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**ERF 1134, 34 DE VILLIERS STREET, SANDBAAI, OVERSTRAND MUNICIPAL AREA :
REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE & DEPARTURE:
WRAP ON BEHALF OF T HUME & KA VAN DER MERWE**

1134 HSB (3976)

H van der Stoep

14 March 2019

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application applicable to Erf 1134, Sandbaai has been received on 11 April 2018 from WRAP on behalf of T Hume and KA van der Merwe for the following:

- ❖ Removal of restrictive title conditions in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the removal of the restrictive conditions B.(1)(a) and B.(1)(c) and B.(2)(a), B.(2)(b), B.(2)(c) and B.(2)(d) as contained in Title Deed No. T64476/2017 applicable to Erf 1134, Sandbaai in order to accommodate a four (4) bedroom guesthouse on the property, as well as the existing garage that encroach the street building line.

The restrictive conditions read as follows:

“B. ONDERHEWIG verder aan die volgende spesiale voorwaardes bevat in Akte van Transport No. T8455/1953, wat soos volg lees:

“(1) Opgelê vir die voordeel van Sandbaai Seaside Estate Company Proprietary Limited as eienaars van die restant van die Perseel No. 3 van die plaas Onrust Rivier gehou deur hulle kragtens Akte van Transport No. 11466 van 1926, en die eienaars van persele in die gemelde Dorp alreeds getranspoteer of wat in die toekoms, getranspoteer mag word onderhewig aan soortgelyke voorwaardes naamlik:

(a) The company reserves to itself and its successors in title the sole right to all hotels and all liquor licences and the Purchaser/s (Transferee/s) or his/their successors in title shall not have the right to erect any hotel or hold any liquor licence without the written consent of the Directors of the company, or its successors in title, first had and obtained.

(c) That no building shall be erected on any stand unless and until the plans for such buildings have been submitted to and approved by the Directors of the said Company or the successors in title of the said Company.

(2) Opgelê deur die Administrateur:

(a) That the erf or erven be used for residential purposes only.

(b) That the above erf or erven be not subdivided.

(c) *That no more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than one-half the area of any of the above erven be built upon.*

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

- ❖ Consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Land Use Planning, 2015 on Erf 1134, Sandbaai in order to conduct a four (4) bedroom guesthouse.
- ❖ Departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to relax the eastern street building line of Erf 1134, Sandbaai from 4m to 0,4m and the southern lateral building line from 2m to 0m to accommodate the existing garage on the property.

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

Erf 1134, Sandbaai is zoned for Residential Zone 1: Single Residential purposes and measures 685m². The property is developed with a dwelling unit and an illegal attached double garage and a single garage.

The main purpose of the application is to conduct a four (4) bedroom guesthouse from the property and to legalize the garages. Refer to attached site plan attached as Annexure C.

During 2005 the Department of Environmental Affairs and Development Planning approved an application from the then owner of the property for the relaxation of the 4,72m eastern title deed street building line to accommodate a carport that was situated approximately 300mm from the relevant street building line. (See letter of approval with layout plan and Council's conditions attached as Annexure E). Since then the carport was illegally converted to a full blown double garage and a single garage was constructed in line with the double garage at the east side of it up to the relevant erf boundary. The single garage also encroach both the Title Deed and Zoning Scheme street building lines.

4. SUMMARY OF APPLICANT'S MOTIVATION

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

- ❖ There is a growing and viable trend in Hermanus where property owners propose to use dwellings for residential and guesthouse purposes.
- ❖ The approval of the proposal would not result in the alteration of the footprint of the property.
- ❖ The owners are also in the process of renovating the property to make it appealing to guests, which will further enhance the contribution of the property to the aesthetic value of Sandbaai.
- ❖ The approval of the proposal will not impact on the prevailing and valued suburban form of Sandbaai.
- ❖ The removal of condition B.(1)(a) would ensure that the owners will be able to sell liquor to guests in the future and it would also make the application process for a liquor licence easier.
- ❖ Sandbaai Seaside Estate Company no longer exists and the Municipality is the competent authority pertaining to building plan approvals. Condition B.(1)(c) is irrelevant, which warrants the removal thereof.
- ❖ The proposed guesthouse does not conform with the primary land uses for residential and the proposed guesthouse is a consent use that slightly exceeds the residential rights enjoyed by other property owners that warrants the removal of condition B.(2)(a).
- ❖ Condition B.(2)(b) was inserted in the Title Deed in 1953 within a context of different urban development pressures and urban dynamics compared the ones Sandbaai currently experiences. Density and erf sizes are determined by the Growth Management Strategy (GMS) and Spatial Development Framework (SDF), which more appropriately respond to current urban development pressures and urban dynamics and warrants the removal of the restriction.
- ❖ Proposed alterations to the dwelling includes the removal of a staircase to the first floor of the dwelling and after the removal of condition B.(2)(c) the first floor will only be accessible from the outside of the dwelling to make it a second dwelling unit that warrants the removal of the condition.
- ❖ The existing garages are located 0,4m from the street boundary which necessitates the removal of condition B.(2)(d).
- ❖ The removal of the restrictive conditions are aimed at bringing the residential development rights on the subject property in harmony with the prevailing development envelope for single residential properties in Hermanus.
- ❖ Electricity is provided by the Municipality and approval of the application will not alter the status quo.
- ❖ Water is provided by the Municipality and approval will not alter this.
- ❖ The property is connected to the Municipal sewer network.
- ❖ Access to the property is gained from Andries Pretorius Street and De Villiers Street.
- ❖ Health and Safety:
 - The land use of a guesthouse is not a noxious trade and is not projected to have an adverse impact on the health of neighbours.
 - The guests who will visit the guesthouse will contribute to additional surveillance in Sandbaai which will subsequently contribute to a safer residential environment.

- ❖ The second dwelling on the first floor will be occupied by the owner/manager.
- ❖ The SDF highlights that Hermanus needs to be promoted as a viable tourist destination.
- ❖ The proposal is consistent with the planning principles of SPLUMA and LUPA.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	24 July 2018	31 August 2018
Gazette	Yes	27 July 2018	31 August 2018
Notices	Yes	20 July 2018	31 August
Ward councillor	Yes	6 August 2018	31 August 2018
Total comments	ONE (1)		
Total letters of support	NONE		
Was public participation undertaken in accordance with Section 47 - 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

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

Name	Date received	Summary of comments	Recommendation
Building Department	13/08/2018	Indicate position of sewerage tank previously indicated where position of garage is.	Positive
Electrical Services	21/08/2018	No comments on proposal.	Positive
Local Heritage	14/08/2018	No objection.	Positive
Fire Department	06/09/2018	No objection to garage and carport. Approval for consent use is subject to compliance with the requirements of National Fire Protection Regulations SANS10400T:2011 for category H5 – Hospitality occupancy.	Positive

Engineering Services	03/10/2018	See Annexure H.	Positive
Telkom	26/09/2018	See Annexure I.	Positive

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

One (1) comment was received from S Spanellis, owner of Erf 1133, Sandbaai. See Annexure F. (Please note that the comment was translated from Afrikaans to English.)

Point of comment

I, Stylianos Spanellis of 79 Andries Pretorius Street, Sandbaai hereby confirm that I have no objection against the application.

Applicant's comment

It is reassuring that the commenter has no objection to the merit of the application.

Town Planner's response

Noted.

Point of comment

I want assurance that there will be no complaints from the guests should my dogs that serve as security be considered as a disturbance of the peace.

Applicant's comments

The presence of dogs that serve as security is a primary right in terms of the Zoning Scheme and approval of the application will not deprive the commenter of his right. The Municipality's By-Law Relating to the Keeping of Dogs and Cats is the applicable legislation which regulates the general behaviour of dogs and will be applied by the Municipality should any nuisance be caused.

Town Planner's response

Adherence to the provisions of the Municipality's By-Law relating to the keeping of dogs and cats, as well as noise pollution is not a function of the Town & Spatial Planning Department, thus no further comment.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

The Applicant's response to the comment received was discussed under Paragraph 7. Also see Annexure G.

9. MUNICIPAL ASSESSMENT OF COMMENTS

The Town Planner's response to the comment received was discussed under Paragraph 7.

The following comment was received from the Building Control Department:

Indicate position of sewerage tank previously indicated where position of garage is.

Applicant's comment

N/A. To be addressed internally with building plan approval.

Town Planner's response

To be addressed internally with building plan approval.

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

10.1 Background

N/A

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

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

The application will not perpetuate spatial injustices.

Spatial sustainability

The application is located within the urban edge and thus will not lead to urban sprawl. No natural habitat is impacted upon and it will have no negative influence on the environment.

Efficiency

The application will optimize the use of property in terms of municipal services and infrastructure.

Spatial resilience

The accommodation establishment will ensure that the existing resource (land) is used to its maximum in an affordable manner and in line with the Overstrand Municipality's forward planning documents.

Good administration

The application follows the required planning procedures and a good public participation process has been followed.

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

Same as Point 10.2 above.

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

Consistent with the Zoning Scheme and the Spatial Development Framework.

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

N/A

10.6 Impact on Municipal engineering services

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

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The application is in line with the Overstrand Spatial documents.

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

The removal of the relevant conditions will have a beneficial financial impact for the landowners since they will be able to operate an accommodation establishment with four (4) bedrooms from Erf 1134, Sandbaai. The value of the property will thus increase due to the fact that the landowners will obtain additional land use rights.

