrand Law Enforcement section for investigation.

Comments
<p><b><u>Distance to residences</u></b></p> <ul style="list-style-type: none"> <li>“2.1 Erf 601 is 20 meter van my huis gelee (erf 628) en lewendige musiek sal dit onhoudbaar maak om regoor so ‘n plek te woon.</li> </ul> <p>“2.4 My woonhuis is slegs 20 meter van erf 601 af, en dit gaan onhoudbaar wees om hier te bly in geval van lewendige musiek.”</p> <ul style="list-style-type: none"> <li>“Ek woon te Langmarkstraat 1, Pearly Beach (erf 628), 20 meter skuinsoor erf 601.”</li> <li>“1. Ons huis (Langmark 5) is baie naby aan die erwe geleë, en dit gaan geweldige ongerief vir die permanente inwoners in hierdie area veroorsaak. Wanneer lewendige musiek buite die restaurant gehoor word, word die regte van die inwoners in die gebied geskend.”</li> <li>“Ons huis (Langmark St erf no. 626) is 'n klipgooi van erwe 601 en 602 geleë., en dit gaan geweldige ongerief vir die permanente inwoners in hierdie area veroorsaak. Ons erwe is baie naby aan mekaar geleë en niemand sit hul TV of ander vermaak of enige musiek so hard aan dat die klank daarvan buite hul erf grense gehoor kan word nie.”</li> </ul>
Response to comments
<p>Several references are being made to the distance of the subject property to surrounding residences, but the subject properties are located in the business/commercial node. Please refer to response under “<b><u>Impact of the Surrounding Area</u></b>” below.</p> <p>Erven 601 and 602 Pearly Beach are proposed to be consolidated. It is however important to note that no place of entertainment will be operated on Erf 601 Pearly Beach as this area will be used exclusively for parking and brewing purposes.</p> <p>The notion that the place of entertainment will only be 20 metres from the nearest residence is factually incorrect as only the existing building on Erf 602 Pearly Beach will be used for the proposed place of entertainment.</p>

Comments
<p><b><u>Health Concerns</u></b></p> <ul style="list-style-type: none"> <li>“3. Hiermee rig ek n ernstige versoek tot u Departement om NIE die aansoek vir die verskaffing van lewendige musiek, goed te keur nie. Ons is bejaarde mense met gesondheidsprobleme en lewendige musiek 20-meter van die naaste residentiële woning, sal ‘n onhoudbare situasie skep vir ons as inwoners.”</li> <li>“5. My man is ‘n hoë bloeddruk lyer en die verskaffing van lewendige musiek sal sy gesondheid verder benadeel.”</li> </ul>
Response to comments
<p>The property owner would never intentionally cause any harm to the health of any person. The first comment does directly indicate what particular health concerns they are concerned about.</p>

Although the property owner cannot be held liable for any historic- or existing health problems, and it is not anticipated that the proposal will affect any person's health.

### Comments

#### Impact of the Surrounding Area

- “3. Ek het op Pearly Beach kom aftree, om in ‘n rustige omgewing te woon.”
- “4. Die verskaffing van lewendige musiek regoor my woonhuis, sal n geweldige negatiewe effek en steurnis op my as inwoner hê. Ek versoek dringend dat die aansoek om lewendige musiek te verskaf, nie goedgekeur word nie.
- “6. Die oorgrote meerderheid van inwoners in enige dorp, sal beswaar maak indien lewendige musiek regoor hulle huis goedgekeur word.”

### Response to comments

The subject properties are located in a business node see figure below:



Figure 1: Extract of the Overstrand Municipality Spatial Development Framework

The objectors' properties are located adjacent a business/commercial node in Pearly Beach.

N 1

Retail Node

Promote the establishment of a mixed-use medium density node at the existing small retail node at the entrance to Pearly beach. An urban design framework should be formulated for limited densification. Investigate the establishment of mixed-use nodes at other potentially suitable locations.

When they bought their properties, this was the situation and remains the situation up to today.

Plan 2 (Zoning Plan), attached to the application, clearly indicates the zoning of the properties and area in which they are situated which confirms that the subject properties are located in a business node.

The property owner is not applying for a land use that is not available as a consent use, and it is a business node. This does however not mean that the property owner renounces any obligation to be a decent- and reasonable neighbour.

The property owner will manage the entertainment in such a way to minimise the impact on the surrounding area and it is important to reiterate that there are numerous laws, by-laws and regulations that prohibit and control loud noise which the property owner will be required to adhere to.

#### Comments

##### Rights of property owners

- *“7. Indien die verskaffing van lewendige musiek skuins oor my woonhuis deur u Departement goedgekeur word, sal dit ‘n uiters nadelige effek hê op my basiese menseregte as inwoner in ‘n residentiële area.”*
- *“Wanneer lewendige musiek buite die restaurant se grense gehoor dat kan word, sal dit dus die regte van die inwoners in die gebied skend.”*

#### Response to comments

The property owner is an open-minded community driven businessman and would never intentionally impact on any other person's rights and enjoyment of their properties.

The objectors failed to identify which rights the applicant will impact upon. The applicant is bound by legislation and by-laws that regulate his and every other property owner's rights.

The property owner has a right to apply for additional rights on his property and should the application be approved; it will be subject to strict conditions to which he will need to comply with.

The property owner is attempting to add additional economic value to the Pearly Beach area and to stimulate the economy by creating more job opportunities. The application proves that he is running a successful restaurant and brewery with the opportunity to expand on these rights.

Comment
Response to comments
<p>This statement is not backed by any evidence of actual intimidation and is a mere accusation, not associated with the current application and should not influence the decision-making authority of the Overstrand Municipality.</p> <p>If the actual operation of the existing business affected the objectors, they had opportunity to submit complaints, which they have not done up to now.</p>

Comment
<p><b><u>Historic Occurrences</u></b></p> <ul style="list-style-type: none"> <li> <p><i>“Voor die dranklisensie aan Mr. J le Roux toegestaan was, was ek op die aand van 05-12-2018 in my studeerkamer besig met video redigeering. Op 'n stadium kon ek die klank van die video, weens audio steurnis, nie meer goed hoor nie. Toe ek die redigeerstasie stop; hoor ek dat die steuring veroorsaak was deur musiek wat van elders gekom het, Ek het uitgestap om te hoor van waar die musiek gekom het. Dit het toe tot om 22:10 van erf 602 gekom. Dit is die erf van Mnr le Roux waar die restaurant nou is wat toe nog nie in bedryf was nie.</i></p> <p><i>Met ons beswaar teen Mnr. J le Roux se aansoek om 'n drank lisensie vir sy beoogde restaurant, het ons juis hierdie probleem geopper. Mnr. le Roux het op 28-01-2019 soos volg daarop gereageer:</i></p> <p><i>"We have noted your objections refence to the consent use of erf 602. You mention the racket that happened on 5th December 2018. This was an unfortunate and does not set the trend in what we will be doing. The restaurant is not active and we are awaiting all our approvals before we consider opening.</i></p> <p><i>"The week of the 1st of December my youngest daughter and her friends visited our farm for the week and they asked if they can go make pizzas the one night, I agreed and ask them to ensure they behave. This is the first I hear that they were noisy, I did confront them now on this matter and they promised they did not make a racket and left the building at about 10pm."</i></p> <p><i>Op 07-02-2019 het ek onder andere so daarop geantwoord:</i></p> <p><i>"Die feit dat die genoemde geleentheid van 5 Desember 2018 so 'n harde lawaai was dat ek nie eers die woorde van die spreker wat ek moes redigeer bo dit kon hoor nie, terwyl diegene verantwoordelik daarvoor nie gereken het dat dit 'n probleem sou wees nie, is genoeg bewys dat ens vrese gegrond is. Ons weet hoe musiek-klank trek, veral die laer frekwensies daarvan."</i></p> <p><i>Die steurnis wat deur die musiek veroorsaak is, is ook deur beide ons bure weerskante, Erf 628 en Erf 625, bevestig. Hierop het Mnr. le Roux verder gereageer:</i></p> <p><i>" ... my intention sending you an email was to clear up the matter of 5 December and relay the message that this was an isolated incident, my daughter and friends used the place, however I spoke to them again and they clearly indicated that they played no music at the time as there is not music system installed in the premises, the fact that I was not there does not matter as said it was a private matter and no reflection on what we plan or are committed to. As said, this will not be the norm and it was private matter and not a commercial matter.</i></p> </li> </ul>

*My observation was to write to you to explain and nothing more."*

*Sedert die restaurant soos dit huidiglik bedryf word in gebruik gekom het, was daar nie soortgelyke klank steurnisse nie. Ons is dankbaar daarvoor. Die bogenoemde geïsoleerde insident bevestig egter vir ons die effek wat klank het. Vir diegene wat dit maak, mag dit klink asof niemand anders dit kan hoor nie, maar in 'n stil omgewing soos hierdie trek dit ver en veroorsaak dit rusverstoring. Dit is waarom ek hierdie versoë rig dat die aansoek om die beperkende voorwaardes op te hef sodat 'n plek van vermaak waar daar lewendige musiek beoefen kan word, afgekeur moet word.*

*Voor die gebou van die huidige restaurant (erf 602) aan Mnr le Roux verkoop is, het die vorige eienaars allerhande pogings aangewend om besigheid daarheen te lok. Hulle het ook per geleentheid 'n sanger daar laat optree. Vir ons het dit gevoel asof die ou hier in ons voorhuis staan en sing. Ons se dus uit ervaring "NEE!" vir die vergunning ten einde 'n plek van vermaak (lewendige musiek) te akkomodeer."*

#### Response to comment

The objector clearly identified that since the restaurant has been in operation, he had no complaints. The property owner is an open-minded community driven businessman. The property owner had the opportunity to purchase Erf 601 Pearly Beach and to expand his business and will operate the expanded business on the same basis as was done up to now.

How the previous owners of Erf 602 Pearly Beach conducted business, has no bearing on how the current owner conducts business as confirmed by the objector. An isolated occurrence or incident, before the business was opened, cannot be taken into account with the consideration of this application.

The property owner is conscious of the nature of the surrounding area and its residents and will comply with all conditions of approval, should the application be approved. Once approved it does not mean the property owner has free reign to operate and do as he please. It still needs to be done at an acceptable level for the area where the subject properties are situated, within the conditions of approval of the application.

#### Comment

##### Traffic Concern

- *"Once the WCB trades as a restaurant with a brewery and live entertainment on site, it is reasonable to expect that more patrons will visit the establishment more often. This will result in much increased traffic on my street over extended time frames.*

*The sobriety of such departing drivers is also a real concern to me.*

*As a resident of 7 Langmark Str Pearly Beach, which is situated in close proximity to the Whale Coast Brewery (WCB) lodging this request, I applied for a traffic calming intervention in Langmark Str in 2021 already. My request was based on the traffic already using my street whilst the WCB was only trading as a restaurant with a brewery on site.*

*I therefore wish to state that I do not object to these changes in principle, but that I must insist on the placement of suitable traffic calming obstacles in Langmark Str before, repeat BEFORE, the Municipality agrees to this request by WCB.*

*In summary then, NO TRAFFIC CALMING IN LANGMARK = NO LIVE ENTERTAINMENT @ WCB."*

#### **Response to comments**

This comment is noted and as per the Annexure to the objector's comment, the Overstrand Municipality indicated that the construction of a speed bump has been considered by the ward committee and will be made a priority for 2022/2023 municipal financial year.

The road is a public street and maintained, managed, and policed by the Overstrand Municipality.

#### **Conclusion**

From the content of the five objections and our response thereto, it is clear that the proposed place of entertainment is the main point of concern. There were no objections received regarding the consolidation, removal of restrictive conditions, departure, and amendment of the site development plan.

The submitted application and our response to the objections indicate that the proposed place of entertainment will not adversely affect the rights of the owners of properties within the surrounding area. It is important to note that the applicant is committed to remain a responsible and reasonable neighbour and member of the Pearly Beach community adhering the applicable laws, by-laws and regulations controlling noise.

Considering that the objectors do not have any objection to the consolidation, removal of restrictive conditions, departure and amendment of the Site Development Plan, it is recommended that the response to objections that address all the concerns of the objectors be taken cognisance of and that the planning application be approved as submitted.

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

The application property is situated within a retail node at the entrance of Pearly Beach. Strategic SDF policies seek to protect commercial uses to designated retail nodes to prevent decentralisation of these nodes. The SDF also encourage mixed land uses / densification, tourism, and economic development as well as the role of Pearly Beach as a retirement destination.

The main ground of objection relates to the place of entertainment (live music) and impact on the wellbeing of the surrounding community on the basis of noise and disturbance from live music, impact on property value, human rights, health, vested rights, character and peacefulness of the area.

The applicant did not elaborate on the type or scale of the place of entertainment other to refer to live music events located inside the premises, providing background music whilst clientele enjoys their food and beverages, limited to normal business hours. The applicant is of opinion that the proposal will not adversely impact upon vested rights as elaborated above.

The application property is situated within a retail business node where mixed land uses are normally encouraged and where such land use (place of entertainment) are usually found. Adjoining single residential properties might be affected by some impacts (i.e. increased activity on the premises, traffic, noise etc.). There is no concrete evidence or arguments made to proof the proposal will be to their detriment.

Located directly adjoining a retail node, some impact could naturally be expected. The applicant on the other hand broadly refers to applicable by-law and regulations but did not provide any substantive information to provide the contrary. The opinion is however held that the proposal could be mitigated with conditions to ensure compliance with the Western Cape Noise Control Regulations whilst the hours of operation of the place of entertainment should be limited to 10:00am to 22:00pm Mondays to Sundays.

Associated traffic impact because of the business operations is not considered to detract from the safety of road uses. The proposed place of entertainment will not result in increased Gross Leasable Area and will operate within the capacity of the existing and proposed building additions. Thus, the opinion is held that the objection based on traffic grounds cannot be justified. No objection was raised by the Municipal Engineering Services Department, whilst the installation of traffic calming measures is to be considered by the Operational Department of the Municipality.

## **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)**

Compliance with the planning principles is motivated as follows:

#### Spatial Justice

The applicant motivates that the proposal will promote a more spatially just urban landscape in Pearly Beach, i.e. employment opportunities to the historically marginalised as a source of income opening up access to opportunities thereby creating a more spatially just urban landscape.

#### Spatial sustainability

The property is in a contextually appropriate mixed use urban environment and intended to contribute to allowing a functional space economy.

#### Efficiency

The proposal entails the optimal use of the property.

#### Spatial Resilience

The proposal is consistent with the SDF and policy documents that promotes spatial resilience.

#### Good administration

The application followed the required planning procedures, including public participation.

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

Same as 10.2 above.

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

The proposal is consistent with the SDF.

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

N/A

**10.6 Impact on Municipal engineering services**

The subject property is already developed and connected to municipal services. No objection was raised by the municipal Engineering Services Department based on availability and capacity of services for the proposed additions.

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

N/A

**10.8 Existing and proposed zoning comparisons and considerations**

The property is developed in accordance with the applicable development parameters for Business Zone 3: Local Business. Consent use approval was granted for the sale of alcoholic beverages. Apart from the application for removal of restrictive title conditions the proposed expansion of the brewery is dealt with by means of the application for departure, amendment of a condition of approval / SDP and consent use for a place of entertainment (live music).