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

The original holder of rights were the Sandbaai Seaside Estate Company Pty Ltd. whose rights became null and void when the Municipality took over its functions.

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

Should the restrictive conditions be removed from the Title Deeds or not, it will have no social benefits.

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

It will only result in the landowners gaining additional land use rights.

11. THE DESIRABILITY OF THE PROPOSAL

Removal of Restrictive Title Deed Conditions

The property is burdened with land use restrictions in the Title Deed and the owners wish to have the relevant restrictive conditions removed in order to conduct a four (4) bedroom guesthouse from the property, as well as to legalize a garage that encroach the street building line. The removal of the restrictive conditions would also enable the owners to be in line with the applicable primary rights and more specifically the development parameters (building lines, etc.) as set out in the Zoning Scheme. These primary rights and parameters are more lenient than the restrictions in the Title Deed of the property. The removal of the restrictive title deed conditions will not be to the detriment of the character of the area since numerous similar applications for the removal of restrictive title deed conditions to conduct accommodation establishments and to encroach title deed building lines on Sandbaai erven have been approved in the past already.

Although application is not made for the subdivision of the property, the removal of condition B.(2)(b) that restricts the subdivision of the property should be supported. Should the landowners in future need to realign the property boundaries for some or other reason an application for the removal of the restrictive condition would then not be necessary, thus lessening any possible costs for the owners in future. The latter however does not exempt the landowners from submitting the necessary planning application in terms of the By-Law.

Consent Use

The guesthouse will have a low impact on the rights of surrounding property owners and the surrounding built environment or the character of the area since the guesthouse will be conducted from an existing functional dwelling unit. Further, no objections were received against the application. Land uses in the broader area of the subject properties vary from single residential dwellings to tourist related uses such as guesthouses. It is therefore apparent that the subject property is situated in an area where rights have already been obtained to establish guesthouses/accommodation establishments.

Ample and practical parking for the proposed guesthouse can be provided on the property. It should be noted that the Engineering Services Department initially did not support the application due to an unpractical parking layout and issues pertaining to pedestrian safety. The applicant submitted a revised parking layout that was found to be acceptable by the Engineering Services Department (attached with the layout plans). A condition will in any event be imposed that all parking requirements of the Zoning Scheme be complied with should the application be approved. It should however be noted that the applicant states that only six (6) parking bays are required, which is not correct. In fact seven (7) parking bays need to be provided – two (2) for the main dwelling, one (1) per guest room and one (1) for the second dwelling (manager's quarters) that forms part of the main dwelling, which second dwelling will not be interleading with the main dwelling. The required parking can however be provided as mentioned.

It should be noted that in terms of the applicable forward planning documents of the Municipality, the tourism industry should be promoted as far as possible.

Departure

From Municipal records it could reasonably be determined that the conversion of the previous approved carport to a garage and the extension thereof, was done by the previous owner of the property since the current owners only obtained title of the property during November 2017. However, the encroachment of the building lines must still be evaluated on the merits of the application and the current circumstances. See aerial photo attached as Annexure J. From the aerial photo it can be observed that the distance of the garage to the edge of the road is $\pm 13\text{m}$, which is a very wide road reserve in relation to most reserves from which property owners obtain access to their properties. It can further be observed that two properties to the south of the subject property also gain access over this wide road reserve. It should also be noted that Engineering Services Department approved the access as well as an additional access from De Villiers Street for parking for the guests of the proposed guesthouse.

No objections were received against the application. The affected adjacent landowner of Erf 1133 commented on the application, but emphasized that he does not object to the application. His comment is addressed in Paragraph 7 of this submission.

In view of the afore-said it is the opinion that the encroachment of the street- and lateral building line to accommodate the garages, has a low impact on the existing character of the area and the streetscape of the property when viewed from Andries Pretorius Street. However, should the application be approved a condition must be imposed that no tip-up doors be allowed in the garages.

No objections were received and the applicable development parameters as set out in the Zoning Scheme and must be maintained. Building plans however need to be submitted to the Building Control Department for approval.

In view of the above, it is the opinion that the application under consideration for the removal of the restrictive title deed conditions, the consent use, and the departure holds sufficient merit not to be deemed undesirable from a town planning perspective.

11. RECOMMENDATION

1. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of the restrictive title deed conditions B.(1)(a) and B.(1)(c) and B.(2)(a), B.(2)(b), B.(2)(c) and B.(2)(d) as contained in Title Deed No. T64476/2017 applicable to Erf 1134, Sandbaai in order to accommodate a four (4) bedroom guesthouse on the property, as well as the existing garages that encroach the street building line, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16.(2)(o) of the By-Law for consent use for a guesthouse in order to accommodate a guesthouse with four (4) guestrooms on Erf 1134, Sandbaai, **be approved** in terms of the provisions of Section 61 of the By-Law;

3. that the application in terms of Section 16.(2)(b) of the By-Law for departure in order to relax the eastern street building line of Erf 1134, Sandbaai from 4m to 0,4m and the southern lateral building line from 2m to 0m to accommodate the existing garages on the property, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the above approvals in Points 1., 2. and 3. be subject to the following conditions:
 - (a) that the encroachment of the garages be restricted to the dimensions as indicated on layout plan 3.1 (undated); and that no tip-up doors for the garages be allowed;
 - (b) that a maximum of four (4) bedrooms be let to guests/tourists;
 - (c) that building plans be submitted to the Building Department for approval and that all conditions of the Building – and the Fire Department be complied with at that stage;
 - (d) that the requirements of the National Fire Protection Regulations SANS10400T:2011 for category H5 – Hospitality occupancy, be complied with;
 - (e) that the owner/manager resides permanently on the premises, and be responsible for the proper management of the guest house;
 - (f) that the guest house be utilized as such – no self-catering are allowed;
 - (g) that no kitchen facilities and/or prep bowls be allowed in the guestrooms;
 - (h) that no facilities (bar/restaurant or any other) be provided for non-residents of the accommodation establishment and that these facilities only be used by bona-fide guests of the establishment;
 - (i) that the selling or serving of liquor on the property will be subject to the owners obtaining the necessary Liquor Licence;
 - (j) that a minimum of one (1) permanently demarcated parking bay per guestroom, two (2) for the main dwelling unit and one(1) for the second dwelling unit be provided within the erf boundaries;
 - (k) that the applicable rates and service tariffs, as determined by the annual budget is applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (l) that the accommodation facility complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;

- (m) that only a single non-illuminated sign that complies with the Municipal By-Law on Signage, may be displayed on the premises;
 - (n) that the guest house be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area;
 - (o) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
 - (p) that the conditions of Engineering Services and Telkom, respectively attached as Annexures H and I, be complied with;
 - (q) that this approval does not absolve the landowners from compliance with any other relevant legislation, and
 - (r) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with.
5. that the applicant and the person who commented on the application be notified of their appeal right in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

12. REASONS FOR RECOMMENDATION

- ❖ The application has followed due procedure.
- ❖ No objections were received from the public.
- ❖ It is in line with policy documents.
- ❖ The accommodation establishment will be beneficial for optimization of the erf.
- ❖ It will promote the tourism industry.
- ❖ The garage will not impact on the character of the area or the streetscape of the property.
- ❖ Is not regarded as being undesirable from a town planning point of view.

13. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Layout Plans
Annexure D:	Title Deed T64476/2017
Annexure E:	Department of Environmental Affairs and Development Planning approval (2005) and Council's conditions (2004)
Annexure F:	Comment received
Annexure G:	Applicant's response to comment received
Annexure H:	Services Report
Annexure I:	Comment: Telkom
Annexure J:	Extract from Overstrand GIS

SIGNATURES**REGISTERED PLANNER:**

Name :

H VAN DER STOEP


SACPLAN Reg No:

A/1708/2013

Signature :

Date:

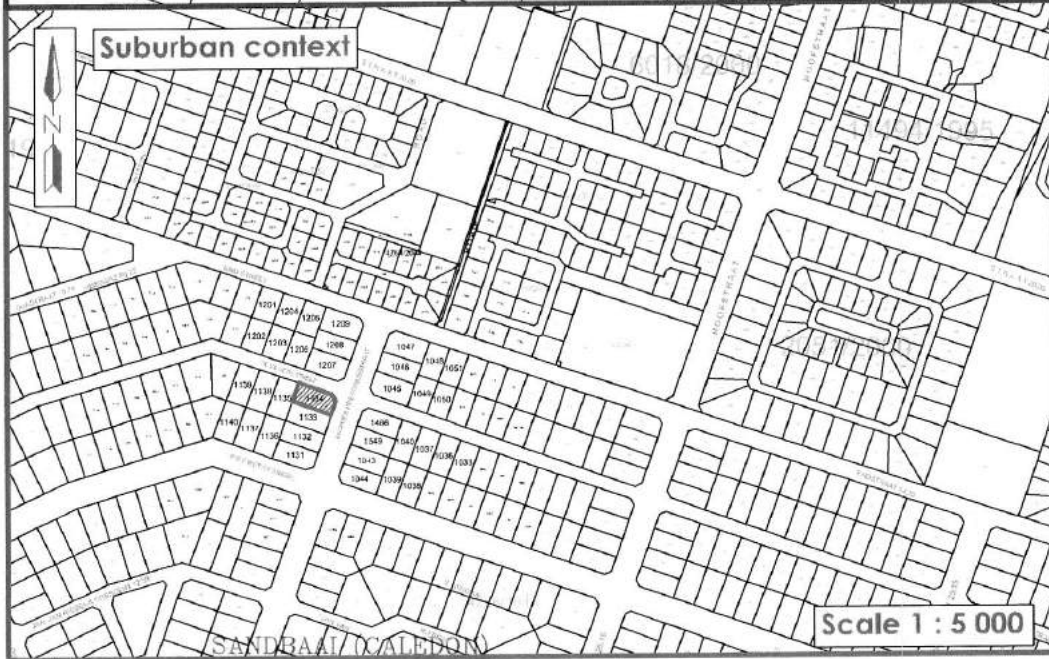
Plan 1: Locality Plan Erf 1134 Sandbaai

 Subject property (665m²)