**11. ADDITIONAL PLANNING MOTIVATION FOR REMOVAL OF RESTRICTIONS****The financial or other value of the rights**

The applicant motivates that removal of the restrictive title condition will affect no person or entity. The opinion is held that the applicant will benefit financially as removal will facilitate the proposed business expansion in accordance with the provisions of the Overstrand Land Use Scheme, 2020. Adjoining properties will also benefit in terms of increased property value.

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

There are no personal benefits to the holder of the rights. The property owner will benefit financially through the operation and expansion of the existing and proposed business activities.

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

The applicant argues there is no social benefit to the restrictive condition. The only social benefit for the community should the restrictive condition remain in place is that use of the former Erf 601 would be limited to shop purposes only thus preventing the proposed expansion of the shop / microbrewery. The removal of the restrictive title condition would create employment possibilities, promotes tourism and economic development thus creating social benefit.

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

Only certain of the rights will be removed.

## **12. THE DESIRABILITY OF THE PROPOSAL**

### **Proposed consolidation**

The application property is situated within the main retail node at the entrance of Pearly Beach. The property is zoned for commercial purposes and earmarked as economic opportunity. The proposed consolidation of the application properties and resulting business expansion is in line with the SDF and will facilitate optimal use in accordance with the Land Use Scheme.

### **Proposed departure**

The existing building is developed onto the rear property boundary in accordance with the former Gansbaai Zoning Scheme. The Land Use Scheme imposes a more restrictive 3m rear building line due to the zoning of the abutting property for Authority Use (waste transfer station). The proposed addition on the rear boundary will be in line with the existing building and will buffer the development from the waste transfer station. There will be no window or door openings in the rear wall and rainwater will be accommodated on the property. The proposed building line departure is not considered to detract from the character of the area or vested rights considered desirable in its context.

### **Proposed consent use (place of entertainment, amendment of approval condition and SDP**

The subject property is situated in a commercial node comprising mixed land uses, (i.e. a shop, three bars / pub's) in the vicinity of the subject property, first floor residential accommodation, and single residential properties opposite the application property.

The current business operates the last four years without any known complaints. Being a retail node more activity is expected compared to a low density single residential neighbourhood. The business is mainly family orientated and the proposed business expansion will see development of an outside seating and children's play area. The proposed place of entertainment will provide live background music to complement the establishment. Given the mixed character of the area and location in a business node the proposed land uses are considered contextually appropriate, whilst adverse impacts could be mitigated by approval conditions. It is therefore proposed that prior to the place of entertainment be conducted an acoustic specialist be employed to ensure that the operation of the place of entertainment complies with Western Cape Noise Control Regulations and that the applicable noise mitigation measures recommended be implemented. In addition, operational hours of the place of entertainment will be limited between the hours of 10:00am to 22:00pm Mondays to Sundays. Based on the aforementioned the proposed amendment of the conditions of approval and consent use for a place of entertainment is considered desirable.

The proposed extension of the brewery subject to compliance with the original approval conditions for the consent use (sale of alcoholic beverages) dated 31 October 2019 is considered desirable, provided that it does not exceed 50% of the total floor area of the shop. The applicant will be required to submit a Site Development Plan demonstrating the extent of the shop and brewery to ensure compliance with the land use scheme.

### **Access and parking**

Provision is made for on-site parking and loading in accordance with the provisions of the scheme regulations. The parking area will be relocated towards the eastern side of the consolidate property and is supported by the municipal Engineering Services Department.

### **Removal of restrictive title conditions**

In accordance with the provisions of the By-Law adjoining interested and affected parties, were notified of the proposed development. No objections were received against the removal of restrictions application but were limited to the consent use for live music and consolidation. The relevant condition to be removed stipulates the following:

*“B.4(b) . It shall be used for shop purposes only;”*

The removal of restrictive title condition will permit utilization of the subject property in accordance with the provisions of the land use scheme and will facilitate the proposed business expansion. The removal of the restrictive condition is therefore supported.

### **Conclusion**

Having had regard to the evaluation above, the proposal is considered desirable in the context of its location within the CBD, consistent with existing policy and forward planning documents, the planning principles and will not adversely impact on the natural or built environment. The proposed development will promote tourism and economic development; create employment opportunities (direct and indirect) during both the construction and operational phases. Potential impacts could be mitigated in terms of conditions of approval. The proposed development is considered to be desirable and is therefore recommended for approval, subject to conditions.

## **13. RECOMMENDATION**

1. that the objections be noted;
2. that the application for removal of restrictive title conditions with reference to Condition B.4(b) contained in Title Deed T1405/2021 applicable to Erf 601, Pearly Beach in terms of Section 16(2)(f) of the Overstrand Municipal Land Use Planning Amendment By-Law, 2020 (By-Law) in order to exercise the primary rights in terms of the zoning of the property, **be approved**;
3. that the application for consolidation of Erf 601 and Erf 602, Pearly Beach in terms of Section 16(2)(e) of the By-Law to create a consolidated property of 1160m<sup>2</sup>, **be approved**;

4. that the application for departure in terms of Section 16(2)(b) of the By-Law in order to relax the rear building line from 3m to 0m, **be approved**;
5. that the application in terms of Section 16(2)(o) of the above By-Law for consent use applicable to Erf 602, Pearly Beach in order to conduct a place of entertainment (live music), **be approved**;
6. that the application for amendment of the conditions of approval in order to rescind condition (a) of the planning approval dated 31 October 2019 as well as amendment of the Site Development Plan in order to accommodate the proposed business expansion **be approved**;
7. that the approvals in paragraphs 2. to 6. above be subject to the following conditions:
  - (a) that the operation of a bar or tavern is not permitted;
  - (b) that a detailed Site Development Plan be submitted for approval by the Authorised Official indicating the floor area of the shop and layout of the microbrewery;
  - (c) that provision be made for on-site parking in accordance with the Site Development Plan appended to the application;
  - (d) that the approval conditions dated 31 October 2019, be adhered to;
  - (e) that the place of entertainment be limited to live background music only;
  - (f) that the applicant appoints a suitably qualified acoustic consultant and implement the applicable recommendations to ensure noise attenuation measures are implemented to ensure compliance with the Western Cape Noise Control Regulations prior to commencement of the Place of entertainment;
  - (g) that all the conditions in the Services Report (attached as Annexure I), be complied with;
  - (h) that the requirements of Telkom, Health and Eskom (attached as Annexures G, H and J), be adhered to;
  - (i) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
  - (j) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
  - (k) that the place of entertainment may not be conducted outside the hours of 10:00 to 22:00 Mondays to Sundays
8. that the applicant and persons who commented be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decisions and conditions of approval.

**14. REASONS FOR RECOMMENDATION OF APPROVAL**

- ❖ The application is consistent with applicable forward planning and policy documents.
- ❖ The application is consistent with the planning principles.
- ❖ The proposed development will not adversely impact upon the character of the area, or amenity of adjoining properties.
- ❖ The proposed development is desirable.
- ❖ The proposal will contribute to the promotion of tourism, economic development, including employment opportunities.
- ❖ The application has followed due procedure.
- ❖ None of the internal or external departments have any objection.
- ❖ It will not impact negatively upon municipal services.

**15. ANNEXURES**

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Title Deed T1405/2021
Annexure E:	Objections received
Annexure F:	Comment on objections
Annexure G:	Comment: Telkom
Annexure H:	Comment: Health
Annexure I:	Service Report
Annexure J:	Comment: Eskom
Annexure K:	Decision letter dated 8 November 2019

**SIGNATURES****REGISTERED PLANNER**

Name: **SW VAN DER MERWE**


SACPLAN Reg No: **A/1850/2014**

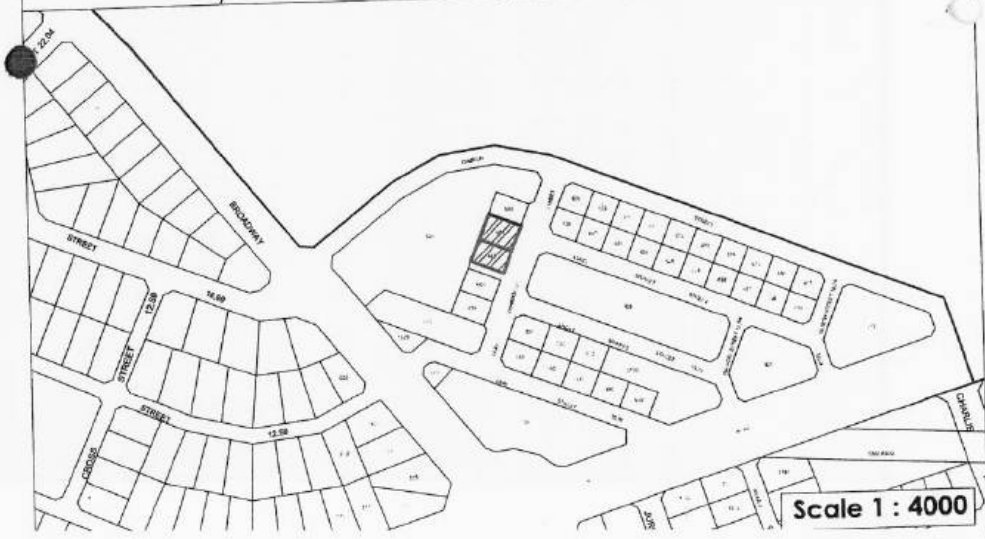
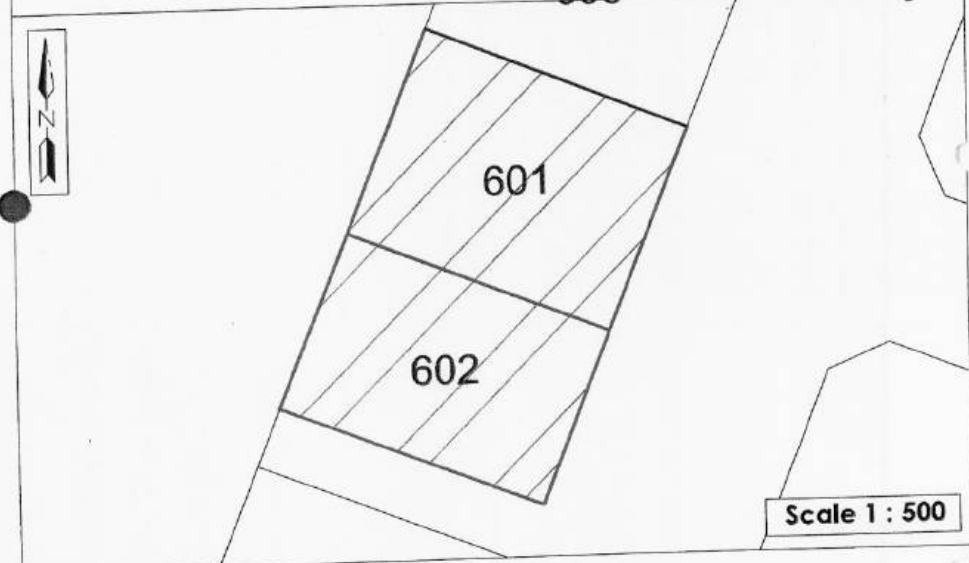
Signature: \_\_\_\_\_

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

Annexure A

**Locality Plan**  
**Erf 601 & 602 - Pearly Beach**

	Plan prepared by: Thian Jansen
	Tel: 028 313 1411
	Email: admin@wrapgroup.co.za
	Unit B, Standard House Corner of Royal and Dirkio Uys Street Hermanus, 7200
	



Amawe B.13



## MOTIVATION

## 1. ABBREVIATIONS

<b>OM</b>	Overstrand Municipality
<b>OMLUS</b>	Overstrand Municipality Land Use Scheme, 2020
<b>BY-LAW</b>	Overstrand Municipality By-Law on Municipal Land Use Planning, 2015, as amended
<b>PSDF</b>	Western Cape Provincial Spatial Development Framework, 2014
<b>LUPA</b>	Western Cape Land Use Planning Act, 2014.
<b>MSDF</b>	Overstrand Spatial Development Framework, 2020
<b>SDP</b>	Site Development Plan
<b>B3</b>	Business Zone 3: Local Business

## 2. PROPERTY DETAILS

<b>Consultant</b>	WRAP Project Office
<b>Erf Numbers</b>	Erven 601 & 602, Pearly Beach
<b>Extents</b>	625m <sup>2</sup> & 535m <sup>2</sup>
<b>Zoning</b>	Business Zone 3: Local Business

## 3. BACKGROUND AND INTENT

Erven 601 and 602 Pearly Beach hereafter referred to as the subject properties (Refer to **Plan 1** for the locality), are owned by Steady Grow Trading 33 CC, hereafter referred to as the applicant.

The applicant owned Erf 602 Pearly Beach, since 2017 and established the Whale Coast Brewing Company. Erf 602 Pearly Beach has historic approvals that allow the operation of a shop (brewery) and a restaurant on the property. Refer to **Annexure C**.

The businesses have outgrown Erf 602 Pearly Beach, and the applicant need to expand. The applicant acquired Erf 601 Pearly Beach which is an empty erf adjacent to Erf 602 Pearly Beach, with the vision to consolidate these two properties and operate the businesses across the entire consolidated erf. With more space available, the applicant have the vision to host small live music events on the new consolidated erf. These events will be limited to the inside of the restaurant and brewery. There is also a need for an outside seating for the restaurant and a children's playpark as the clientele of the business are mainly families, especially during holiday periods which necessitates the amendment to the SDP.

The title deed of Erf 601 Pearly Beach contains a restrictive title deed condition that is required to be removed to allow the vision of the applicant to be fulfilled. The restrictive title deed condition states that the property may only be used for shop purposes. The applicant's vision is to operate the existing restaurant on both properties therefore necessitates the removal of the restrictive condition.

The applicant is envisioning expanding the existing building across the current erf boundaries to create additional space for the brewery. Due to the property adjacent to Erf 601 (Erf 599) Pearly Beach, having a different zoning than B3 there is a 3m rear building



## MOTIVATION

line applicable that requires departure as the proposed extension will encroach on the 3m building line (Refer **Plan 4** for the SDP).

As a result, the following applications are required:

- Removal of restrictive title deed condition on Erf 601 Pearly Beach;
- Consolidation of Erven 601 and 602 Pearly Beach;
- Consent use for a place of entertainment (live music) on the consolidated erf;
- Departure of the 3m rear building line to 0m on the consolidated erf; and
- Amendment of the SDP.

### 4. PROCEDURE TO ACHIEVE THE APPLICANT'S INTENT

WRAP compiled this report to ensure the applicant's vision is achieved. The following is proposed:

**4.1 Removal of a restrictive title deed condition** in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

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

<b>Restrictive Title Deed Condition</b>
Condition 4(b) – "it shall be used for shop purposes only;"

The rationale for the removal of the restrictive title deed condition is to enable the applicant to achieve the development intent highlighted in Section 3. The title deed condition is more restrictive than what is allowed in terms of the OMLUS. The applicant has the vision to operate more than a shop on the property and it is restricted by the condition above.

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

**4.2 Consolidation** of Erven 601 and 602 Pearly Beach in terms of Section 16(2)(e) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The proposal is to consolidate Erven 601 (625m<sup>2</sup>) and 602 (535m<sup>2</sup>) Pearly Beach, into a single consolidated erf with a total extent of 1160m<sup>2</sup>. The properties are zoned Business Zone 3: Local Business and allows the current uses to continue as well as the expansion of the existing businesses.