Plan prepared by: Real!shle Jankie

All distances are approximate
and subject to a survey


WRAP



2. ABBREVIATIONS

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

3. SUMMARY OF PROPERTY DETAILS

Applicant	WRAP (Wright Approach Consultancy)
Registered owner	Tanya Hume and Karen Anne van der Merwe
Erf number	Erf 1134 Sandbaai (<i>hereafter referred to as the subject property</i>).
Suburb	Sandbaai
Property extent	685m ²
Building footprint	244m ²
Title deed	T64476/2017
Restrictive title deed conditions	There are restrictive conditions proposed for removal.
Applicable zoning scheme	OMZS
Current zoning	Residential Zone 1: Single Residential (<i>hereafter referred as SR1</i>)
Permissible primary uses on SR1	Dwelling house, day care centre, guest rooms, home occupation and second dwelling unit.
Current land use	Dwelling and outbuildings.

4. BACKGROUND

An application was submitted to DEADP in 2004 for a relaxation of the street building line for a carport which encroached on the street building line. The application was approved by DEADP in 2005 (refer **Annexure C**). The carport has subsequently been converted into a garage which has also been extended to encroach on the side building line. This additional building work requires a departure from the building lines.

The subject property came into the ownership of the current property owners in 2017 and is used as a dwelling with outbuildings. There is a growing and viable trend in Hermanus where property owners use residential dwellings for residential and guest

house purposes and the owners of the subject property want to obtain the necessary approvals to operate a guest house from the subject property. Considering this, the property owner wants to establish and operate a 4-bedroom guest house and still reside on the subject property.

5. PROPOSAL

For the property owner to operate a 4-bedroom guest house from the subject property and also have a second dwelling unit, the following is applied for:

5.1 Removal of the following restrictive title deed conditions:

- B(1)(a) "The company reserves to itself and its successors in title the sole right to all hotels and all liquor licences and the Purchaser/s (Transferee/s) or his/their successors in title shall not have the right to erect any hotel or hold any liquor license without the written consent of the Directors of the company, or its successors in title, first had and obtained."
- B(1)(c) "That no building shall be erected on any stand unless and until the plans for such buildings have been submitted to and approved by the Directors of the said Company or the successors in title of the said Company."
- B(2) "Opgelê deur die Administrateur:"
- B(2)(a) "That the erf or erven be used for residential purposes only"
- B(2)(b) "That the above erf or erven not be subdivided"
- B(2)(c) "That not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than one-half the area of any one of the above erven be built upon."
- B(2)(d) "That no building shall be erected on the above erf or erven within 4,72 meters of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as garden but shall not be built upon."

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

5.2 Building line departures from the SR1 zoning in the OMZS

Departure from the 4m street boundary line to 0,4m for the existing garages; and
 Departure from the 2m side boundary line to 0m for garages.

The OMZS highlights under Section 16.1(b), 16.1(c) and 16.1.2 that the OM may approve a building line departure for outbuildings which encroach on the side and street building lines.

5.3 Consent use in SR1 of the OMZS

A consent use for a 4-bedroom guest house in the SR1 zoning in terms of the OMZS is applied for.

Approval and implementation

The approval and implementation of this proposal would not result in the alteration of the footprint of the subject property. The only alteration will be the delineation of the parking bays which will be behind the existing wall and not be visible to the public. The property owner is also in the process of renovating the subject property to make the property appealing to guests of the guest house which will further enhance the contribution of the subject property to the aesthetic value of Sandbaai.

6. SUBURBAN FORM

The suburban form of the southern part of Sandbaai is a combination of a grid, curved suburban layout with crescents and public open spaces. The approval of this proposal will not have any impact on the prevailing and valued suburban form of Sandbaai.

The urban fabric of Sandbaai comprises of single residential dwellings, town housing, community facilities, industrial uses, public open spaces and a shopping centre. These land uses are complementary and appropriately located in a manner which does not deprive the public of land use rights. The approval and implementation of this proposal will not alter the valued prevailing urban form.

7. RESTRICTIVE TITLE DEED CONDITIONS PROPOSED FOR REMOVAL

The following title deed restrictions are proposed for removal:

B(1)(a) "The company reserves to itself and its successors in title the sole right to all hotels and all liquor licences and the Purchaser/s (Transferee/s) or his/their successors in title shall not have the right to erect any hotel or hold any liquor license without the written consent of the Directors of the company, or its successors in title, first had and obtained."

The Sandbaai Seaside Estate Company no longer exists, and the OM is the competent authority which has taken over the role and function of the company. This restrictive condition is proposed for removal because the OM and Western Cape Liquor Authority are the competent authorities with regards to liquor licenses.

The property owner has no immediate need to sell liquor to the guests of the guest house. Should the property owner in the future desire to exclusively sell liquor to the guests of the guest house, the removal of this restrictive condition will make the application process easier.

B(1)(c) "That no building shall be erected on any stand unless and until the plans for such buildings have been submitted to and approved by the Directors of the said Company or the successors in title of the said Company."

The Sandbaai Seaside Estate Company no longer exists, and the OM Building Control and Town Planning Department are the competent authorities pertaining to building plan approvals. The fact that the aforementioned company does not

exist anymore, makes these restrictive title deed conditions irrelevant which warrants the removal thereof.

B(2) "Opgelê deur die Administrateur:"

This title deed condition is a preamble to the restrictive title deed conditions which are proposed for removal:

B(2)(a) "That the erf or erven be used for residential purposes only."

The proposed 4-bedroom guest house is not in conformity with the primary land uses of "residential" permitted in terms of the SR1 zoning in the OMZS. The proposed guest house is a consent use and slightly exceeds the residential rights enjoyed by other property owners which warrants the removal of this restrictive condition.

B(2)(b) "That the above erf or erven not be subdivided"

The property owner has no immediate intention of subdividing the subject property. This restrictive condition is proposed for removal as it was inserted in the title deed in 1953 within a context of different urban development pressures and urban dynamics compared to the ones Sandbaai currently experiences. Density and erf sizes are guided by the OMGMS and the SDF which more appropriately respond to current urban development pressures and urban dynamics and warrants the removal of this title deed restriction.

B(2)(c) "That not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than one-half the area of any one of the above erven be built upon."

The proposed alterations to the dwelling includes the removal of a staircase to the first floor of the dwelling. After such removal the first floor will only be accessible from the outside of the dwelling and it will not be interleading anymore, which makes it a second dwelling. This restrictive condition was inserted in the title deed in 1953 within the context of urban sprawl which promoted low density development within the urban edge. Contextually appropriate densification is the development principle promoted in the current spatial planning policies. The SR1 zoning also has a second dwelling unit as a primary right which makes this title deed restriction out of context with the current development pressures and primary rights in the OMZS which warrants the removal thereof.

B(2)(d) "That no building shall be erected on the above erf or erven within 4,72 meters of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as garden but shall not be built upon."

The existing garages are located 0,4m from the street boundary which necessitates the removal of this restrictive condition.

This building line was imposed by the Administrator in 1953 in an era where buildings were located further away from the street boundary line in conjunction with promoting low density development and urban sprawl. The title deed building line is also more restrictive than the OMZS building lines which has a street building line

of 4m. It is proposed that the OMZS, which responds to the prevailing urban dynamics, development pressures and architectural styling which property owners envisage, be used to regulate all building lines on the subject property.

These title deed conditions reflect an approach to town planning from 1953 which is out of sync with the current urban trends and directions of development. The recent OMZS and spatial planning policies have been compiled in response to the current development trends which causes a legislative and regulatory conflict between title deed restrictions and more recent regulatory mechanisms. The removal of these restrictive title deed conditions is therefore aimed at bringing the residential land use and development rights on the subject property in harmony with the prevailing development envelope for SR1 zoned properties in Hermanus.

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

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

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

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

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

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

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

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

- Ensure that no building lines in the title deed are encroached upon;
- Remove title deed conditions which restricts the subject property as a guest house with more than 2 rooms; and
- Ensure compliance with all relevant municipal town planning legislation.

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

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

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

The removal of these restrictive title deed conditions will contribute to unlocking employment opportunities in the proposed guest house. The tourists who will visit

the proposed guest house will also purchase items from other establishments in Hermanus which will have a financial benefit for other businesses and the society.

Hermanus also has a good image as a viable tourist destination and the guest who will visit the guest house will contribute to this image by spreading a positive word of mouth of Hermanus, in the towns of origin. The approval and implementation of this proposal will therefore contribute to enhancing the image of Hermanus and therefore be in the public good.

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

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

8. ZONING

The following zoning parameters of the subject property were assessed in conjunction with the proposal.