Refer to Plan 4 for the amended SDP that illustrates the proposed consolidation of the two properties. The extra space will allow the applicant to increase production of the brewery and increase the seating area of the restaurant, which will have a positive impact on the economy of the Pearly Beach area. The parking will be relocated to the area, before consolidation being Erf 601 Pearly Beach, and the current parking area will be utilised as outside seating for the restaurant with a small area for children to play and be entertained in a safe environment.



## MOTIVATION

**4.3 Departure** from the 3m rear building line to 0m in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The applicant has the vision to extend the existing building using the same massing located on the rear building line. As Plan 2 indicates, the subject property abuts Erf 599 Pearly Beach, zoned Authority Zone: Authority Usage, which necessitates a departure from the rear 3m building line to 0m.

Erf 599 Pearly Beach, the property abutting the, to be consolidated property, at the rear, is utilised as a waste dumping site. This is not a land use that the applicant wants his businesses exposed to and wishes to build a solid wall onto the boundary line of the, to be consolidated erf. There will be no doors or windows at the rear of the property and rainwater will be managed onsite.

This will create a buffer between the unsightly land use and the consolidated erf, and the building will conform to the OM's building regulations and a building plan will be submitted by the applicant.

**4.4 Consent use for a place of entertainment (live music)** in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The definition of a place of entertainment in terms of the OMLUS is as follows: "*place of entertainment*" means a place used for commercial entertainment which may attract large numbers of people, operates outside normal business hours or generates noise from music or revelry on a regular basis and includes a cinema, a theatre, an amusement park, a dance hall or a night club and gambling and **live music**."

This performance area will be located inside of the premises to minimise the impact on the surrounding area. The live music and small events will be used to entertain the guests while they enjoy their meals and beverages. The live music will be available during the normal business hours of the restaurant and will not be a nuisance to the surrounding property owners.

The applicant has no need to operate any of the other uses being unlocked by the consent use. 'Live music' is the only use the applicant is applying for and the conditions of approval may reflect this.

**4.5 Amendment of the Site Development Plan (SDP)** in terms of Section 16(2)(l) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

With the new development proposal being applied for, it is of importance to ensure that the SDP is updated accordingly, to accommodate the entire consolidated property.

The existing approved SDP was amended to indicate the new structures, parking area, reflecting the vision of the applicant. Refer to Plan 4 for the amended SDP.

## 5. APPLICATION

Considering the above, application is made for the following:

**5.1 Removal of a restrictive title deed condition** in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;



## MOTIVATION

- 5.2 **Consolidation** of Erven 601 and 602 Pearly Beach in terms of Section 16(2)(e) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.3 **Departure** from the 3m rear building line to 0m in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.4 **Consent use to allow a place of entertainment (live music)** in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and
- 5.5 **Amendment of the Site Development Plan (SDP)** in terms of Section 16(2)(l) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

## 6. LAND USE ENVIRONMENT

The subject properties are located in the business node of Pearly Beach and the surrounding area has residential and authority zonings. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan).

## 7. TITLE DEED

The title deeds of the subject properties were perused. Title deed T61368/2017 of Erf 602 Pearly Beach contains no restrictive conditions as it was removed during November 2019. Title Deed T1405/2021 of Erf 601 Pearly Beach (refer **Annexure B**) contains a restrictive condition that prohibits the applicant's intent for the subject property.

### Title deed restrictions

**Condition 4(b)** – "it shall be used for shop purposes only;"

### Motivation

#### **The rationale for the proposed removal**

Erf 601 Pearly Beach is currently an empty erf and with the proposal to consolidate the subject properties to ensure that the existing businesses are not restricted by the title deed condition mentioned above, it requires removal. The applicant has the vision to expand the current business which is a primary right of their current zoning in terms of the OMLUS and they wish to continue and expand their business on the consolidated erf.

#### **Title deed condition background**

The restrictive title deed conditions were originally intended to protect the type of businesses allowed within the Pearly Beach business node. As time passes the requirement also changes. The applicant wants to continue the business and requires historic constraints to be removed. Any amendment or removal of this condition requires the consent of the Administrator, which authority now vests with the Overstrand Municipality.

**MOTIVATION****Status quo**

Considering the prevailing trend of globalisation which has accelerated the position of the Overstrand Municipality as a viable and popular tourist destination, a need has arisen for consumer goods which cater for both the local and international market. These include restaurants, guest houses and hotels. This restrictive title deed condition is therefore not relevant in the current context of globalisation and can potentially contribute to stifling innovation and economic growth in Pearly Beach. The removal of this restrictive title deed condition is therefore rational and contextually appropriate.

In terms of the requirements of LUPA, the following information is addressed in terms of Section 39(5) (a-f):

<b>LUPA, Section 39(5) (a-f)</b>	
<i>(a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;</i>	No person or entity will be affected financially by the removal of the restrictive title deed condition.
<i>(b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;</i>	No person is benefitting from the condition. The condition is only restricting the applicant.
<i>(c) the personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended;</i>	The applicant will be gaining from the removal of the restrictive condition as it will allow them to utilise the consolidated property to its full extent.
<i>(d) the social benefit of the restrictive condition remaining in place in its existing form;</i>	The restrictive condition does not have a social benefit.
<i>(e) the social benefit of the removal, suspension or amendment of the restrictive condition; and</i>	
<i>(f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.</i>	There is no specific beneficiary of the condition, and no person or entity will be affected if these are removed.

**8. ZONING**

The following zoning parameters were assessed in conjunction with the B3 OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (a) of the OM By-Law:



MOTIVATION

BUSINESS ZONE 3: LOCAL BUSINESS (B3)			
Land Use Restrictions			
	Parameters	Proposal	Comply/ deviate
<b>Primary use</b>	<b>Shops.</b> Dwelling Unit (Above Ground Floor) In Accordance with 6.3.2; Flats (Above Ground Floor), Offices, <b>Restaurant</b> , Caretaker's Accommodation and Self-Catering.	Shop (Brewery) & Restaurant	Comply
<b>Consent use</b>	Bottle Store, Business Premises, Clinic, Conference Facility, Dwelling Unit (On Ground Floor) In Accordance With 6.3.2, Flats (On Ground Floor), Town Housing in Accordance with 6.3.2, Tourist Accommodation, Hotel, Institution, Place of Assembly, <b>Place of Entertainment</b> , Place of Instruction, Place of Worship, Recreational Facilities, Residential Building, Sale of Alcoholic Beverages, Service Station, Service Trade and Transmission Apparatus (Subject to the provisions of chapter 16.10).	- Place of Entertainment (live music)	Applied for and motivated
<b>Coverage</b>	The maximum coverage for all buildings on the land unit is 75%.  "Coverage" means the total area or percentage area of a land unit which may be covered by buildings and covered by a roof; provided that the following portions of buildings shall be disregarded in the calculation of coverage: The maximum floor factor is 1.5	<b>Development parameters</b> Consolidate erf extent = 1160m <sup>2</sup>  Allowed coverage = 870m <sup>2</sup>  The proposed building will have a coverage of <b>395m<sup>2</sup></b> .  395m <sup>2</sup> x 100 / 1160m <sup>2</sup> = <b>34.05%</b> 395m <sup>2</sup> / 1160m <sup>2</sup> = 0.34	Comply
<b>Floor factor</b>	(i) The maximum height of a building measured from the base level to the top of the roof is 8.5 m;	(i) The height is below 8.5m;	Comply
<b>Height</b>		(ii) There is only one storey; and	Comply



**MOTIVATION**

<p><b>Setback</b></p>	<p>(ii) The maximum number of storeys is 2; and                  (iii) Earth banks and retaining structures shall comply with 16.6.                  (i) Council may require that all buildings and structures on the property are set back at least 6.5 m from the centre line of the street;                  (ii) Where special circumstances exist, Council may require a wider setback; and                  (iii) The general provisions of 16.2 apply.</p>	<p>(iii) Comply</p>	<p>Comply</p>
<p><b>Building lines</b></p>	<p>(i) The street building line is 0 m; provided that a 3.5 m building line applies where fuel pumps are erected;                  (ii) The side building line is 0 m provided that where any Business Zone 3 abuts another zone, the side building line is 3.0 m;                  (iii) The rear building line is 3.0 m; provided that where any Business Zone 3 abuts another zone, the rear building line is 4.5 m;                  (iv) Provided that Council may require more restrictive building lines in the interests of public health or safety or the environment or in order to enforce any applicable law or right; and                  (v) The building line exemptions in 16.1 apply.</p>	<p>(i) 7m from the street boundary;                  (ii) 0m from the side boundary;                  (iii) 3m rear boundary applicable to the consolidated erf. <b>Departure of the 3m rear boundary to 0m.</b>                  (iv) This is subject to the discretion of Council.                  (v) Comply</p>	<p>Applied for and motivated</p>
<p><b>Window and door placement</b></p>	<p>(i) Where a 0 m building line applies and where a wall of a building is erected 1.0 m or less from the side or rear building line, no door or window shall be permitted in the wall concerned; and                  (ii) Any portion of the building which contains a door or window onto a side or rear boundary, shall be placed at least 1.5 m away from such boundary. The portion of the building that is required to be set back shall include the door or window.</p>	<p>(i) there are no doors or windows on the part of the property which is located up to 0m from the side and rear boundary; and                  (ii) there are no doors or windows on the part of the property which is located up to 0m from the side and rear boundary.</p>	<p>Comply</p>



**MOTIVATION**

<p><b>Parking and access</b></p>	<p>together with such additional length of wall as is required to make up a total of 3.0 m. Parking and access shall be provided on the land unit in accordance with 17.1.</p>	<p>The proposed GLA is 351 m<sup>2</sup> which requires 14 parking bays.</p>	<p>Comply</p>
<p><b>Shops/Restaurants</b></p>	<p>4 bays per 100m<sup>2</sup> of GLA</p>	<ul style="list-style-type: none"> <li>- 17 parking bays are provided – 1 being parking for the disabled.</li> <li>- 5 Motorcycle parking bays</li> <li>- 1 Loading bay is provided.</li> </ul>	<p>Comply</p>
<p><b>Loading Bays</b></p>	<p>Loading bays must be provided on the land unit in accordance with 17.2.</p>	<p>(i) This is subject to the discretion of Council;</p>	<p>Comply</p>
<p><b>Screening</b></p>	<p>(ii) Where a Business Zone 3 abuts a residential zone, Council may require a suitable wall of no less than 1.8 m in height to be erected on the common boundary.</p>	<p>(ii) This is subject to the discretion of Council;</p>	<p>Comply</p>
<p><b>Site development plan</b></p>	<p>Council may require that a site development plan be submitted for approval in accordance with 16.3.</p>	<p>An amended SDP which complies with 16.3 is submitted with the application.</p>	<p>Comply</p>

00/3



## MOTIVATION

### 9. SERVICES

The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is herewith illustrated.

#### **Electricity, Water, Sewage and Solid Waste**

The subject property is connected to the OM's networks which include electricity, water and sewage. The proposal of this application will not have a negative impact of the area.

Solid waste is collected every week by the OM.

#### **Access and Egress**

Access and egress to the subject property is gained from Commercial Street and the proposal will not affect this. There will however be a change in where the consolidated property will gain access and egress. Due to the small-scale nature of the development, it not predicted that it would affect the traffic of the area.

### 10. NEED AND DESIRABILITY

The need and desirability of the approval and implementation of this proposal in accordance with Section 66 (1) (c) of the OM By-Law can be illustrated as follow:

#### **Need and desirability**

The need for the land use application was a result of expansion pressure and the acquisition of the abutting property which ignited the applicant's desire. The desirability is more often a personal feeling of the applicant. This application is not different and although the expansion of the businesses was the idea of the applicant, others will also benefit from these expansions.

It will require more staff to operate the expanded brewery and expanded restaurant, which in turn will employ more staff from the Pearly Beach area and will be able to contribute financially to the economy.

To achieve their vision, the applicant has appointed WRAP Project Office to submit this application to ensure the proposed development is not in contradiction to any policies, legislation, or title deed conditions.

#### **Impact on views, sunlight, and character of the area**

The subject property is located in a business node with several other uses in the area, refer to **Plan 2**. It is not proposed that the new expansion of the building will have any more of an impact than what is currently being experienced. The land uses sought by the applicant is in line with the primary and consent uses set out by the OM, nothing is being requested additionally.

The expansion will comply with the OMLUS's development parameters ensuring no views, sunlight, or the character of the area is affected.



## MOTIVATION

### Economic impact

Once the construction is completed which in itself will employ workers, the expanded business will require more staff to operate and wait on prospective patrons. This will create a sustainable source of employment for people in the surrounding areas.

### Opportunity cost

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or foregoing of valued land use rights of interested and affected parties when an application is approved. The development will not affect the values of surrounding properties and it is predicted that development should be encouraged in the Pearly Beach area.

### Impact on heritage

The subject property is not listed in the OM Heritage Register.

### Environmental impact

The subject property is not located within an environmentally important area.

## 11. POLICIES AND REGULATIONS

### 11.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

The subject property is not located within this zone.

### 11.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The subject property is not located within this zone.

### 11.3 Spatial Planning Policies

This proposal was assessed in terms of the existing spatial planning documents. This is to ensure that this proposal is in harmony with the urban form and urban fabric which is envisaged by the local and provincial authorities.

### PSDF

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

Policy proposals pertinent to this proposal can be recorded as follow:

### World class tourism

The authenticity of the landscapes which have a scenic and cultural significance is cited in the PSDF as making the Western Cape a world class tourism destination. Restaurants in Pearly Beach form an integral component of the tourism industry. The approval and implementation of this expansion proposal will therefore contribute to making tourists appreciate the scenic and cultural landscape which exists in Pearly Beach.



## MOTIVATION

### **Tourism unlocking socio-economic opportunities**

The PSDF underscores that the tourism industry has social and economic benefits which the Western Cape greatly depends on. The economic benefits which will be unlocked on the subject property will have a positive impact for the society of Pearly Beach.

### **MSDF**

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

### **Promotion of infill development**

Infill development is promoted within existing boundaries through the development of vacant properties within the demarcated urban edge. The subject property has already been developed and is already aligned with the infill development imperatives. The subject proposal only entails expanding on existing and approved land uses.

### **Promote tourism based on the ecological value of the region**

Pearly Beach is characterised by a diversity of complementary natural systems and ecological value. Guests who will visit the subject property will visit and enjoy the splendour of the ecological value of the area. This is aligned with the development imperative of promoting tourism based on the ecological value of Pearly Beach.

### **Promote Pearly Beach as a tourism village**

The proposed expansion is projected to attract a variety of people from various parts of the country and the world which will promote the tourism value of Pearly Beach.

### **Spatial proposal plan**

The subject property is designated for commercial development which this proposal is aligned with. The SDF also highlights that commercial development should strictly be restricted to the areas which are designated for commercial development.

## **12. PLANNING PRINCIPLES**

Chapter 2 of SPLUMA contains 5 uncompromisable planning principles by which each development application must be guided. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

### **Spatial justice**

The subject expansion will offer employment opportunities to the historically marginalised. This will lead to the employees having an income which will contribute to promoting equity as the employees will be able to afford access to opportunities such as housing, services, and facilities. The approval and implementation of this proposal will therefore contribute to addressing spatial development imbalances caused by apartheid planning and contribute to attaining a more spatially just urban landscape.

### **Spatial sustainability**

The proposed development and properties are ideally located within a contextually appropriate mixed-use environment and is intended to contribute to allowing a



## MOTIVATION

functional space economy in Pearly Beach. Utilising existing infrastructure and expanding thereon will ensure the businesses are able to cope with the experienced growth.

### **Efficiency**

This proposal entails the optimal use of space as the entire consolidated property is proposed to be used for parking and the existing businesses. The engineering services on the premises will also cater to a greater number of people within the engineering services capacity limits.

### **Spatial resilience**

This proposal is not in conflict with any spatial planning policies or other OM regulations which is a hallmark of resilience.

### **Good administration**

The OM has a credible track record of good administration regarding the method of public participation which invites and accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications.



## RECOMMENDATION

### 13. EVALUATION

The applicant has a need to expand and to meet all the requirements of the applicant, several applications are being made. The restrictive title deed condition needs to be removed, no person or entity is benefitting from the conditions, and the applicant are currently being restricted. With the removal it will allow the subject properties to be consolidated and allow the existing business not to be restricted by a title deed condition.

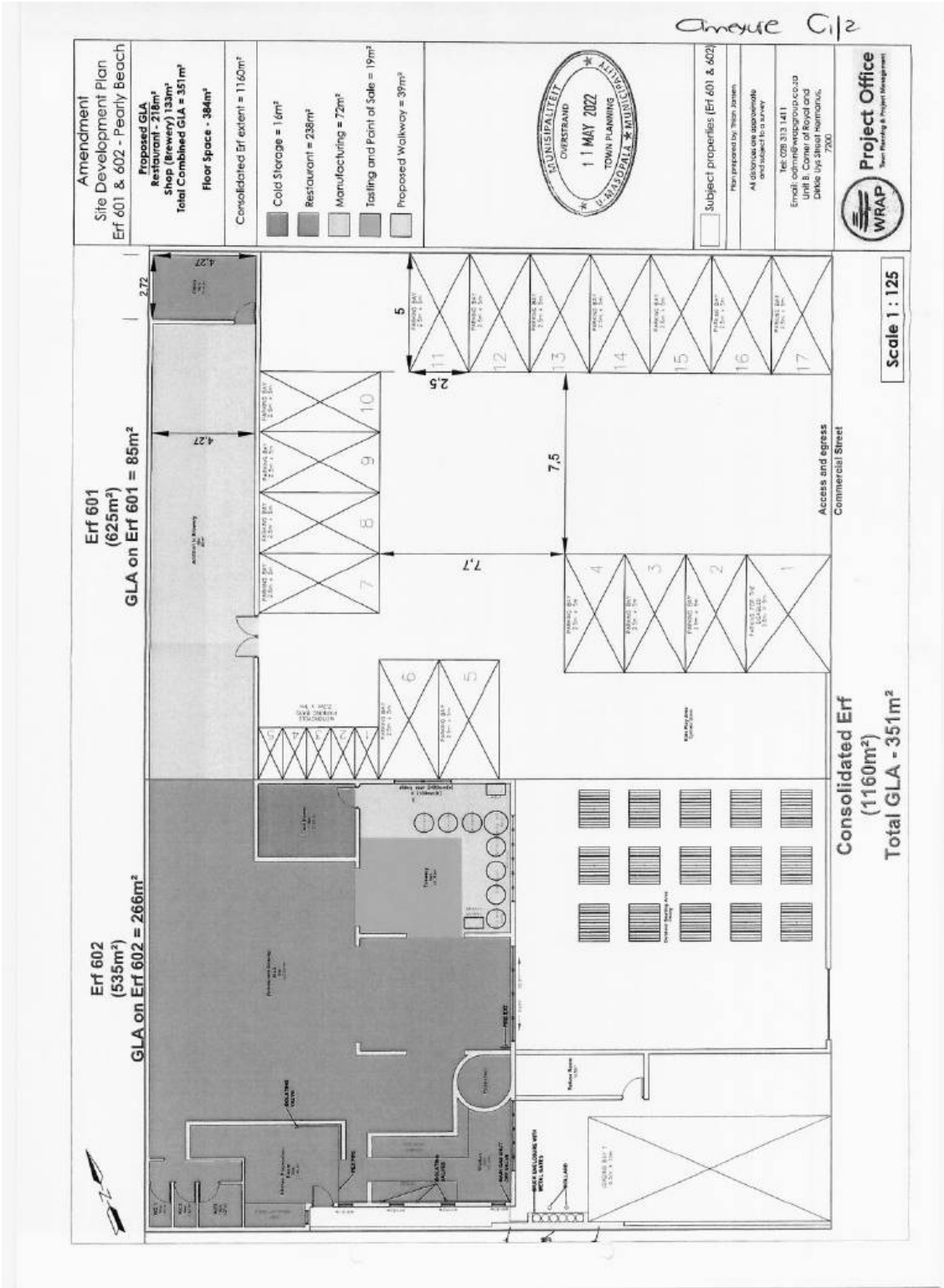
The consent uses being applied for are aligned with the OMLUS and are not out of the ordinary for a property zoned Business Zone. The consent use sought by the applicant is only to have "live music". The development parameters of the zoning are also being adhered to in terms of the coverage, height, floor area and parking requirements. The departure of the rear building line is required only to ensure the unsightly land use at the rear of the to be consolidated property is hidden behind the structures.

The proposal for expansion of businesses is in harmony with all relevant spatial planning policies which illustrates that the applicant did not arbitrarily invent this proposal but had consideration for relevant spatial planning policies.

### 14. RECOMMENDATION

Based on the abovementioned motivation, it is recommended that the following be approved:

- 14.1 Removal of a restrictive title deed condition** in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 14.2 Consolidation** of Erven 601 and Erf 602 Pearly Beach in terms of Section 16(2)(e) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 14.3 Departure** from the 3m rear building line to 0m in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 14.4 Consent use to allow a place of entertainment (live music)** in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and
- 14.5 Amendment of the Site Development Plan (SDP)** in terms of Section 16(2)(l) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.



Ameyue C1/2

2/2

### Plan 3: Site Development Plan Erf 602 Pearly Beach

GLA  
RESTAURANT - 218m<sup>2</sup>  
BREWERY (SHOP) - 38m<sup>2</sup>

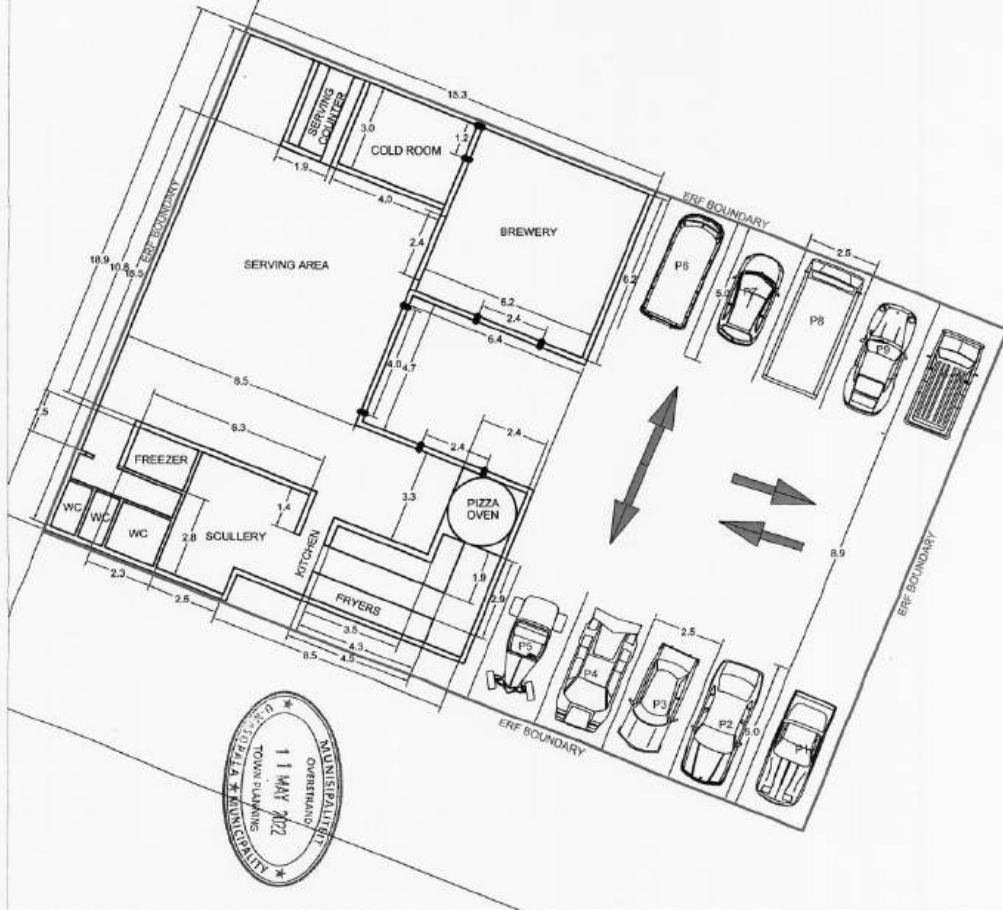
Scale 1 : 125 (Print in A3)

Plan prepared by: Realitehile Jankie

All distances are approximate  
and subject to a survey



# 601



Annex D/11

**A. VIR ATEKANTOOR SE GEBRUIK / FOR CONVEYANCER'S USE:**

(a) Gelyktydiges met onder registrasieklare / deeltrek: Simul with other registers / fractional titles:

Roedel/Code	Firma / Firm	Baandom / Property	Kontra / Office
1			
2			
3			
4			

(b) Klant salubita van onder oopname in die klanklank oopname:  
Client copies of deeds filed permanently in Deeds Office.

Aans en nommer van oort / Nature and number of deed: Cover No. / Omslag No. Punne van onderoort / Impact of Burden

(c) Heide / Heide:

**A. VIR ATEKANTOOR SE GEBRUIK / FOR DEEDS OFFICE USE:**

Heide / Oort / Deed / Date	Perseel / Initial	Opmeskinge / Remarks	Perseel / Initial
	(1) Oort goedgelyk (geopstom)		
	(2) Heide oopname (opstom)		
	(3) Oort oopname		
	(4) Oort oopname		
	(5) Heide oopname		
	(6) Oort oopname		
	(7) Heide oopname		
	(8) Oort oopname		
	(9) Datum oopname		

Kontra / Heide / Office reference:  
Sesie / Fraction

**LINDSAY & WATERS**  
TABLE VIEW BRANCH: 021 557 7278

Ref No / Form No: 14017016

**A. VIR ATEKANTOOR SE GEBRUIK / FOR DEEDS OFFICE USE:**

Datum van indigting / Date of lodgment

**RECEIVED**  
09-12-2020  
**DEEDIEN**

15 JAN 2021

1	2	3	4	5	6	7	8	9	10	11	12
1	SHLASHWAYO	185									
2	Denise Malingale										
3	Rebekah M...										

**A. VIR ATEKANTOOR SE GEBRUIK / FOR CONVEYANCER'S USE:**

Aans van Aans / Nature of Deed: Transfer  
i.g.w./i.o.: i Fredman, Steady Grass, Toeding 33 CC

Stadting / Linking: 148611 / 2017

Trasies / Title deed within: 148611 / 2017

**GEVLYTIGES / SIMULS**

No in stel batch	Kode / Code	Naam van Partys / Names of Parties	Naam van Reme / Name of Firm	Firma / Firm No.
1	1	Fredman	Steady Grass Toeding 33 CC	7
2			Kredasig E. Malverle	
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				

Handed in for execution: 15 JAN 2021  
CLIVE TOWN  
DEEDS OFFICE

Registration requested by: MAURITZ RYK HENDRIK EMERS  
Date: 18/1/2021

Barcode: 080007293969

Erffoel Pedy Beach

2/11

7

LINDSAY & WATERS  
15 RAATS DRIVE  
PARKLANDS  
TABLE VIEW  
7441

Prepared by me

CONVEYANCER  
CHARMAINE YVONNE LINDSAY  
LPCM 79413

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 170 000,00	R. 86,00
Reason for exemption	Category Exemption	Exemption (10. Sec/Reg. Act/Proc.)

DATA CAPTURE  
20-01-2021  
FATGEYAH LARNEY

T000001405 / 2021

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

MAURITZ RYK HENDRIK BRIERS LPCM 60008

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

JAYSON FRIEDMAN  
Identity Number 770724 5007 08 6  
Unmarried

VERIFY  
21-01-2021  
YO' ANDI OLIVIER

which said Power of Attorney was signed at Sunninghill on 28 November 2020

Page 2

And the appearer declared that his/her said principal had, on 12 October 2020, truly and legally sold by Private Treaty, and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

**STEADY GROW TRADING 33 CC**  
**Registration Number 2005/157247/23**

or its Successors in Title or assigns, in full and free property

ERF 601 PEARLY BEACH, IN THE OVERSTRAND MUNICIPALITY,  
 BREDASDORP DIVISION, WESTERN CAPE PROVINCE

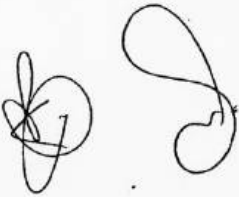
IN EXTENT 625 (SIX HUNDRED AND TWENTY FIVE) Square metres

FIRST TRANSFERRED by Deed of Transfer Number T20418/1992 with  
 General Plan SG No. 757/1992 relating thereto and held by Deed of Transfer  
 Number T48611/2017

- A. **SUBJECT** to the conditions referred to in the Deed of Transfer No. T54051/2015.
- B. **SUBJECT FURTHER** to the conditions the following conditions contained in Certificate of Registered Title No. T24605/1972, imposed by the Administrator of the Cape of Good Hope in terms of Ordinance No. 33/1934 when approving of Pearly Beach Township, namely:-
1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Administration Notice No. 401 dated 17<sup>th</sup> October 1935 and in the Memorandum which accompanied the said Regulations.
  2. The owner of this erf shall without compensation be obliged to allow electricity and water mains and the sewage and drainage, including stormwater of any other erf or erven within or without this subdivision to be conveyed across this erf, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required; this shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.
  3. The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.

Page 3

4. This erf shall be subject to the following further conditions, provided that where, in the opinion of the Administrator after consultation with the Townships Board and the local authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation subject to compliance with such conditions as he may impose:
- (a) it shall not be subdivided;
  - (b) it shall be used for shop purposes only;
  - (c) not more than two-thirds of the area thereof shall be built upon;
  - (d) no building or structure or any portion thereof, except boundary walls and fences, verandahs and balconies shall be erected nearer than 7½ feet to the street line which forms a boundary of this erf.



For Information

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

**JAYSON FRIEDMAN, Unmarried**

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

**STEADY GROW TRADING 33 CC**  
**Registration Number 2005/157247/23**

or its Successors in Title or assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R170 000,00 (ONE HUNDRED AND SEVENTY THOUSAND RAND).

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

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 18 January 2021.

q.q.