Residential Zone 1: Single Residential			
	Parameters	Proposal	Comply or deviate
Primary use	Dwelling house , day care centre, guest rooms, home occupation and second dwelling unit.	Dwelling house	Comply
Consent use	Crèche, guest house , green house, house shop, institution, place of instruction, place of worship, residential building and tourist accommodation.	Guest house	Comply/deviate
Land Use Restrictions			
Coverage	50%	244m ² = 35.6%	Comply
Street building line	4 metres to any street boundary provided that in the case of a corner site with an average depth of 20m or less has a 3m street building line.	0,4m for the garages.	Deviate, departure applied for
Side and Rear building line	Side and Rear building lines for erven greater than 400m ² are 2m.	2m to 0m for the existing garage.	Deviate, departure applied for
Height	8 m measured from the base level to the top of the roof.	5,6m	Comply



MOTIVATION

Garages and carports	Garages and carports may be constructed within the building lines in accordance with 16.1.2.	N/A	Comply
Parking	<p>Parking and access shall be provided on the land unit in accordance with Section 17.1 of the Overstrand Municipality Zoning Scheme of November 2013.</p> <p>2 bays per establishment (owner/manager)</p> <p>Guest rooms 1 bay per bedroom / 2 persons accommodated</p>	A garage which can accommodate 3 cars and 3 parking bays are provided	Comply

9. SERVICES**9.1 Electricity**

Electricity on the subject property is provided by the Overstrand Municipality and the approval of this application will not alter the status quo.

9.2 Water

Water on the subject property is provided by the Overstrand Municipality. The approval of this application will not alter this.

9.3 Sewage

The subject property is connected to the Municipal sewage network.

9.4 Access and egress

Access to the subject property is currently gained from De Villiers and Andries Pretorius Street.

Access to the garage is gained from Andries Pretorius Street. Access for P4, P5 and P6 is proposed to be gained from De Villers Street.

10. HEALTH AND SAFETY

The land use of a guest house is not noxious and is not projected to have an adverse impact on the health of neighbours. A guest house does not generate excessive noise and does not deprive neighbours of any land use rights enjoyed.

The guests who will visit the guest house will contribute to additional surveillance in Sandbaai which will subsequently contribute to a safer residential environment.





11. VISUAL IMPACT

The footprint of the building on the subject property will not be changed should this application be approved and implemented. The only changes will be the land uses and parking delineation on the subject property. The property owner is also in the process of renovating the subject building which will increase its attractiveness and positively contribute to the street scape and residential ambiance of the area.

The approval and implementation of this proposal is not projected to be visually intrusive to neighbours.

12. OMAE

The Overstrand Municipality Policy on Accommodation Establishments provides a set of guidelines which highlights the development parameters that are applicable for accommodation establishments. The alignment of this proposal was assessed in terms of the relevant sections of this guideline.

Up to 5 rooms need to apply for Special Consent or a Departure from the Zoning Regulations. All rooms to be interleading with the main dwelling.

Four guest rooms are proposed. All the rooms are interleading in the main dwelling.

Meals/liquor may be served to residents only.

The property owner has no immediate intention to serve meals or sell liquor to the guests on the subject property.

The owner/manager must occupy the premises personally.

The second dwelling on the first floor will be occupied by the owner/manager

An approved unilluminated advertising sign to a maximum size of 2000 cm² may be displayed. Any other signage not on the property must be applied for separately at the Tourism Bureau.

The subject property will comply with the Overstrand Municipality By-Law Relating to Outdoor Advertising and Signage.

One or more fire extinguishers must be provided to the satisfaction of the municipal Head of the Fire Department. Obtain specifications regarding fire extinguishers.

There will be one or more fire extinguishers on the subject property and will be to the satisfaction of the Head of the Fire Department.

13. SPATIAL PLANNING DOCUMENTS

Spatial planning documents

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 which are pertinent to this proposal are the following:

Capitalise

The PSDF cites that the competitive advantages/spatial assets in a settlement need to be capitalised on to the benefit of the inhabitants. The competitive spatial asset of the subject property is the tourism potential. The property owner intends on capitalising on the competitive tourism potential of the subject property and in Sandbaai.

Consolidate

The consolidation of existing and emerging economic nodes is promoted to be consolidated to contribute to offering the best prospects for jobs and stimulate innovation. The implementation of this proposal would contribute to employment creation during the operational phase and contribute to unlocking innovation as the property owners and employees will constantly look for innovative ways to enhance the service provided to guests.

Connect

The connection of economic opportunities and social integration is cited as an integral component of a settlement. The implementation of this proposal will contribute to unlocking contextually appropriate guest house economic opportunity on the subject property. The guest house will also promote integration as people from different backgrounds will meet and socialise on the subject property.

SDF

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

Policy proposals which are pertinent to this proposal will be assessed.

Hermanus character

The character of Hermanus is proposed to be retained in the current form while addressing the prevailing growing housing need. This proposal seeks to address the accommodation needs of tourist who flock to Hermanus while ensuring that the housing typology of the subject property which blends in with the valued housing typology of Sandbaai, remains unaltered.

Tourism

The SDF highlights that Hermanus needs to be promoted as a viable tourist destination. The operation of this proposed guest house would contribute to Hermanus being a viable tourist destination.

Natural resources

The conservation of the natural resources of Hermanus is cited as integral. The implementation of the proposed guest house will not have any adverse impact on the natural resources of Hermanus. The guest who will visit the subject property will also visit the variety of natural areas in Hermanus and have a greater appreciation for natural systems.

The spatial proposal plan in the SDF highlights that the residential zoning and character of the subject property should be maintained. The SR1 zoning, use and character of the subject property will not be altered with the approval and implementation of this proposal.

OMGMS

The purpose of the OMGMS is to improve the OM's overall environmental sustainability by enhancing the quality and efficiency of the built environment. It will be highlighted how the proposed guest house will contribute towards the aims and objectives of this strategy.

Policy proposals which are pertinent to this proposal are the following:

Built environment

The enhancement and smooth management of the built environment is cited as integral for Hermanus. The implementation of this proposal will accelerate the renovation occurring on the subject property and subsequently contribute to the enhancement of the built environment in Sandbaai as promoted in the OMGMS.

Mixed land uses

The OMGMS highlights that the development of mixed land uses which provide for vitality, opportunities and integrated living environments should be supported. This proposal consists of a permanent residential use as the manager/owner will reside on the property and a temporary accommodation for the tourists. This permanent and temporary mixed-use is complementary to the residential context of the subject property.

Efficiency

Optimal land use planning and the efficient use of services, facilities and land is promoted in the OMGMS. This proposal seeks to contribute to the efficient and optimal utilisation of urban infrastructure services to benefit a greater number of people (tourists and the manager) within the services capacity limits of Sandbaai.

The subject property is located in Planning Unit 3 and conforms to the housing typology envisaged in the area. There is no densification proposed in the subject Planning Unit and this proposal does not constitute densification.

Consistency with the various planning principles

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

14. PLANNING PRINCIPLES

The proposal was analysed for consistency with the planning principles to provide a recommendation to the OM for the application in terms of Section 42 of SPLUMA and Chapter VI of LUPA.

Spatial Justice

The approval of this proposal will contribute to employment creation and redressing the socio-economic imbalances caused by apartheid planning and promote integration.

Spatial Sustainability

The proposed guest house will not in any way compromise on agricultural land, environmentally sensitive and biodiversity rich areas as well as the scenic and cultural landscape and will contribute to combating urban sprawl.

Efficiency

The approval of this proposal will contribute towards maximising on the utilisation of services on the subject property by catering to guests and the manager within the available service capacity limits of Sandbaai.

Spatial Resilience

This proposal is aligned with the PSDF, SDF and OMGMS. The approval of this application will thus ensure that the subject property will be able to resist, absorb and accommodate economic shocks in a timely and efficient manner.

Good Administration

The proposed development will promote consultative planning as the Municipality will advertise the proposal to the public to allow the comments of the public to be taken into consideration. WRAP will also respond to the comments of the public and take the comments into consideration in the planning of the project. All these measures will ensure that a joint planning approach is pursued to the benefit of the owner of the subject property and the community.

15. EVALUATION

Application

- **Removal of title deed restrictions** B(1)(a), B(1)(c), B (2), B(2)(a), B(2)(b), B(2)(c) and B(2)(d) from Title Deed T64476/2017;
- **Departure** from the 4m street boundary line to 0,4m for the existing garages;

- **Departure** from the 2m side boundary line to 0m to accommodate the existing garage; and
- **Consent use** for a guest house with 4-lettable rooms.

Urban form

The approval of this proposal will blend in with the prevailing urban form.

Restrictive title deed conditions proposed for removal

Title deed restriction B(1)(a), B(1)(c), B (2), B(2)(a), B(2)(b), B(2)(c) and B(2)(d) are proposed for removal for the proposal to be permissible.

The restrictive title deed conditions remaining in place do not have any benefit for the property owner or society. The removal of the restrictive conditions has a social benefit as additional employment opportunities will be unlocked and other businesses in the tourism value chain will have additional customers and income.

SR1 Zoning

- The subject property has a dwelling house which is a primary right;
- The proposed guest house is a consent use;
- The permissible coverage is 50% and the subject property has a coverage of 35,6%;
- A departure from the 4m street building line to 0,4m and departure from the 2m side building line 0m is applied, for the existing garages;
- The permissible height is 8m and the subject property is 5,6m height; and
- A total of 6 parking bays are required and 6 parking bays are provided.

Services

- There is an existing connection to the municipal electricity grid;
- There is an existing connection to the municipal water supply;
- The subject property is connected to the municipal sewage system; and
- Access to the garage is gained from Andries Pretorius Street. Access for P4, P5 and P6 is proposed to be gained from De Villers Street.