In my presence

REGISTRAR OF DEEDS

For Information Only

7

LINDSAY & WATERS  
15 RAATS DRIVE  
PARKLANDS  
TABLE VIEW  
7441

Prepared by me

CONVEYANCER  
CHARMAINE YVONNE LINDSAY  
LPCM 79413

## POWER OF ATTORNEY TO PASS TRANSFER

I, the undersigned

**JAYSON FRIEDMAN**  
Identity Number 770724 5007 08 6  
Unmarried

do hereby nominate and appoint CHARMAINE YVONNE LINDSAY LPCM 79413 or PATRICIA MARY BARWISE or PAMELA MARY WATERS or LINDA ANNE BIRCH or MAURITZ RYK HENDRIK BRIERS LPCM 60008 or LOUIS PAUL VAN SCHALKWYK

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

**STEADY GROW TRADING 33 CC**  
Registration Number 2005/157247/23

the property described as:

ERF 601 PEARLY BEACH, IN THE OVERSTRAND MUNICIPALITY,  
BREDASDORP DIVISION, WESTERN CAPE PROVINCE

IN EXTENT 625 (SIX HUNDRED AND TWENTY FIVE) Square metres

HELD BY Deed of Transfer Number T48611/2017

the said property having been sold by me on 12 October 2020, to the said transferee/s for the sum of R170 000,00 (One Hundred and Seventy Thousand Rand);

and further cede and transfer the said property in full and free property to the said Transferee; to renounce all right, title and interest which the Transferor heretofore had in and to the said property, and generally, for effecting the purposes aforesaid, to do or cause to be done whatsoever shall be requisite, as fully and effectually, to

Lexis® Convey 17.2-14.1


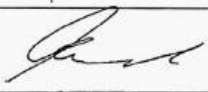

7/11

Page 2

all intents and purposes, as the Transferor might or could do if personally present and acting therein; hereby ratifying, allowing and confirming all and whatsoever the said Agent/s shall lawfully do or cause to be done in the premises by virtue of these presents.

Signed at Smnighill on 28/11/20  
in the presence of the undersigned witnesses.

AS WITNESSES :

- 1.  \_\_\_\_\_
  - 2.  \_\_\_\_\_
-  \_\_\_\_\_  
JAYSON FRIEDMAN



For Information Only



3.8

9/11



OVERSTRAND LOCAL MUNICIPALITY

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 LOCAL 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 Local 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 (see definition of property in section 1 of Act 32 of 2000)

21 Digit Code (or Municipal Reference Number):

ELZEEN

Ervan:

601

Portion:

0

Extension:

PEARLY BEACH

Zoning:

Registration division / Administrative District:

Suburb:

Town:

Sectional Title unit number:

Exclusive use area and number as referred to on the registered plan:

Real right:

Scheme registration number:

Sectional Title Scheme Name:

Registered owner:

JAYSON FRIEDMAN

(7707245007086)

Name and Identity/ Registration Number of all purchasers: STEADY GROW TRADING 33 CC (2005/157247/23)

This Certificate is valid until:

31/01/2021

Given under my hand at

HERMANUS

02/12/2020

Digitally signed by Overstrand Municipality  
Signed: Elzene Davona Charles  
Sign date: 02/12/2020 02:25:15 682 PM  
Expiration date: 17/09/2025 10:59:20 AM

MUNICIPAL MANAGER  
Overstrand Local Municipality

CHARMAINE YVONNE LINDSAY

Date issued: 02/12/2020

Authorized Officer: Elzene Charles

Certificate By Conveyancer:

I \_\_\_\_\_ (full name and surname) hereby certify that this is a print-out of a data message in respect of the original clearance certificate electronically issued by the Overstrand Local Municipality.

Conveyancer

Date

8 December 2020

21 Digit Code (or Municipal Reference Number): ELZEEN

Page 1 of 1

Certificate number: 11696009

F.S

10/11

PROB  
PREPARED BY

DEEDS REGISTRATION SYSTEM - CAPE TOWN  
DPS68834 - NCAPAI LINDA

DATE : 20201210 TIME : 14:48:48.2 PAGE : 1

TRACK NUMBER : 80907253969

BLACK-BOOKING ENQUIRY ON NAME - FRIEDMAN JAYSON  
ID NUMBER - 7707245687086  
BIRTH DATE - 1977/07/24  
MARRITAL STATUS - UNMARRIED  
MARDEN NAME  
TYPE OF PERSON - PRIVATE PERSON

PERSON HAS NO CONTRACTS/INTERESTS

\*\* 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 \*\*\*



5.8

||||

PROD DEEDS REGISTRATION SYSTEM - CAPE TOWN DATE : 20201210 TIME : 14:40:58.6 PAGE : 1  
PREPARED BY : DRS88834 - NCAPAI LINDA

TRACK NUMBER : 80807293969

PROPERTY DETAILS PRINT FOR PORTION 0  
ERF NO 601  
TOWNSHIP PEARLY BEACH  
REG DIV BREEDSDORP RD

PROVINCE WESTERN CAPE  
PREV DESCRIPTION PTN OF 1916-TP841  
DIAGRAM DEED NO T28438/1992  
EXTENT 625 SQM  
CLEARANCE GANSBAAI MUN

NO INTERDIRCTS

NO DOCUMENTS

OWNER DETAILS

FULL NAME & SHARE  
FRIEDMAN JAYSON

PURCH DATE 20170404 AMOUNT/REASON R111486.00  
O/P/A IDENTITY 7787245007686 TITLE DEED T48611/2017

MPOD 0824 MICROFILM REF 28170987180938

\* O/P/A - 0 - MULTIPLE OWNER P - MULTIPLE PROPERTY 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 \*\*\*





TP- A Theart  
(Guld Merwe)

Gerhardt Germishuys

Van:  
Gestuur: 09 April 2022 03:46 NM.  
Aan: 'alida@overstrand.gov.za'  
Onderwerp: ERWE 601 EN 602 COMMERCIALSTRAAT 7, PEARLY BEACH : AANSOEK OM OPHEFFING VAN BEPERKENDE TITEL VOORWAARDES, KONSOLIDASIE, AFWYKING, VERGUNNINGSGEBRUIK EN WYSIGING VAN DIE GOEDGEKEURDE TERREINONTWILLENINGSPLAN

DIREKTEUR : INFRASTRUKTUUR EN BEPLANNING

1. Ek maak hiermee beswaar teen konsolidasie van erf 601 en 602.  
Ek is die eienaar van erf 628, wat regoor erf 601 en skuinsoor erf 602 geleë is.
2. Beswaar word gemaak teen die vergunningsgebruik ingevolge art.16(2)(0) van die Verordening, ten einde n plek van vermaak (lewendige musiek) te akkomodeer.
  - 2.1. Erf 601 is 20 meter van my huis geleë (erf 628) en lewendige musiek sal dit onhoudbaar maak om regoor so n plek te woon.
  - 2.2. U skrywe van 8 November 2019 met verwysing 602 GPB, waar goedkeuring deur u Departement verleen is vir die bedryf van n bier brouery en restaurant, goedgekeur word onder die voorwaarde (paragraaf 4a) "That the operation of a place of entertainment is not permitted" - die aansoek om lewendige musiek te verskaf (entertainment) is een van die beperkende voorwaardes.
  - 2.3. Om lewendige musiek (entertainment) te verskaf was een van die beperkende voorwaardes. En daarom versoek ek ernstig dat die aansoek vir plek van vermaak (lewendige musiek) te akkomodeer, nie goedgekeur word nie.
  - 2.4. My woonhuis is slegs 20 meter van erf 601 af, en dit gaan onhoudbaar wees om hier te bly in geval van lewendige musiek.
3. Hiermee rig ek n ernstige versoek tot u Departement om NIE die aansoek vir die verskaffing van lewendige musiek, goed te keur nie. Ons is bejaarde mense met gesondheidsprobleme en lewendige musiek 20 meter van die naaste residensiële woning, sal n onhoudbare situasie skep vir ons as inwoners.

PG Germishuys

Erf 628, Langmarkstraat 1, Pearly Beach

13 APR 2022

FILE NO.	Erwe 601 G602
GPB	
SCAN NO.	03
COLLABORATOR NO.	1672792

✓ called  
checked  
R

2/10

**Gerhard**

**Van:**  
**Gestuur:** 02 Oktober 2018 12:53 NM.  
**Aan:**  
**Aa:** Wrap  
**Onderwerp:** whale Coast Brewing Co application

Dear Gerhard and Ans

Thank you for our chat yesterday, reference "Whale Coast Brewing Company" - My call yesterday was merely intended to open discussions with you regarding our intentions with this project. We fully respect your right to submit objections and concerns.

As mentioned I would like to invite you to come and see fist hand what we are doing to upgrade the building and facility and discuss what we plan. Briefly we have no intention to open a "drinking hole" that affect others - our intention is to open a restaurant with a craft brew facility.

The investment we are making is to offer Pearly Beach'rs and visitors a family orientated venue to come enjoy meals such as pizza, burgers, and pot of the day/week that are not currently available in PB.

The concept of craft brew is a fairly young concept in SA and it's a growing concept similar to that of "wine farms" if you like. Craft brewed beers and gins comes at a premium price and does not attract the "bottle store or pub style environment" our craft brew offerings will be limited to what we brew on site and we will not be stocking or selling any commercial brand products or commercial strong alcohols as we cannot compete against the concept intended. We will be offering wines within the restaurant that is produced within our area, we are firmly committed to run a clear responsible facility and not and off salles facility or as said a bottle store.

Our intended trading hour will not go into the early hours of the morning its restaurant and we aim (in peak season) to take last food orders by 21:00 and close latest 10:30 - 11:00 if not earlier. We will not be playing live or load music at all it not intended to be a party place nor a place of dance or disturbance.

I would like to make it quite clear we will not sell any of our products to people that wish to consume this in the street or in public space as said we are not opening a bottle store besides its will not be permitted.

3/10

Navrae:  
Enquiries: SW van der Merwe (Senior Town Planner)

Lêerverwysing:  
File Reference: 602 GPB

Aansoek ID:  
Application ID: 4157 (TPMan)

Datum:  
Date: 8 November 2019



TOWN PLANNING / STADSBEPLANNING  
HERMANUS

PG Germishuys  
PO Box 1083  
**GANSBAAI**  
7220

REGISTERED MAIL

Dear Sir

DECISION LETTER TO OBJECTOR

**ERF 602, 7 COMMERCIAL STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE: MESSRS WRAP ON BEHALF OF STEADY GROW TRADING 33 CC**

The application received on 31 August 2018 refers.

You are hereby notified in terms of Section 62 of the Overstrand By-law on Municipal Land Use Planning, 2015 of the decision made by the Municipal Planning Tribunal, on 31 October 2019.

The resolution in terms of Section 61 of the Overstrand By-law on Municipal Land Use Planning, 2015, with conditions, is as follows:

**RESOLVED:**

- \*1. *that the objections be noted;*
2. *that the application in terms of Section 16(2)(f) of the Overstrand Municipal Land Use Planning By-Law, 2015 (By-Law) for the removal of restrictive conditions C. 4. (b) of Title Deed T61368/2017 applicable to Erf 602, Pearly Beach in order to develop a restaurant and micro-brewery, **be approved** in terms of the provisions of Section 61 of the By-Law;*
3. *that the application in terms of Section 16(2)(o) of the above By-Law for consent use applicable to Erf 602, Pearly Beach in order to conduct a restaurant and permit the sale of alcoholic beverages, **be approved**, in terms of the provisions of Section 61 of the By-Law;*
4. *that the approvals in paragraphs 2 and 3 above be subject to the following conditions:*
  - (a) *that the operation of a bar, tavern or place of entertainment is not permitted;*

Tel: 028 313 8900  
Fax: 028 313 2093

PO Box 20 / Posbus 20  
HERMANUS



Vir Aandag: Mnr S.W. van der Merwe

A.C. Germishuys

Munisipaliteit: Overstrand

Posbus 1083

Stadsbeplanning

Gansbaai 7220

Posbus 20, Hermanus

26 April 2022

TP-A Theart  
(Suid merke)

BESWAAR TEEN KONSOLIDASIE VAN ERF 601 EN 602, ASOOK DIE VERGUNNING OM LEWENDIGE MUSIEK TE AKKOMODEER OP ERF 601 EN 602, PEARLY BEACH

1. Hiermee maak ek beswaar vir die akkomodering van lewendige musiek op erf 601 en 602, te Commercialstraat, Pearly Beach.

2. Ek woon te Langmarkstraat 1, Pearly Beach (erf 628), 20 meter skuinsoor erf 601.

3. Ek het op Pearly Beach kom aftree, om in n rustige omgewing te woon.

4. Die verskaffing van lewendige musiek regoor my woonhuis, sal n geweldige negatiewe effek en steurnis op my as inwoner hê. Ek versoek dringend dat die aansoek om lewendige musiek te verskaf, nie goedgekeur word nie.

5. My man is n hoë bloeddruk lyster en die verskaffing van lewendige musiek sal sy gesondheid verder benadeel.

6. Die oorgrote meerderheid van inwoners in enige dorp, sal beswaar maak indien lewendige musiek regoor hulle huis goedgekeur word.

7. Indien die verskaffing van lewendige musiek skuins oor my woonhuis deur u Departement goedgekeur word, sal dit n uiters nadelige effek hê op my basiese menseregte as inwoner in n resedensiële area.

U samewerking in die verband sal waardeer word.

*garmishuys*  
Ans Germishuys

Langmarkstraat 1, Pearly Beach.

FILE NO. ERWE 601 & 602
GPB
SCAN NO.
01
COLLABORATOR NO.
1678776

28 APR 2022

TP  
Colin  
Craak

28 April 2022

Langmarkstr. 5

Pearly Beach

7221



TP-A Theart  
(Suid Merwe)

Departement Stadsbeplanning

Patersonstr. 16

HERMANUS

Geagte Mnr. Die Stadsbeplanner,

Ek verneem dat die eienaar van Erf 601 en 602, Pearly Beach aansoek gedoen het dat vergunningsgebruik gegee word ingevolge Artikel 16(2)(o) van die verordening, ten einde 'n plek van vermaak (lewendige musiek) te akkomodeer.

Hiermee wil ek ernstig beswaar maak daarteen, en wel om die volgende redes:

1. Ons huis (Langmark 5) is baie naby aan die erwe geleë, en dit gaan geweldige ongerief vir die permanente inwoners in hierdie area veroorsaak. Wanneer lewendige musiek buite die restaurant gehoor word, word die regte van die inwoners in die gebied geskend.

2. U skrywe van 8 November 2019 met verwysing 602 GPB, waar die goedkeuring deur u departement verleen is vir die bedryf van 'n bierbrouery en restaurant, goedgekeur was onder die voorwaarde (paragraaf 4a) "That the operation of a place of entertainment is not permitted". Daar het niks in die omgewing verander wat kan veroorsaak dat daardie beperkende voorwaarde opgehef kan word nie.

Toe Mnr le Roux aansoek gedoen het vir die dranklisensie het ons reeds beswaar gemaak en hy het toe onderneem om nie lewendige musiek daar toe te laat nie. (Sien aangehegde brief). Ons kan dus nou sien dat hy nie sy woord hou nie, en geensins die inwoners in die omgewing in aanmerking neem wanneer hy sy sake op sy perseel bedryf nie.

5. Daar is reeds 3 plekke van vermaak in die area wat lewendige musiek maak en wat veral oor naweke die lewe baie moeilik maak vir diegene van ons wat hier kom aftree het om die rustigheid van hierdie kusedorpie te geniet.

Daarom wil ek u ernstig versoek om asseblief nie hierdie vergunningsgebruik toe te staan nie.

Met dank,

Maria M le Roux

*M. Roux*

TP 28 APR 2022

FILE NO. Erwe 601 & 602
GPB
SCAN NO.
GPB 601
COLLABORATOR NO.
1679533

↓  
check B

K

1

27 April 2022  
 Langmarkstraat 5  
 Pearly Beach  
 7221



TP-A Theart  
 (S vld Merwe)

Departement Stadsbeplanning  
 Patersonstr. 16  
 HERMANUS

FILE NO. Erwe 601 - 602
GPB ✓
SCAN NO. GPB 601
COLLABORATOR NO. 1678192

✓  
 Gals  
 Street 8

Seagte Mnr. Die Stadsbeplanner,

Kennisgewingborde op erwe 601 en 602 te Pearly Beach toon dat die eienaar daarvan, Mnr. J le Roux, aansoek gedoen het dat ingevolge Artikel 16(2)(o) van die verordening, vergunning verleen moet word ten einde 'n plek van vermaak (lewendige musiek) te akkomodeer.

Hiermee maak ek ernstig beswaar daarteen. Ek doen dit namens myself, maar ook namens andere wat te geïntimideerd mag voel om dit self te doen. Laat ek verduidelik:

#### INTIMIDASIE:

Toe Mr. le Roux onlangs aansoek gedoen het vir die dranklisensie vir sy huidige restaurant, het ek en my vrou beswaar daarteen aangeteken. Na die restaurant geopen het, het ons nuwe bure dit besoek. Hulle het toe met groot oë vir ons kom vertel dat Mnr. le Roux vir hulle vertel het hoe "n harde tyd" ons hom gegee het. Ons het dieselfde van ander van ons bure asook van verskillende ander persone verneem. Niemand is nou begerig om ook so gebrandmerk te word nie. Dus ervaar ek dat van die mense wat ook hul bedenkinge uitspreek oor die musiek waaraan hulle blootgestel gaan word, geïntimideerd voel om liever nie ook self beswaar aan te teken nie. Wie wil u in die toekoms van almal hoor hoe 'n groot skurk jy is? Daarom sê ek maar dat u my beswaar kan sien as ook namens almal wat geïntimideerd voel.

Verder maak ek beswaar om, onder meer, die volgende redes:

#### SKENDING VAN REGTE:

Ons huis (Langmark 5, erf no. 626) is 'n klipgool van erwe 601 en 602 geleë, en dit gaan geweldige ongerief vir die permanente inwoners in hierdie area veroorsaak. Ons erwe is baie naby aan mekaar geleë en niemand sit hul TV of ander vermaak of enige musiek so hard aan dat die klank daarvan buite hul erf grense gehoor kan word nie. Wanneer lewendige musiek buite die restaurant se grense gehoor sal kan word, sal dit dus die regte van die inwoners in die gebied skend.

#### ONKUNDE OMTRENT DIE EFFEK VAN MUSIEK OP ANDERE:

Voor die dranklisensie aan Mr. J le Roux toegestaan was, was ek op die aand van 05-12-2018 in my studeerkamer besig met video redigeering. Op 'n stadium kon ek die klank van die video, weens audio steurnis, nie meer goed hoor nie. Toe ek die redigeerstasie stop, hoor ek dat die steuring veroorsaak was deur musiek wat van elders gekom het. Ek het uitgestap om te hoor van waar die musiek gekom het. Dit het toe tot om 22:10 van erf 602 gekom. Dit is die

TP

28 APR 2022

erf van Mnr le Roux waar die restaurant nou is wat toe nog nie in bedryf was nie. Met ons beswaar teen Mnr. J le Roux se aansoek om 'n drank lisensie vir sy beoogde restaurant, het ons juis hierdie probleem geopper. Mnr. le Roux het op 28-01-2019 soos volg daarop gereageer:

"We have noted your objections reference to the consent use of erf 602. You mention the racket that happened on 5th December 2018. This was an unfortunate and does not set the trend in what we will be doing. The restaurant is not active and we await all our approvals before we consider the opening.

"The week of the 1st December my youngest daughter and her friends visited our farm for the week and they asked if they can go make pizzas the one night, I agreed and ask them to ensure they behave. This is the first I hear that they where noisy, I did confront them now on this matter and they promised they did not make a racket and left the building at about 10pm."

Op 07-02-2019 het ek onder andere so daarop geantwoord:

"Die feit dat die genoemde geleentheid van 5 Desember 2018 so 'n harde lawaai was dat ek nie eers die woorde van die spreker wat ek moes redigeer bo dit kon hoor nie, terwyl diegene verantwoordelik daarvoor nie gereken het dat dit 'n probleem sou wees nie, is genoeg bewys dat ons vrese gegrond is. Ons weet hoe musiek-klank trek, veral die laer frekwensies daarvan."

Die steurnis wat deur die musiek veroorsaak is, is ook deur beide ons bure weerskante, Erf 628 en Erf 625, bevestig. Hierop het Mnr. le Roux verder gereageer:

"... my intention sending you an email was to clear up the matter of 5 December and relay the message that this was an isolated incident, my daughter and friends used the place, however I spoke to them again and they clearly indicated that they played no music at the time as there is not music system installed in the premises, the fact that I was not there does not matter as said it was a private matter and no reflection on what we plan or are committed to. As said this will not be the norm and it was private matter and not a commercial matter. My observation was to write to you to explain and nothing more."

Sedert die restaurant soos dit huidiglik bedryf word in gebruik gekom het, was daar nie soortgelyke klank steurnisse nie. Ons is dankbaar daarvoor. Die bogenoemde geïsoleerde insident bevestig egter vir ons die effek wat klank het. Vir diegene wat dit maak, mag dit klink asof niemand anders dit kan hoor nie, maar in 'n stil omgewing soos hierdie k dit ver en veroorsaak dit rusverstoring. Dit is waarom ek hierdie vertoë rig dat die aansoek om die beperkende voorwaardes op te hef sodat 'n plek van vermaak waar daar lewendige musiek beoefen kan word, afgekeer moet word.

#### **ERVARING**

Voor die gebou van die huidige restaurant (erf 602) aan Mnr le Roux verkoop is, het die vorige eienaars allerhande pogings aangewend om besigheid daarheen te lok. Hulle het ook per geleentheid 'n sanger daar laat optree. Vir ons het dit gevoel asof die ou hier in ons voorhuis staan en sing. Ons sê dus uit ervaring "NEE!" vir die vergunning ten einde 'n plek van vermaak (lewendige musiek) te akkomodeer.

#### **GEEN WOORD EN GEEN SAAK**

Ons het 'n skrywe van die Direkteur van Infrastruktuur en Beplanning, Mnr S. Müller, geskryf op 8 November 2019 ontvang met verwysing 602 GPB, waar die goedkeuring deur u department verleen is vir die bedryf van 'n bierbrouery en restaurant. Dit is opvallend dat paragraaf 4a dit duidelik stel dat die goedkeuring onderhewig is daaraan:

**"That the operation of a place of entertainment is not permitted".**


Wat opvallend is, is dat alhoewel niks intussen in hierdie omgewing verander het nie, Mnr le Roux nou versoek dat hierdie bepaling sondermeer opgehef moet word. Dit was teen ons uitdruklike en duidelike besware dat die dranklisensie toegestaan is en ek maak steeds 100% beswaar daarteen! Alles wat ons toe gesê het geld nog steeds. Verder moes ons destyds op ons eie koste na 'n vergadering van die Drankraad in Belville reis om daar ons beswaar persoonlik te herhaal. Daar het ek duidelik gesê dat hierdie aansoek vir my lyk na 'n poging om 'n voet in die deur te kry. Daarom het ek gevra wat gebeur in die toekoms? Hier is ons nou by die plek waar ons, myns insiens, kan sien waarheen dit eintlik gaan. Mnr le Roux het destyds op ons beswaar pertinent onderneem om nie lewendige musiek daar toe te laat nie. (Sien sy aangehegde brief). Uit hierdie nuwe versoek van hom blyk dit vir my dat 'n mens versigtig moet wees om sy woord en ondernemings ernstig op te neem. Dit blyk vir my verder dat hy net mooi geen saak het met ons as permanente inwoners in die omgewing nie.

#### **MUNISIPALE WAARDASIE**

Indien die vergunning toegestaan sal word ten einde 'n plek van vermaak (lewendige musiek) te akkomodeer, sal die munisipaliteit al die residensiële erwe in die omgewing, insluitende die woonstelblokke, se munisipale waardasie oë afwaardeer tot zero. Daar sal daarna maar weinig indien enige belangstelling wees in enige van hierdie erwe of eiendomme. Dit sal dus 'n totale verlies van inkomste vir die munisipaliteit beteken. Eiendomswaardes sal beslis negatief beïnvloed word deur die toestaan van die versoekte vergunning. Let gerus op die een aspek onder "REASONS FOR APPROVAL" in u genoemde brief van 31 Augustus 2018:

*"The proposed development will not adversely impact upon the character of the area, or amenity of adjoining properties."*

Hiermee versoek ek u ter wille van ons as inwoners asook enige toekomstige inwoners om onder geen omstandighede enige oorweging te skenk daaraan om hierdie vergunningsgebruik toe te staan nie.

Die uwe,  
  
I.A. (Naas) le ROUX

(C)

9/10

TP - A Theart  
(Suid Merke)



A Conradie

**From:** A Conradie  
**Sent:** Tuesday, 03 May 2022 18:17  
**To:** A Conradie  
**Subject:** INPUT ON CHANGES TO MUNICIPAL REGULATIONS: 7 COMMERCIAL STR PEARLY BEACH  
**Attachments:** SKM\_C554e22020913040 (1).pdf

Hon Municipal Manager

Herewith my input on the requested amendments pertaining to erf 601 & 602 Pearly Beach, and in particular involving Art 16(2)(o) of the regulations.

As a resident of 7 Langmark Str Pearly Beach, which is situated in close proximity to the Whale Coast Brewery (WCB) lodging this request, I applied for a traffic calming intervention in Langmark Str in 2021 already. My request was based on the traffic already using my street whilst the WCB was only trading as a restaurant with a brewery on site.

Once the WCB trades as a restaurant with a brewery and live entertainment on site, it is reasonable to expect that more patrons will visit the establishment more often. This will result in much increased traffic on my street over extended time frames. The sobriety of such departing drivers is also a real concern to me.

I therefore wish to state that I do not object to these changes in principal, but that I must insist on the placement of suitable traffic calming obstacles in Langmark Str before, repeat BEFORE, the Municipality agrees to this request by WCB.

In summary then, NO TRAFFIC CALMING IN LANGMARK = NO LIVE ENTERTAINMENT @ WCB

I trust that my opinion will be considered.

Kevin H Drake  
PEARLY BEACH RESIDENT

FILE NO. Erven 601 & 602 ✓
GPB
SCAN NO. Drake ✓ call to track
COLLABORATOR NO.
1680397

4 MAY 2022

KANTOOR VAN OPERASIONELE BESTURDER: GANSBAAI  
OFFICE OF THE OPERATIONAL MANAGER: GANSBAAI



JASON SOLOMONS

✉ 26  
GANSBAAI  
7220

Tel: 028 – 384 8326  
Fax: 028 – 384 0241  
Reference: 16/3/6/5  
Collab no: 1631552

e-mail: [jasonsolomons@overstrand.gov.za](mailto:jasonsolomons@overstrand.gov.za)  
website: [www.overstrand.gov.za](http://www.overstrand.gov.za)

9 February 2022

Dear Mr Drake,

**RE: REQUEST FOR TRAFFIC CALMING INTERVENTION, PEARLY BEACH**

Your e-mail dated 26 January 2022 w.r.t. the installation of a speed bump in Langmark Street, Pearly Beach refers.

Please note that your request for a speed bump has been placed on the ward 11 speed calming priority list and will be discussed with the ward committee and the ward councillor for prioritisation in the 2022/2023 financial year.

You are welcome to call me should you have any queries.

Regards

  
J. SOLOMONS  
SENIOR BESTURDER: GANSBAAI/STANFORD  
ts/



TP- D. Heath  
(S. Jd Name)



# Project Office

Town Planning & Project Management

Our Reference: 21/047  
Your reference: 601 & 602 GPB

20 May 2022

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

FILE NO. <i>Over 601 &amp; v</i> <i>602 Pearly Beach</i>
SCAN NO. <i>GPB 601</i>
COLLABORATOR NO. <i>1686649</i>

Attention: Mr SW van der Merwe

**APPLICATION FOR THE REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSOLIDATION, DEPARTURE, CONSENT USE AND AMENDMENT OF CONDITIONS OF APPROVAL (SITE DEVELOPMENT PLAN) ON ERVEN 601 & 602 PEARLY BEACH**

Your email dated 11 May 2022, refers.

Five objections were received, which are addressed herein.

Project Planning | Project Feasibility | Land Use Applications | Project Execution Management | Liquor Licensing

Wright Approach Investments  
136 CC  
(Reg No. 2002/060745/23)

Unit B, Standard House,  
Cnr Royal and Dirkie Uys Street  
P O Box 1247  
Hermanus, 7200

Tel: +27 (0)28 313 1411  
Email: admin@wrapgroup.co.za  
Web: www.wrapgroup.co.za





**Response to objections to the removal of restrictive title deed conditions, consolidation, departure, consent use and amendment of conditions of approval (site development plan).**

**Comments**

**Property Valuation**

- "Indien die vergunning toegestaan sal word ten einde 'n plek van vermaak (lewendige musiek) te akkomodeer, sal die munisipaliteit al die residensiele erwe in die omgewing, insluitende die woonstelblokke, se munisipitale waardasie moet afwaardeer tot zero.

Daar sal daarna maar weinig indien enige belangstelling wees in enige van hierdie erwe of eiendomme. Dit sal dus 'n totale verlies van inkomste vir die munisipaliteit beteken. Eiendomswaarde sal beslis negatief beïnvloed word deur die toestaan van die versoekte vergunning. Let gerus op die een aspek onder "REASONS FOR APPROVAL" in u genoemde brief van 31 Augustus 2018:

"The proposed development will not adversely impact upon the character of the area, or amenity of adjoining properties."

**Response to comments**

This statement is not backed by any evidence and the property owner has been operating the existing restaurant and brewery without any complaints for the past 3-4 years. The objector confirms that there have been no disturbances since the property owner has taken over the enterprise.

Referring to the 2018 approval letter, it is not predicted that the place of entertainment will adversely impact on the area. Should the property owner receive approval, it does not mean he has free reign to go conduct business on the premises as he pleases. It is important to remember that there are numerous sets of legislation, by-laws and regulations that prohibit loud noise to which the property owner will be required to adhere to.

**Comments**

**Historic Approval**

- "GEEN WOORD EN GEEN SAAK

Ons het 'n skrywe van die Direkteur van Infrastruktuur en Beplanning, Mnr S. Muller, geskryf op 8 November 2019 ontvang met verwysing 602 GPB, waar die goedkeuring deur u departement verleen is vir die bedryf van 'n bierbrouery en restaurant. Dit is opvalled dat paragraaf 4a dit duidelik stel dat die goedkeuring onderhewig is daaraan:

"That the operation of a place of entertainment is not permitted".

Wat opvalled is, is dat alhoewel niks intussen in hierdie omgewing verander het nie, Mnr le Roux nou versoek dat hierdie bepaling sondermeer opgehef moet word. Dit was teen ons uitdruklike en duidelike besware dat die dranklisensie toegestaan is en ek maak steeds 100% beswaar daarteen! Alles wat ons toe gesê het geld nog steeds.