Health and safety

A guest house is not a noxious industry and is not projected to impact on the health of the residents in any way.

The guests who will visits the subject guest house will contribute to additional surveillance in the street and contribute to increasing safety in the area.

Visual impact

The footprint of the building will be unaltered with the approval and implementation of this proposal. The property owner is in the process of renovating the subject property to increase attractiveness which will further improve the attractive residential ambiance in Sandbaai.

OMAE

- A guest house may have a maximum of 5-lettable rooms and the proposal is for 4-lettable rooms;
- The property owner has no immediate need to serve liquor to guests;
- The owner/manager will occupy the second dwelling on the first floor of the property; and
- The subject property will comply with the OM By-Law Relating to Outdoor Advertising.

PSDF

- This proposal and implementation thereof promotes the capitalisation of the guest house spatial asset of the subject property; and
- The proposed guest house will contribute to unlocking employment opportunities and promote integration.

SDF

- This proposal will retain the prevailing character of Hermanus while addressing the need for short-term tourist rental accommodation;
- This proposal will contribute to promoting Hermanus as a viable tourist destination; and
- The SR1 zoning, use and character will be retained with the approval and implementation of this proposal.

OMGMS

- The renovation occurring on the subject property is contributing to enhancing the built environment;
- This proposal promotes mixed permanent and short-term accommodation land uses; and
- This proposal conforms to the housing typology and density envisaged for Planning Unit 3.

Consistency with the planning principles

Spatial justice: the approval and implementation of the guest house will contribute to addressing spatial development imbalances caused by apartheid spatial planning by creating employment opportunities. This guest house will also promote the integration of guests from different backgrounds.

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

Efficiency: the guest house seeks to optimally capitalise on the residentially related development potential that exists on the subject property in an efficient manner, within the services capacity limits of Sandbaai.

Spatial resilience: the guest house is well aligned with all the relevant spatial planning policies that have been created by DEADP and the OM and is therefore spatially resilient.

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

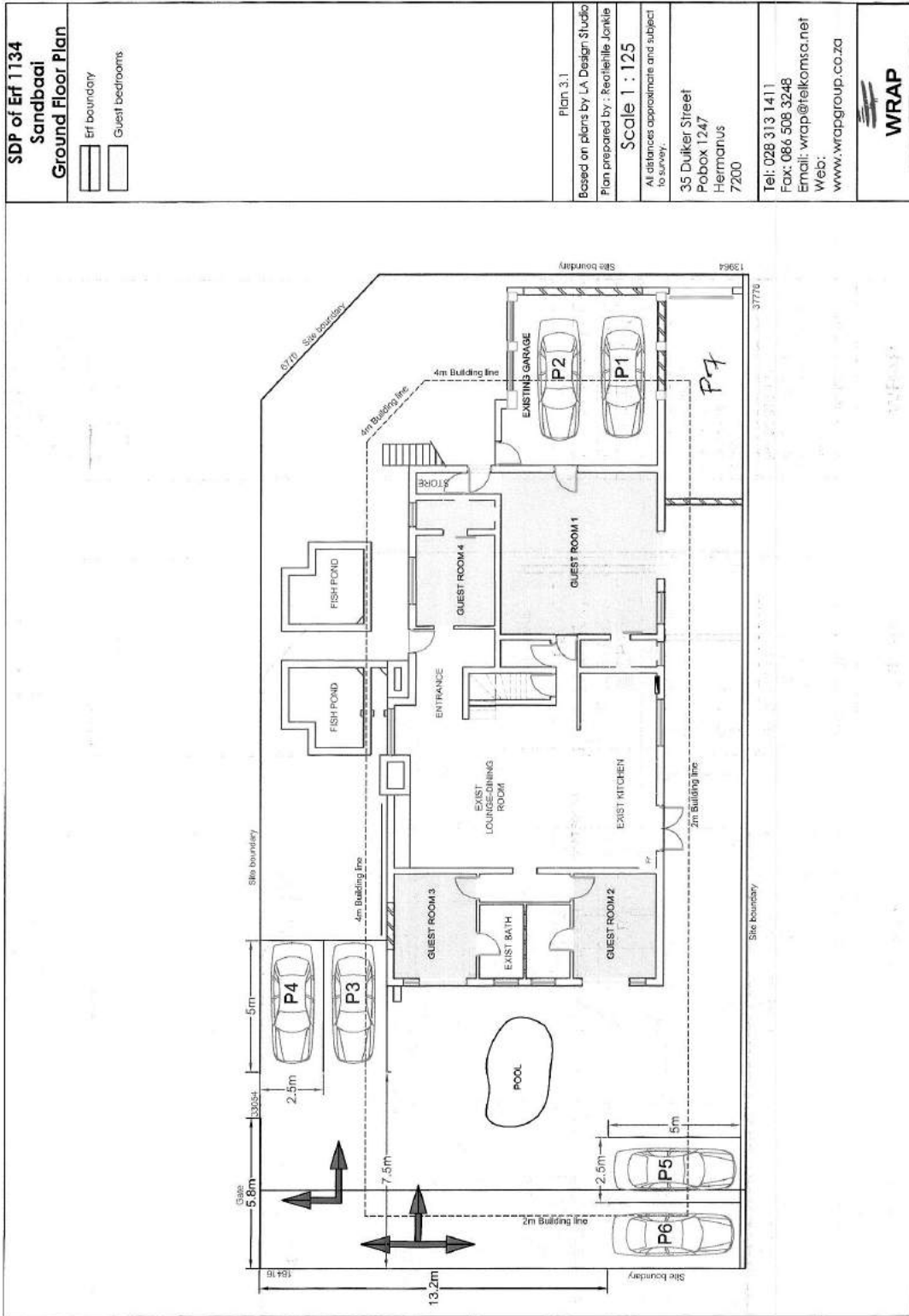
16. RECOMMENDATION

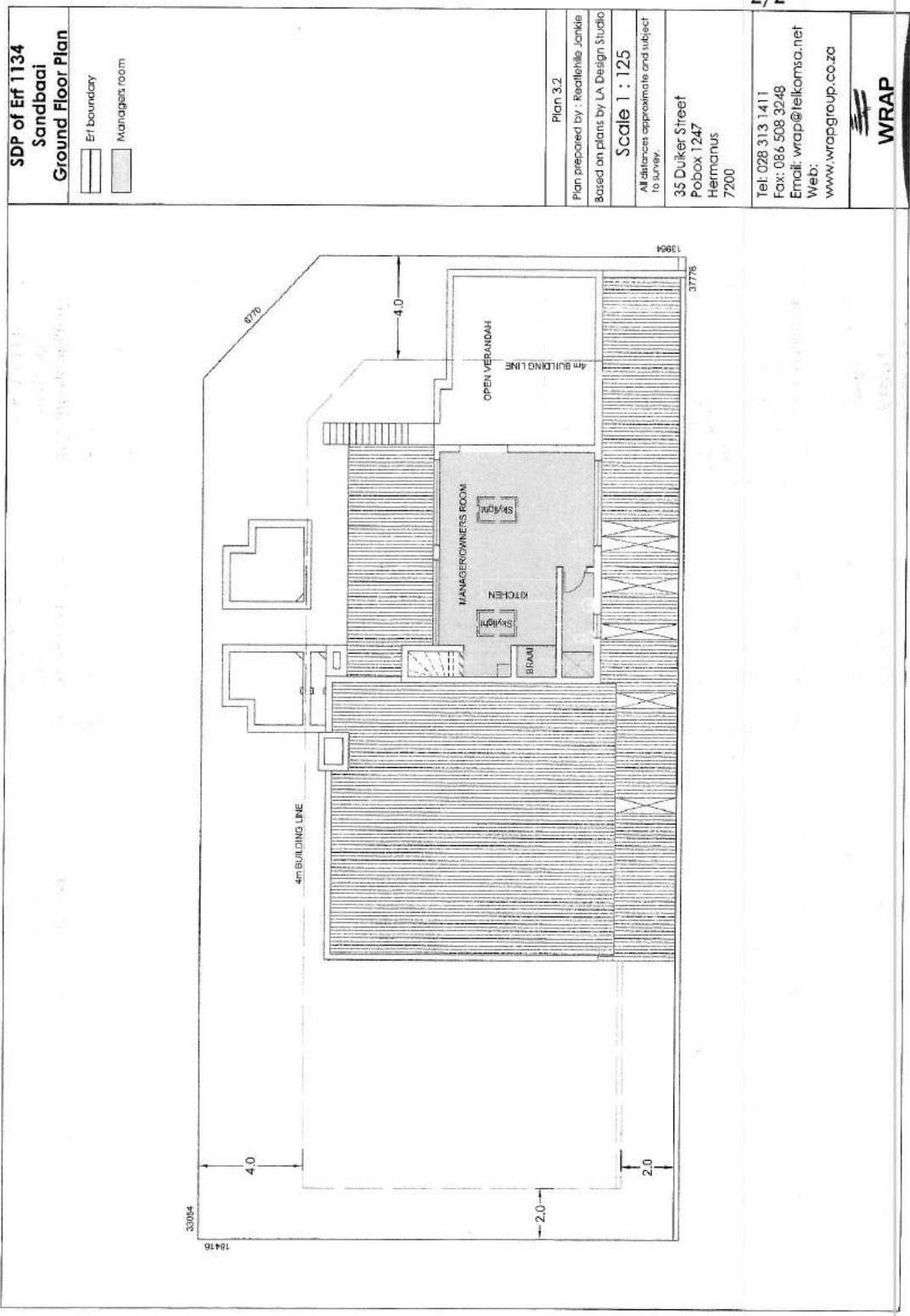
It has been motivated that this proposal blends in with the prevailing urban form/fabric of the area and will contribute towards enhancing the tourism image of the area.