Verder moes ons destyds op ons eie koste na 'n vergadering van die Drankraad in Belville reis om daar ons beswaar persoonlik te herhaal. Daar het ek duidelik gesê dat hierdie aansoek vir my lyk na 'n poging om 'n voet in die deur te kry. Daarom het ek gevra wat gebeur in die toekoms? Hier is ons nou by die plek waar ons, myns insiens, kan sien waarheen dit eintlik gaan. Mnr le Roux het destyds op ons beswaar pertinent onderneem om nie lewendige musiek daar toe te laat nie. (Sien sy aangehegde brief). Uit hierdie nuwe versoek van hom blyk dit vir my dat 'n mens versigtig moet wees om sy woord en ondernemings ernstig op te neem. Dit blyk vir my verder dat hy net mooi geen saak het met ons as permanente inwoners in die omgewing nie."

- "2. U skrywe van 8 November 2019 met verwysing 602 GPB, waar die goedkeuring deur u departement verleen is vir die bedryf van 'n bierbrouery en restaurant, goedgekeur was onder die voorwaarde (paragraaf 4a) "That the operation of a place of entertainment is not permitted". Daar het niks in die omgewing verander wat kan veroorsaak dat daardie beperkende voorwaarde opgehef kan word nie.
- "2.2 U skrywe van 8 November 2019 met verwysing 602 GPB, waar goedkeuring deur u Departement verleen is vir die bedryf van n bier brouery en restaurant, goedgekeur word onder die voorwaarde (paragraaf 4a) "That the operation of a place of entertainment is not permitted" - die aansoek om lewendige musiek te verskaf (entertainment) is een van die beperkende voorwaardes.

Om lewendige musiek (entertainment) te verskaf was een van die beperkende voorwaardes. En daarom versoek ek ernstig dat die aansoek vir plek van vermaak (lewendige musiek) te akkomodeer, nie goedgekeur word nie."

#### Response to comments

It is acknowledged that the historic approval received by the property owner in 2019 stated "That the operation of a place of entertainment is not permitted".

This was a condition of approval for the existing rights, and this is the entire reason for the current application.

The property owner is not allowed to operate a place of entertainment and is therefore applying to legally operate a place of entertainment.

This condition is not a restriction that he may never operate a place of entertainment, but if required, he should apply to operate a place of entertainment, which he has done through this process.

#### Comment

##### Historic Letter of the Property Owner

- "Toe Mnr le Roux aansoek gedoen het vir die dranklisensie het ons reeds beswaar gemaak en hy het toe onderneem om nie lewendige musiek daar toe te laat nie. (Sien aangehegde brief). Ons kan dus nou sien dat hy nie sy woord hou nie, en geensins die inwoners in die omgewing in aanmerking neem wanneer hy sy sake op sy perseel bedryf nie."



#### Response to comment

The letter attached from the property owner was received in 2018 by the objector, some 4 years ago. Since then, numerous aspects have changed. The property owner has acquired Erf 601 Pearly Beach and has a vision to expand his business.

Businesses evolve and the proposal to embark on operating a place of entertainment is also part of the property owner's vision. The property owner is following the prescribed process to ensure the community is aware of the proposed changes.

#### Comment

##### Surrounding Places of Entertainment

- "5. Daar is reeds 3 plekke van vermaak in die area wat lewendige musiek maak en wat veral oor naweke die lewe baie moeilik maak vir diegene van ons wat hier kom affree het om die rustigheid van hierdie kusdorpie te geniet."

#### Response to comments

The owner of Erven 601 and 602 is applying for a place of entertainment. It should be questioned if these other three (3) places that have been making live music have the ls in place, which would have been granted, subject to specific conditions of approval.

It is the Overstrand Municipality's responsibility to 'police' illegal land uses and it is proposed that the objector submit these statements and complaints to the Overstrand Law Enforcement section for investigation.

#### Comments

##### Distance to residences

- "2.1 Erf 601 is 20 meter van my huis gelee (erf 628) en lewendige musiek sal dit onhoudbaar maak om regoor so 'n plek te woon.  
"2.4 My woonhuis is slegs 20 meter van erf 601 af, en dit gaan onhoudbaar wees om hier te bly in geval van lewendige musiek."
- "Ek woon te Langmarkstraat 1, Pearly Beach (erf 628), 20 meter skuinsoor erf 601."
- "1. Ons huis (Langmark St erf no. 626) is baie naby aan die erwe geleë, en dit gaan geweldige ongerief vir die permanente inwoners in hierdie area veroorsaak. Wanneer lewendige musiek buite die restaurant gehoor word, word die regte van die inwoners in die gebied geskend."
- "Ons huis (Langmark St erf no. 626) is 'n klipgooi van erwe 601 en 602 geleë, en dit gaan geweldige ongerief vir die permanente inwoners in hierdie area veroorsaak. Ons erwe is baie naby aan mekaar geleë en niemand sit hul TV of ander vermaak of enige musiek so hard aan dat die klank daarvan buite hul erf grense gehoor kan word nie."



#### Response to comments

Several references are being made to the distance of the subject property to surrounding residences, but the subject properties are located in the business/commercial node. Please refer to response under "**Impact of the Surrounding Area**" below.

Erven 601 and 602 Pearly Beach are proposed to be consolidated. It is however important to note that no place of entertainment will be operated on Erf 601 Pearly Beach as this area will be used exclusively for parking and brewing purposes.

The notion that the place of entertainment will only be 20 metres from the nearest residence is factually incorrect as only the existing building on Erf 602 Pearly Beach will be used for the proposed place of entertainment.

#### Comments

##### Health Concerns

- "3. Hiermee rig ek n ernstige versoek tot u Departement om NIE die aansoek vir die verskaffing van lewendige musiek, goed te keur nie. Ons is bejaarde mense met gesondheidsprobieme en lewendige musiek 20-meter van die naaste residensiële woning, sal 'n onhoudbare situasie skep vir ons as inwoners."
- "5. My man is 'n hoë bloeddruk lyster en die verskaffing van lewendige musiek sal sy gesondheid verder benadeel."

#### Response to comments

The property owner would never intentionally cause any harm to the health of any person. The first comment does directly indicate what particular health concerns they are concerned about.

Although the property owner cannot be held liable for any historic- or existing health problems, and it is not anticipated that the proposal will affect any person's health.

#### Comments

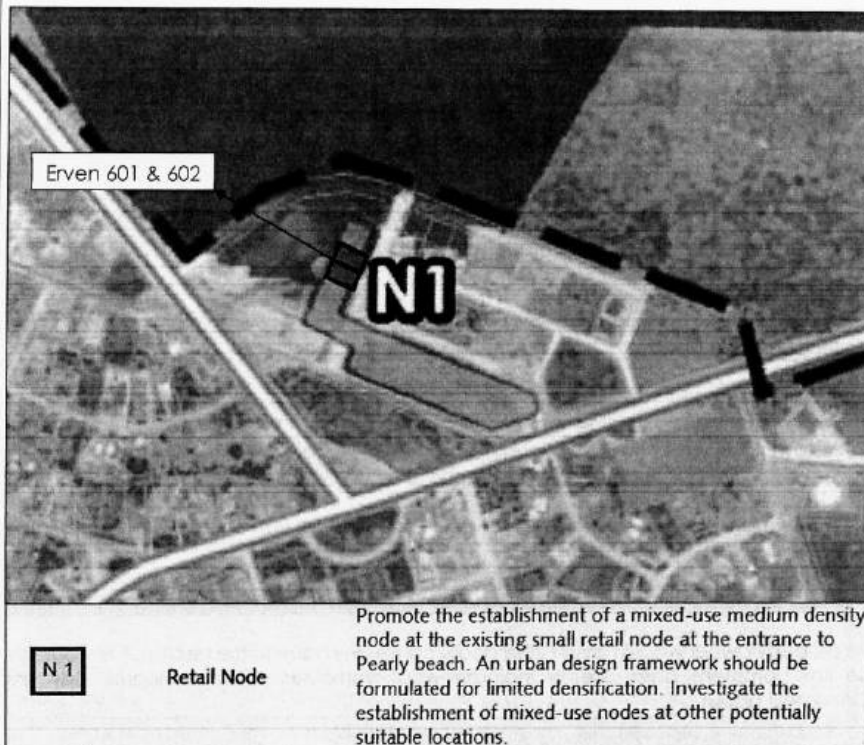
##### Impact of the Surrounding Area

- "3. Ek het op Pearly Beach kom aftree, om in 'n rustige omgewing te woon."
- "4. Die verskaffing van lewendige musiek regoor my woonhuis, sal n geweldige negatiewe effek en steurnis op my as inwoner hê. Ek versoek dringend dat die aansoek om lewendige musiek te verskaf, nie goedgekeur word nie."
- "6. Die oorgrote meerderheid van inwoners in enige dorp, sal beswaar maak indien lewendige musiek regoor hulle huis goedgekeur word."



#### Response to comments

The subject properties are located in a business node see figure below:



**Figure 1: Extract of the Overstrand Municipality Spatial Development Framework**

The objectors' properties are located adjacent a business/commercial node in Pearly Beach. When they bought their properties, this was the situation and remains the situation up to today.

Plan 2 (Zoning Plan), attached to the application, clearly indicates the zoning of the properties and area in which they are situated which confirms that the subject properties are located in a business node.

The property owner is not applying for a land use that is not available as a consent use, and it is a business node. This does however not mean that the property owner renounces any obligation to be a decent- and reasonable neighbour.

The property owner will manage the entertainment in such a way to minimise the impact on the surrounding area and it is important to reiterate that there are numerous laws, by-laws and regulations that prohibit and control loud noise which the property owner will be required to adhere to.



Comments
<p><b>Rights of property owners</b></p> <ul style="list-style-type: none"> <li>• "7. Indien die verskaffing van lewendige musiek skuins oor my woonhuis deur u Departement goedgekeur word, sal dit 'n uiters nadelige effek hê op my basiese menseregte as inwoner in 'n resedensiële area."</li> <li>• "Wanneer lewendige musiek buite die restaurant se grense gehoor dat kan word, sal dit dus die regte van die inwoners in die gebied skend."</li> </ul>
Response to comments
<p>The property owner is an open-minded community driven businessman and would never intentionally impact on any other person's rights and enjoyment of their properties.</p> <p>The objectors failed to identify which rights the applicant will impact upon. The applicant is bound by legislation and by-laws that regulate his and every other property owner's rights.</p> <p>The property owner has a right to apply for additional rights on his property and should the application be approved; it will be subject to strict conditions to which he will need to comply with.</p> <p>The property owner is attempting to add additional economic value to the Pearly Beach area and to stimulate the economy by creating more job opportunities. The application proves that he is running a successful restaurant and brewery with the opportunity to expand on these rights.</p>

Comment
<p><b>Supposed Intimidation</b></p> <ul style="list-style-type: none"> <li>• "Toe Mr. le Roux onlangs aansoek gedoen het vir die dranklisensie vir sy huidige restaurant, het ek en my vrou beswaar daarteen aangeteken. Na die restaurant geopen het, het ons nuwe bure dit besoek. Hulle het toe met groot oë vir ons kom vertel dat Mnr le. Roux vir hulle vertel het hoe "n harde tyd" ons hom gegee het. Ons het dieselfde van ander van ons bure asook van verskillende ander persone verneem. Niemand is nou begerig om ook so gebrandmerk te word nie. Dus ervaar ek dat van die mense wat ook hul bedenkinge uitspreek oor die musiek waaraan hulle blootgestel gaan word, geintimideerd voel om liever nie ook self beswaar aan te teken nie. Wie wil nou in die toekoms van almal hoor hoe 'n groot skurk jy is? Daarom sê ek maar dat u my beswaar kan sien as ook namens almal wat geintimideerd voel."</li> </ul>
Response to comments
<p>This statement is not backed by any evidence of actual intimidation and is a mere accusation, not associated with the current application and should not influence the decision-making authority of the Overstrand Municipality.</p>



If the actual operation of the existing business affected the objectors, they had opportunity to submit complaints, which they have not done up to now.

#### Comment

##### Historic Occurrences

- "Voor die dranklisensie aan Mr. J le Roux toegestaan was, was ek op die aand van 05-12-2018 in my studeerkamer besig met video redigeering. Op 'n stadium kon ek die klank van die video, weens audio steurnis, nie meer goed hoor nie. Toe ek die redigeerstasie stop; hoor ek dat die steuring veroorsaak was deur musiek wat van elders gekom het, Ek het uitgestap om te hoor van waar die musiek gekom het. Dit het toe tot om 22:10 van erf 602 gekom. Dit is die erf van Mnr le Roux waar die restaurant nou is wat toe nog nie in bedryf was nie.

Met ons beswaar teen Mnr. J le Roux se aansoek om 'n drank lisensie vir sy beoogde restaurant, het ons juis hierdie probleem geopper. Mnr. le Roux het op 28-01-2019 soos volg daarop gereageer:

"We have noted your objections reference to the consent use of erf 602. You mention the racket that happened on 5th December 2018. This was an unfortunate and does not set the trend in what we will be doing. The restaurant is not active and we are awaiting all our approvals before we consider opening.

"The week of the 1st of December my youngest daughter and her friends visited our farm for the week and they asked if they can go make pizzas the one night, I agreed and ask them to ensure they behave. This is the first I hear that they were noisy, I did confront them now on this matter and they promised they did not make a racket and left the building at about 10pm."

Op 07-02-2019 het ek onder andere so daarop geantwoord:

"Die feit dat die genoemde geleentheid van 5 Desember 2018 so 'n harde lawaai was dat ek nie eers die woorde van die spreker wat ek moes redigeer bo dit kon hoor nie, terwyl diegene verantwoordelik daarvoor nie gereken het dat dit 'n probleem sou wees nie, is genoeg bewys dat ons vrese gegrond is. Ons weet hoe musiek-klank trek, veral die laer frekwensies daarvan."

Die steurnis wat deur die musiek veroorsaak is, is ook deur beide ons bure weerskante, Erf 628 en Erf 625, bevestig. Hierop het Mnr. le Roux verder gereageer:

"... my intention sending you an email was to clear up the matter of 5 December and relay the message that this was an isolated incident, my daughter and friends used the place, however I spoke to them again and they clearly indicated that they played no music at the time as there is not music system installed in the premises, the fact that I was not there does not matter as said it was a private matter and no reflection on what we plan or are committed to. As said, this will not be the norm and it was private matter and not a commercial matter. My observation was to write to you to explain and nothing more."

Sedert die restaurant soos dit huidiglik bedryf word in gebruik gekom het, was daar nie soortgelyke klank steurnisse nie. Ons is dankbaar daarvoor. Die bogenoemde



*geïsoleerde insident bevestig egter vir ons die effek wat klank het. Vir diegene wat dit maak, mag dit klink asof niemand anders dit kan hoor nie, maar in 'n stil omgewing soos hierdie trek dit ver en veroorsaak dit rusverstoring. Dit is waarom ek hierdie vertoë rig dat die aansoek om die beperkende voorwaardes op te hef sodat 'n plek van vermaak waar daar lewendige musiek beoefen kan word, afgekeur moet word.*

*Voor die gebou van die huidige restaurant (erf 602) aan Mnr le Roux verkoop is, het die vorige eienaars allerhande pogings aangewend om besigheid daarheen te lok. Hulle het ook per geleentheid 'n sanger daar laat optree. Vir ons het dit gevoel asof die ou hier in ons voorhuis staan en sing. Ons se dus uit ervaring "NEE!" vir die vergunning ten einde 'n plek van vermaak (lewendige musiek) te akkomodeer."*

#### Response to comment

The objector clearly identified that since the restaurant has been in operation, he had no complaints. The property owner is an open-minded community driven businessman. The property owner had the opportunity to purchase Erf 601 Pearly Beach and to expand his business and will operate the expanded business on the same basis as was done up to now.

How the previous owners of Erf 602 Pearly Beach conducted business, has no bearing on how the current owner conducts business as confirmed by the objector. An isolated occurrence or incident, before the business was opened, cannot be taken into account with the consideration of this application.

The property owner is conscious of the nature of the surrounding area and its residents and will comply with all conditions of approval, should the application be approved. Once approved it does not mean the property owner has free reign to operate and do as he please. It still needs to be done at an acceptable level for the area where the subject properties are situated, within the conditions of approval of the application.

#### Comment

##### **Traffic Concern**

- *"Once the WCB trades as a restaurant with a brewery and live entertainment on site, it is reasonable to expect that more patrons will visit the establishment more often. This will result in much increased traffic on my street over extended time frames.*

*The sobriety of such departing drivers is also a real concern to me.*

*As a resident of 7 Langmark Str Pearly Beach, which is situated in close proximity to the Whale Coast Brewery (WCB) lodging this request, I applied for a traffic calming intervention in Langmark Str in 2021 already. My request was based on the traffic already using my street whilst the WCB was only trading as a restaurant with a brewery on site.*

*I therefore wish to state that I do not object to these changes in principle, but that I must insist on the placement of suitable traffic calming obstacles in Langmark Str before, repeat BEFORE, the Municipality agrees to this request by WCB.*



In summary then, NO TRAFFIC CALMING IN LANGMARK = NO LIVE ENTERTAINMENT@ WCB."

#### Response to comments

This comment is noted and as per the Annexure to the objector's comment, the Overstrand Municipality indicated that the construction of a speed bump has been considered by the ward committee and will be made a priority for 2022/2023 municipal financial year.

The road is a public street and maintained, managed, and policed by the Overstrand Municipality.

#### Conclusion

From the content of the five objections and our response thereto, it is clear that the proposed place of entertainment is the main point of concern. There were no objections received regarding the consolidation, removal of restrictive conditions, departure, and amendment of the site development plan.

The submitted application and our response to the objections indicate that the proposed place of entertainment will not adversely affect the rights of the owners of properties within the surrounding area. It is important to note that the applicant is committed to remain a responsible and reasonable neighbour and member of the Pearly Beach community adhering the applicable laws, by-laws and regulations controlling noise.

Considering that the objectors do not have any objection to the consolidation, removal of restrictive conditions, departure and amendment of the site development plan, it is recommended that the response to objections that address all the concerns of the objectors be taken cognisance of and that the planning application be approved as submitted.

Yours faithfully

**T. JANSEN**  
PROFESSIONAL TOWN PLANNER (A/2858/2019)

Amare G1/3

TP-A Theurt  
(Sild Merkle)

Division of Telkom SA SOC Ltd

10 Jan Smuts Drive  
Pinelands  
7404

Ihlaam Peters

Tel: 021 414 5614

Fax: 086 480 0617

Email: ihlaam@openserve.co.za

Our Ref.: WWIP\_WPB+1285\_22

Your Ref.: 601 &amp; 602 GPB

22 April 2022

Attention: Marlize Miller  
Town Planning  
Overstrand Municipality

NO SERVICES AFFECTED

WAYLEAVE: ERVEN 601 &amp; 602, 7 COMMERCIAL STREET, PEARLY BEACH

With reference to your letter received April 2022.

FILE NO. Erven 601 & 602
GPB ✓
SCAN NO.
GPB 601
COLLABORATOR NO.
1676181

I hereby inform you that Open Serve approves the proposed work indicated on your drawing in principle. This approval is valid for 6 months only, after which reapplication must be made if the work has not been completed.

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

Approval is granted, subject to the following conditions.

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

Please notify this office immediately if you locate any Open Serve plant that was not indicated. Please contact our representative **MARIUS MAKIER** at telephone number **021-9813399/081 3482317/MariusM1@openserve.co.za**.

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.

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

21 APR 2022

2/3

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

All Open Serve rights remain reserved.

Yours faithfully



---

**Ihlaam Peters**  
for  
**Selwyn Bowers**  
Operations Manager  
Wayleave Management: Western Region



1930  
Optic fibre route

Legend		TELKOM REGIONAL EXECUTIVE	
	Existing SDC	Committed By	Fellers
	Planned SDC	Client	CV/ESTRAND MUNICIPALITY
	To Be Recovered SDC	Client ref	2204/2022
	Existing DLC	Details	NO SERVICES AFFECTED
	Planned DLC	Page Size	A4
	To Be Recovered DLC	Project No	WWIP_WPR-135_22
	Existing PAB Joint		
	Planned PAB Joint		
	To Be Recovered PAB Joint		
	Existing Indoor GP		
	Planned Indoor GP		
	To Be Recovered Indoor GP		
	Existing Overhead Route		
	Planned Overhead Route		
	To Be Recovered Overhead Route		
	Existing Mini OMDF		
	Planned Mini OMDF		
	To Be Recovered Mini OMDF		
	Existing Stud and Stay		
	Planned Stud and Stay		
	To Be Recovered Stud and Stay		

Ameyur H

File reference:	ERVEN 601 & 602 GPB
Date:	1 April 2022 MM



## INTERNAL MEMORANDUM

From	:	Town Planning Department
Town Planner	:	SW van der Merwe (Senior Town Planner)

TO:


<u>Area Manager</u>	<u>Building Control Department</u>	<u>District Health</u>	<u>Electrical Department</u>	Environmental Officer
<u>Fire Department</u>	<u>Infrastructure and Planning</u>	Local heritage Committee	<u>Operational Services</u>	<u>Property Administration</u>
Tourism	Traffic Department	<u>Ward Councillor (Cllr S Fourie)</u>	<u>Waste Management</u>	

Applicant	MESSRS WRAP PROJECT OFFICE ON BEHALF OF STEADY GROWN TRADING 33 CC
Property Details	ERVEN 601 & 602, 7 COMMERCIAL STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA
Application Description	APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSOLIDATION, DEPARTURE, CONSENT USE AND AMENDMENT OF THE APPROVED SITE DEVELOPMENT PLAN

## ATTACHMENTS :

1. Notice	
2. Locality Plan	
3. Motivation	
4. Site Development Plan	

## YOUR DEPARTMENT'S COMMENTS:

Sufficient toilet facilities should be available with reference to Reg. 638 and new seating area.	
Music should always be within limits specified in Noise legislation.	
Signature: 	Date: 9/05/2022

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

<b>COMMENTS REQUIRED BY: 6 MAY 2022</b>
---

Ameyule I

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR: REMOVAL OF RESTRICTIVE TITLE DEED  
CONDITIONS, CONSOLIDATION, DEPARTURE CONSENT USE &  
AMENDMENT OF THE APPROVED SITE DEVELOPMENT PLAN: ERVEN  
601 & 602, PEARLY BEACH**

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

**Conditions:**

1. that the existing water connection on Erf 602 shall be used to service the proposed consolidated erf consisting of Erven 601 & 602;
2. that the existing sewer conservancy tank on Erf 602 shall be used to service the proposed consolidated erf consisting of Erven 601 & 602;
3. that only the existing, standard electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the developer's cost;
4. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 140400 – P: 2010: Drainage;
5. that on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Department: Operational Services;
6. that any additional and / or extended vehicle entrances will be for the developer's account;
7. that stormwater be allowed to discharge through Erven 601 & 602, Pearly Beach, unobstructed.

*Dennis Hendriks*  
DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES

*12.05.2022*  
DATE



## 2. Underground Services

The following conditions to be adhered to at all times:

- a) Works will be carried out as indicated on plans.
- b) No mechanical plant to be used within 3.0m of Eskom underground cables.
- c) All services to be verified on site.
- d) Cross trenches to be dug by hand to locate all underground services before construction work commences.
- e) If Eskom underground services cannot be located or is grossly misplaced from where the wayleave plan indicates, then all work is to be stopped and Lianne Muller from the Land Development Office to be contacted at MullerLE@eskom.co.za , to arrange the capturing of such services.
- f) In cases where proposed services run parallel with existing underground power cables the greatest separation as possible should be maintained with a minimum of 1000mm.
- g) Where proposed services cross underground power cables the separation should be a minimum of **300mm** with protection between services and power cables. (Preferably a concrete slab)
- h) No manholes; catch- pits or any structure to be built on top of existing underground services.
- i) Only walk-behind (2 ton Bomac type) compactors to be used when compacting on top of and 1 metre either side of underground cables.
- j) If underground services cannot be located then the Customer Network Centre (CNC) should be consulted before commencement of any work.
- k) **No work can take place within the servitude of a 66kV Cable or 13kV Cable if indicated.** Should you need to undertake any work within the proximity of our 66kV or 132kV Cables please contact Lianne Muller at MullerLE@eskom.co.za to arrange a site visit.

## 3. O.H. Line Services:

- a) The following building and tree restriction on either side of centre line of overhead power line must be observed:

Voltage	Building restriction either side of centre line
11 / 22kV	9.0 m
66kV	11.0 m
132kV	15.5 m

- b) No construction work may be executed closer than **6 (SIX) metres** from any Eskom structure or structure-supporting mechanism.
- c) No work or no machinery nearer than the following distances from the conductors:

Voltage	Not closer than:
11 / 22kV	3.0 m
66kV	3.2 m
132kV	3.8 m

- d) Natural ground level must be maintained within Eskom reserve areas and servitudes.
- e) That a minimum ground clearance of the overhead power line must be maintained to the following clearances:

Voltage	Safety clearance above road:
11 / 22kV	6.3 m
66kV	6.9 m
132kV	7.5 m

- f) That existing Eskom power lines and infrastructure are acknowledged as established infrastructure on the properties and any rerouting or relocation would be for the cost of the applicant/developer.
- g) That Eskom rights or servitudes, including agreements with any of the landowners, obtained for the operation and maintenance of these existing power lines and infrastructure be acknowledged and honoured throughout its lifecycle which include, but are not limited to:
- i. Having 24 hour access to its infrastructure according to the rights mentioned in (a) above,
  - ii. To perform maintenance (structural as well as servitude – vegetation management) on its infrastructure according to its maintenance programmes and schedules,
  - iii. To upgrade or refurbish its existing power lines and infrastructure as determined by Eskom,
  - iv. To perform any other activity not listed above to ensure the safe operation and maintenance of the Eskom power lines or infrastructure.
- h) Eskom must have at least a 10m obstruction free zone around all pylons (not just a 10m radius from the centre).
- i) Eskom shall not be liable for the death or injury of any person, or for loss of or damage to any property, whether as a result of the encroachment or use of the area where Eskom has its services, by the applicant, his/her agent, contractors, employees, successors in title and assignee.
- j) The applicant indemnifies Eskom against loss, claims or damages, including claims pertaining to interference with Eskom services, apparatus or otherwise.
- k) Eskom shall at all times have unobstructed access to and egress from its services.
- l) Any development which necessitates the relocation of Eskom's services will be to the account of the developer.
- m) Lungile Motsisi MotsisiL@eskom.co.za, Eskom: Transmission must be contacted on 011 800 5734 to comment on behalf of the 400 kV OVERHEAD POWERLINES. NO WORK WITHIN THIS SERVITUDE OR UNDERNEATH POWERLINES IS ALLOWED until comment from Eskom Transmission has been obtained.

#### 4. **NOTE**

Wayleaves, Indemnity form (working permit) and all as-built drawings issued by Eskom to be kept on site at all times during construction period.

Yours faithfully

**LAND DEVELOPMENT (BRACKENFELL)**

Amare K1/3

Navrae:  
Enquiries: SW van der Merwe (Senior Town Planner)

Lêerverwysing:  
File Reference: 602 GPB

Aansoek ID:  
Application ID: 4157 (TPMen)

Datum:  
Date: 8 November 2019



TOWN PLANNING / STADSBEPLANNING  
HERMANUS

Messrs WRAP Consultancy  
Attention: Rea Jankie  
PO Box 1247  
**HERMANUS**  
7200

**REGISTERED MAIL**  
email: admin@wrapgroup.co.za

Dear Sirs

---

**DECISION LETTER TO APPLICANT**

---

**ERF 602, 7 COMMERCIAL STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE: MESSRS WRAP ON BEHALF OF STEADY GROW TRADING 33 CC**

The application received on 31 August 2018 refers.

You are hereby notified in terms of Section 62 of the Overstrand By-law on Municipal Land Use Planning, 2015 of the decision made by the Municipal Planning Tribunal, on 31 October 2019.

The resolution in terms of Section 61 of the Overstrand By-law on Municipal Land Use Planning, 2015, with conditions, is as follows:

**RESOLVED:**

1. that the objections be noted;
2. that the application in terms of Section 16(2)(f) of the Overstrand Municipal Land Use Planning By-Law, 2015 (By-Law) for the removal of restrictive conditions C. 4. (b) of Title Deed T61368/2017 applicable to Erf 602, Pearly Beach in order to develop a restaurant and micro-brewery, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(o) of the above By-Law for consent use applicable to Erf 602, Pearly Beach in order to conduct a restaurant and permit the sale of alcoholic beverages, **be approved**, in terms of the provisions of Section 61 of the By-Law;
4. that the approvals in paragraphs 2 and 3 above be subject to the following conditions:
  - (a) that the operation of a bar, tavern or place of entertainment is not permitted;

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

PO Box 20 / Posbus 20  
HERMANUS  
7200

- (b) that provision be made for on-site parking in accordance with the Site Development Plan appended to the application as Plan 3 dated 31 October 2019;
  - (c) that the display of signage shall comply with the Municipal By-Law Relating to Outdoor Advertising and Signage;
  - (d) that the selling or serving of liquor be subject to a valid liquor license;
  - (e) that the micro-brewery be limited to 50% of the floor area of the shop;
  - (f) that applicable rates and service tariffs, as determined by the annual budget be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
  - (g) that building plans be submitted to the Building Department and that all the respective requirements of the Building and Fire safety departments be adhered to;
  - (h) that the operation of the restaurant and sale of alcoholic beverages be subject to a valid business license;
  - (i) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
  - (j) that all the conditions in the Services Report be complied with;
  - (k) that the requirements of Fire Services and Telkom be adhered to;
  - (l) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
  - (m) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
5. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decisions and conditions of approval."

#### REASONS FOR APPROVAL

- ❖ The application is consistent with applicable forward planning and policy documents.
- ❖ The application is consistent with the planning principles.
- ❖ The proposed development will not adversely impact upon the character of the area, or amenity of adjoining properties.
- ❖ The proposed development is desirable.
- ❖ The proposal will contribute to the promotion of tourism, economic development, including employment opportunities.
- ❖ The application has followed due procedure.
- ❖ None of the internal or external departments have any objection.
- ❖ It will not impact negatively upon municipal services.

You are hereby informed of your right to appeal to the Appeal Authority in terms of Section 78(2) of By-law.

The appeal form must be completed and should be directed to the Appeal Authority (Executive Mayor) and received **within 21 days of notification** of this decision together with proof of payment of the appeal fee (R3207-00).


The appeal form is available at request or alternatively on the Municipal website ([www.overstrand.gov.za](http://www.overstrand.gov.za)).

Contact details are as follows:

Physical address : 16 Paterson Street, Hermanus, 7200  
Postal address : PO Box 20, Hermanus, 7200  
E-mail address : [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)

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

Yours faithfully



**S MÜLLER**  
**DIRECTOR : INFRASTRUCTURE AND PLANNING**