Considering the above, it is recommended that the following application be **approved**:

- **Removal of title deed restrictions** B(1)(a), B(1)(c), B(2), B(2)(a), B(2)(b), B(2)(c) and B(2)(d) from Title Deed T64476/2017 of Erf 1134, Sandbaai, in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015;
- **Departure** from the 4m street boundary line to 0,4m for garages in terms of Section 16(2)(b) Overstrand Municipality By-Law on Municipal Land Use Planning, 2015;
- **Departure** from the 2m side boundary line to 0m for a garage in terms of Section 16(2)(b) Overstrand Municipality By-Law on Municipal Land Use Planning, 2015; and
- **Consent use** for a guest house with 4-lettable rooms in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning.

ANNEXURE C 1/2





83

Bornman & Hayward Ing
Suite 1
Reigerstraat 2
Stellenberg
7550
Docex 55, Tygervalley

Opgestel deur my,


TRANSPORTBESORGER
JOHLENE FOURIE

R 850 000,00
R 930,00

Transportakte

T 000054476/2017

HIERBY WORD BEKENDGEMAAK

DAT **ANTONIE CARL DU TOIT**

verskyn het voor my, Registrateur van Aktes, te Kaapstad, sy, die genoemde Komparant synde behoorlik daartoe gemagtig deur 'n volmag gedateer 18 Oktober 2017 te Century City aan hom verleen deur

**DIE EKSEKUTEUR IN DIE BOEDEL VAN WYLE JOHN THORNTON HUME,
BOEDEL NOMMER 19569/2016**

DATA / VERIFY
08 NOV 2017
MARLYN BARLOW

DATA / CAPTURE
2017 -11- 03
PUMELELA MNAMATA

-2-

welke volmag in die teenwoordigheid van getuies geteken ooreenkomstig die Wet, my hede getoon is; en die gesegde Komparant het verklaar dat nademaal LYNETTE HUME die vorige vrou van die oorledene WYLE JOHN THORNTON HUME oorlede is op 11 Mei 2015 en die kapitaal begunstigdes van die Trust beide die ouderdom van 25 op datum van dood van die oorledene bereik het en die trust daarom nie geskep was nie en daarom word die hierna vermelde eiendom aan die Transportnemer/s oorgedra kragtens klousule 1.2.7 van die bepaling van die Testament van genoemde oorledene gedateer 22 Julie 1998 wie oorlede is op 25 Oktober 2016.; ONDERHEWIG aan paragraaf 2. van voormelde Testament, hierin later volledig uiteengesit.

SO IS DAT HY die Komparant in sy voormelde hoedanigheid hiermee in volkome en vrye eiendom sedeer transporteer aan en ten gunste van:-

1. KAREN-ANNE VAN DER MERWE
Identiteitsnommer 730824 0049 08 0
Ongetroud
2. TANYA HUME
Identiteitsnommer 800615 0031 08 5
Ongetroud

erfgename, eksekuteurs, administrateurs of gemagtigdes;

ERF 1134 SANDBAAI
IN DIE OVERSTRAND MUNISIPALITEIT
AFDELING CALEDON
PROVINSIE WES-KAAP

GROOT: 685 (SES HONDERD VYF EN TAGTIG) VIERKANTE METER

EERSTE GETRANSPORTEER kragtens Transportakte No. T8455/1953 met Kaart No. 1187/1953 wat daarop betrekking het en GEHOU KRAGTENS TRANSPORTAKTE NO. T24559/1994

- A. **ONDERHEWIG** aan die voorwaardes waarna verwys word in Transportakte No. T5209/1915.



-3-

B. ONDERHEWIG verder aan die volgende spesiale voorwaardes bevat in Akte van Transport No. T8455/1953, wat soos volg lees:

"(1) Opgelê vir die voordeel van Sandbaai Seaside Estate Company Proprietary Limited as eienaars van die restant van die Perseel No. 3 van die plaas Onrust Rivier gehou deur hulle kragtens Akte van Transport No. 11466 van 1926, en die eienaars van persele in die gemelde Dorp alreeds getranspoteer of wat in die toekoms, getranspoteer mag word onderhewig aan soortgelyke voorwaardes, naamlik:

- (a) The company reserves to itself and its successors in title the sole right to all hotels and all liquor licences and the Purchaser/s (Transferee/s) or his/their successors in title shall not have the right to erect any hotel or hold any liquor licence without the written consent of the Directors of the company, or its successors in title, first had and obtained.
- (b) The company and its successors shall not have the right to subside and/or sell in even the land between the lots sold as seafront lots and the sea.
- (c) That no building shall be erected on any stand unless and until the plans for such buildings have been submitted to and approved by the Directors of the said Company or the successors in title of the said Company.
- (d) The Transferee/s and his/their successors in title of the herein above described property shall have the right to divert any stream of water running on the said property so as to run alongside any of the avenues or streets as laid down on the General Plan of the Township.
- (e) The company reserves to itself and its successors in title the right at any time hereafter to the free and undisturbed passage of electric, telegraph or telephone wires over and upon any portion of the property hereby purchased, with further right of causing them to be affixed to any building or erection not less than 3,05 metres from the ground with access at any time to such wires for the purpose of removal or maintenance.



-4-

(f) The Company further reserves to itself and its successors in title the right at any time hereafter to lay and to maintain piping under any portion of the above land or elsewhere, and at all times to have access to such piping for removal, maintenance, extension or any other purpose, and to do all such acts and things as shall be required for the convenience of the inhabitants of the Township in regard to supplying them with water.

(g) The Company reserves to itself the sole right to all water arising on or flowing over the Company's property. There shall, however, be excluded from this reservation any water obtained by the owner of the above land by means of wells or boreholes sunk on such land.

(2) Opgelê deur die Administrateur:

(a) That the erf or erven be used for residential purposes only.

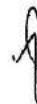
(b) That the above erf or erven be not subdivided.

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

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

C. **ONDERHEWIG VERDER** aan die voorwaardes vervat in paragraaf 2. van voormelde Testament gedateer 22 Julie 1998 wat soos volg lees:-

"Any benefit accruing to a beneficiary in terms of this will or a codicil thereto as well as any income derived therefrom shall be excluded from the legal consequences of his or her existing or future marriage."



-5-

Weshalwe die Komparant afstand doen van al die regte en titel wat ~~Die-Ekseku~~**teur-in** **BOEDEL WYLE JOHN THORNTON HUME** voorheen op genoemde eiendom gehad het en gevolglik ook erken dat die Boedel geheel en al van die besit daarvan onthef en nie meer daartoe geregtig is nie en dat, kragtens hierdie akte, bogenoemde **KAREN-ANNE VAN DER MERWE en TANYA HUME**

erfgename, Eksekuteurs, administrateurs of gemagtigdes, nou is en voortaan daarop geregtig sal wees, ooreenkomstig plaaslike gewoonte; maar dat die Staat egter sy Reg behou;

Dat die eiendom waardeur is vir boedelbelastingdoeleindes ten bedrae van R850 000.00 (AGT HONDERD EN VYFTIG DUISEND RAND).

AS GETUIE WAARVAN het ek, die gesegde Registrateur, tesame met die Komparant, hierdie Akte onderteken en met die ampseel bekragtig het.

Aldus gedoen en verly op die Kantoor van die Registrateur van Aktes te Kaapstad, op hede die 1^{ste} dag van **NOVEMBER** 2017

q.q.

In my teenwoordigheid,

Registrateur van Aktes.



Verwysing
Reference E17/2/2/1/AS21/Er1 1134, SANDBAAL
Isalathiso



ANNEXURE E 1/5

Navrae
Enquthes Ms M Plaatjes
Imibuzo

Datum
Date **16 FEB 2005**
Umhla

Departement van Omgewingsake en Ontwikkelingsbeplanning
Department of Environmental Affairs and Development Planning
IsSebe leMictimbi yeNdalo esiNgqongileyo noCwangciso loPhuhliso

The Municipal Manager
Overstrand Municipality
Hermanus Administration
PO Box 20
HERMANUS
7129

Dear Sir

RELAXATION OF BUILDING LINE: ERF 1134, SANDBAAL

1. I refer to your letter TP2-120/2004 of 13 December 2004.
2. This Provincial Government has received an application for the relaxation of a restrictive title condition in respect of Erf 1134, Sandbaal, and has in terms of the stipulation of condition C.(2) contained in Deed of Transfer No. T. 24559 of 1994, granted approval for the relaxation of the 4,72m street building line restriction in condition C.(2)(d) to enable the owner to erect a carport on the property as indicated on the attached plan. This approval is also subject to the conditions of Overstrand Municipality.
3. Please note that this approval is not a formal approval in terms of the Removal of Restrictions Act, 1967 (Act 84 of 1967); the reason being that the relevant deed of transfer is not accordingly endorsed by the Deeds Office. It remains the responsibility of the owner of the property to comply with any additional legislation, if required.

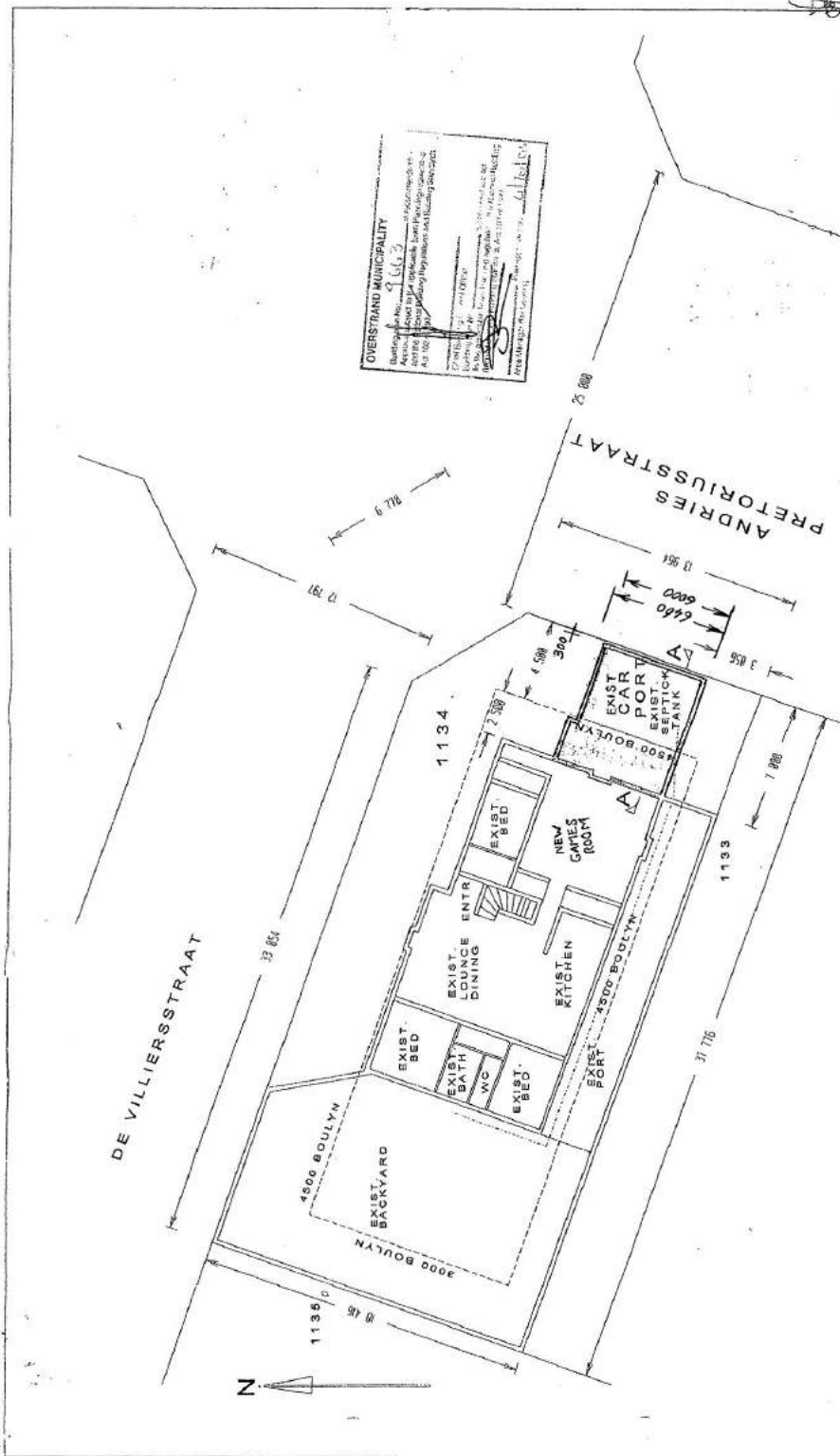
Yours faithfully

HEAD OF DEPARTMENT
CB/Relaxation, Eng(2)

Utiliteitsgebou, Dorpsstraat 1
Private Bag 25086 Kaapstad 8000

Utilites Building, 1 Dorp Street
Private Bag 25086 Cape Town 8000

Tel No.: (021)483-3009
Fax No.: (021)483-3058
Ifowuni: (021)483-3009
Ifaks: (021)483-3098



3.10.2005 3/5

Ref. No.	1134 - SANDBAAL
Dep. No.	SBAFD 1
Revision	A
Date	JUNE 2004
Scale	1 : 200

Titel
VOORGESTELDE
TERREINDREINERINGS
PLAN

Project/Project
AANBOUING
VAN MOTORAFDAK

EIGENAAR/OWNER
MNR JT HUME
 14 DE VILLIERS STRAAT
 SANDBAAL
 TEL 318 1587

TEKENAAR/DORAGHTSKEP
AJ LOUW DRAUGHTSMEN
 500 BOY ST.
 HERMANUS 7200
 TEL/FAX 023 - 318 4108
 EMAIL: alouw@arabes.co.za

NO	AMERIKET	INIT	DATE
1	DIRECTIONS	AL	14/06/04



HERMANUS ADMINISTRASIE
ADMINISTRATION
8 November 2004

Datum
Date
Isuku TP2-120/2004

Verwysing
Reference

Navrae
Enquiries
Imibuzo M Le Roux

J.T. Hume
De Villiersstraat 34
SANDBAAI
7201

Meneer

Sandbaai: Aansoek om Afwyking en Verslapping van Titelvoorwaarde Erf 1134.

U aansoek in bovermelde verband verwys.

Die Burgermeesterskomitee het op 1 November 2004 soos volg besluit ('n Afskrif van die item wat deur die komitee oorweeg is, is ingesluit vir inligting):-

- "1. dat die aansoek van toepassing op erf 1134, Sandbaai, om 'n motorafdak op die straatgrens op te rig, goedgekeur word onderhewig aan die volgende voorwaardes:
 - (a) dat die breedte van die motorafdak, gemeet parallel met die straatgrens, mag nie meer as 6 m wees nie;
 - (b) dat die motordak moet deur metaal-, hout-, baksteen-, of sementpale of -pilare gesteun word. Hierdie pale of pilare kan 'n maksimum afmeting van 350 mm horisontale maat (of 350 mm deursnit in geval van pyp) hê, en hoogstens vier pale of pilare mag op een sy van die motorafdak aangebring word;
 - (c) dat daar geen mure, behalwe grensmure, mag gebou word om die motorafdak in te sluit nie;

Posbus 20
HERMANUS
7200

Tel. (028) 313 8102
faks: 028 3138128
mlreoux@overstrand.gov.za

PO Box 20
HERMANUS
7200



- (d) dat die hoogte van die motorafdak gemeet van die vloer tot die bopunt van die dak, mag nie 3 m oorskry nie;
 - (e) dat die voorkant van die motorafdak mag nie nader as 300 mm aan die straatgrens wees nie;
 - (f) dat daar geen hekke mag toegelaat word wat op die sygaardjie oopmaak nie, en
 - (g) dat standaardvoorsorg moet getref word vir die opvang en wegvoer van reënwater van die motorafdakke af.
2. dat die aansoek van toepassing op erf 1134, Sanbaai, ten einde 'n betondek op die eerste vloer op die straatgrens op te rig, goedgekeur word onderhewig daaraan dat die dek nie toegebou mag word nie.
 3. dat die aansoek vir 'n verslapping van die titelvoorwaarde na die Premier verwys word met die aanbeveling dat dit goedgekeur word.

Die nodige goedkeuring vir 'n verslapping van die titelvoorwaarde word nou van die Premier aangevra en indien goedgekeur sal oorweging aan u bouplan verleen word. U sal dienooreenkomstig ingelig word.

Die uwe



Munisipale Bestuurder
Afskrif: Boubeheer

ANNEXURE F

*TRATHAART
C Molivier*

**Loretta Gillion - OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDES,
VERGUNNINGSGEBRUIK EN AFWYKING: WRAP NAMENS T HUME EN KA VAN
DER MERWE: ERF 1134, DE VILLIERS STRAAT 34, SANDBAAL.**

From: Athena Spanellis <aspanellis101@gmail.com>
To: <loretta@overstrand.gov.za>
Date: 31 August 2018 02:49 PM
Subject: OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDES,
 VERGUNNINGSGEBRUIK EN AFWYKING: WRAP NAMENS T HUME EN KA
 VAN DER MERWE: ERF 1134, DE VILLIERS STRAAT 34, SANDBAAL.
Cc: Anmar Spanellis <anmarspanellis@gmail.com>, <stylos.spanellis50@gmail.com>



Aan wie dit mag aangaan.

OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDES,
 VERGUNNINGSGEBRUIK EN AFWYKING: WRAP NAMENS T HUME EN KA VAN DER
 MERWE: ERF 1134, DE VILLIERS STRAAT 34, SANDBAAL.

Hiermee bevestig ek, Stylianos Spanellis, ID ,van 79 Andries Pretorius Straat, Sandbaai, dat ek
 geen besware het teen bogenoemde nie.

Wat ek wel versekering van wil he is dat daar geen klagtes sal kom van gaste af, indien my honde,
 wat as sekuriteit dien, as rus verstoring gesien sal word nie.

Ek hoor graag van u.

Groete,
 Stylianos Spanellis
 060 788 3547

FILE NO:	EL 1134 Sandbaai ✓
SCAN NO:	HSB 1134
COLLABORATOR NO:	1202369





ANNEXURE G 1/6

TP-A Theart
(Holivier)

ESTABLISHED 2002

Town and
Regional PlanningMunicipal
Legislation
and ProceduresLiquor
LicensingDevelopment
Management35 Duiker Street P
O Box 1247
Hermanus
7200Tel: +27 (0)28 313
1411

Fax: +27 0865083248

Email:
wrap@telkomsa.netWeb:
www.wrapgroup.co.zaWright Approach
Investments 136 CCReg No
CK 2002/060745/23Our reference: 18/13
Your reference: 1134 HSB (3976)

6 September 2018

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

Sir

FILE NO: EL 1134-HSB

SCAN NO: 32

COLLABORATOR NO: 1206392

ERF 1134 SANDBAAI: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, DEPARTURE AND CONSENT USE

Objections and comments regarding the application for the abovementioned were received from:

- Stylianos Spanellis;
- Overstrand Municipality Operational Department; and
- Overstrand Municipality Infrastructure & Planning - Engineering Services

The comments made in Afrikaans will be responded to in English because the initial application was submitted in English.

Response to comments and objections pertaining to.

Comment/objection	Response to objections
Hiermee bevestig ek, Stylianos Spanellis van 79 Andries Pretorius Straat, Sandbaai, dat ek geen besware het teen bogenoemde nie.	It is reassuring that the commenter has no objection to the merit of the town planning application submitted.
Wat ek wel versekering van wil hê is dat daar geen klagtes sal kom van gaste af, indien my honde, wat as sekuriteit dien, as rusverstoring gesien sal word nie.	The presence of the dogs of the commenter which serve as security on the applicable premises is a primary right in terms of the OMZS. The approval and implementation of this proposal will not deprive the commenter of this right which is enjoyed. The Overstrand Municipality By-Law Relating to the Keeping of Dogs and Cats is the applicable legislation which regulates the general behaviour of dogs and will be applied by the OM should any nuisance be caused by a pet.

TP 10 SEP 2018



The Overstrand Municipality Operational Department and Overstrand Municipality Infrastructure & Planning - Engineering Services initially objected to the proposed parking layout however requested that amendments be made to the parking layout to comply with prescribed engineering standards (refer to the attached correspondence **Annexure A**). The parking layout was subsequently amended, and an approval was granted (refer to the attached SDP **Annexure B**).

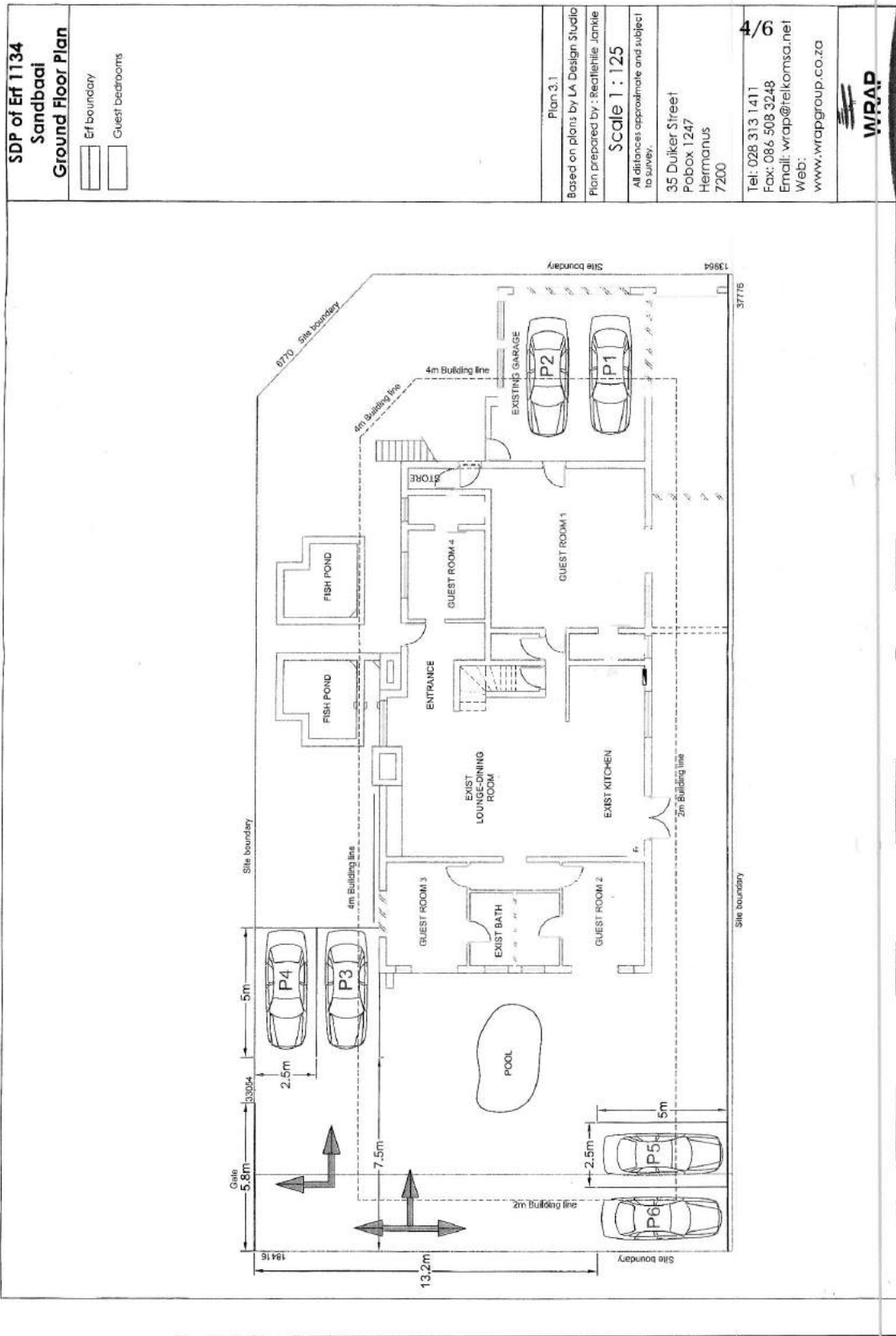
Yours faithfully

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

REA JANKIE
TOWN PLANNER (B/8392/2017)



ANNEXURE A





ANNEXURE B

From: Ricardo Andrew
To: Jean de Villiers; Wirap
Cc: Alida Conradie; Dennis Hendriks; Loretta Gillion; Miliswa Mantyi
Subject: Re: Erf 1134 Sandbaai
Date: Thursday, September 6, 2018 3:49:26 PM

Good Day

Thank you for submitted plan

We've no objection to the revised parking layout.

Kind Regards

Ricardo Andrew
Manager: Engineering Services
Tel: (028) 313 5073
Fax: (028) 313 0760
E: randrew@overstrand.gov.za



Overstrand Municipality

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

T: +27 (0) 313 8000 | **F:** +27 (0) 312 1894

E: enquiries@overstrand.gov.za | **W:** www.overstrand.gov.za

Vision Statement: *"To be a centre of excellence for the community"*

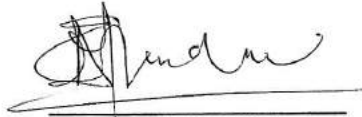
**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR CONSENT USE, DEPARTURE & REMOVAL OF
RESTRICTIVE CONDITIONS: ERF 1134, SANDBAAI (3976)**

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

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the developer's cost;
2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the developer's cost;
3. that any commercial food preparation facilities (e.g. restaurant / guest house etc.) must be provided with a grease trap, which must comply with the standards and specification of the Department: Operational Services;
4. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*;
5. that, should any upgrading and / or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Area Manager: Hermanus for written approval;
6. that stormwater be allowed to discharge through Erf 1134, Sandbaai, unobstructed;
7. that access to the proposed development can be obtained via De Villiers – and Andries Pretorius Street;
8. that the revised parking layout and splitting of access to the erf addresses the concerns w.r.t. pedestrian safety as it gives pedestrian and relevant vehicles adequate sight distance and reaction time;
9. that any additional and / or extended vehicle entrances will be for the owner's account;

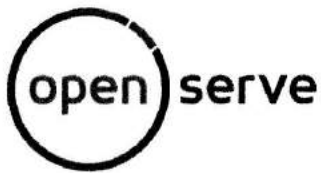
- 10. that refuse will be removed from sidewalks as per municipal arrangement;
- 11. that no on-street parking be allowed.



**DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES**

3/10/2018

DATE



Division of Telkom SA SOC Ltd

10 Jan Smuts Drive
Pinelands
7404

21 September 2018

Attention: S Muller

Overstrand Municipality
HERMANUS

PLANT AFFECTED:

REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: ERF 1134, 34 DE VILLIERS STREET, SANDBAAI

With reference to your application received August 2018.

As important cables and other infrastructure are affected, please contact our representative Frederik Swart at 028 514 1199 / 081 363 7815 / Frederiks@openserve.co.za and 48 hours prior of commencement on construction work.

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

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

Approval is granted, subject to the following conditions.

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

26 SEP 2018



ANNEXURE I 1/4

TRA Theart
(H Olivier)

FILE NO:	EL 1134 Sandbaai
SCAN NO:	HSB 1134
COLLABORATOR NO:	1214358

Candice Spammer

Tel: 021 414 5582

Fax: 086 480 0617

Email: spammec1@telkom.co.za

Our Ref.: WWIP_WONR2966_18

Your Ref.: 1134 HSB 3976

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

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

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

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

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

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

All Open Serve rights remain reserved.

Yours faithfully



Selwyn Bowers
Operations Manager
Wayleave Management: Western Region

PLANT AFFECTED : COPPER

This wayleave, Reference Number WWIP WONR2966 18 is valid for 12 months from date hereof and is subject to the following conditions:

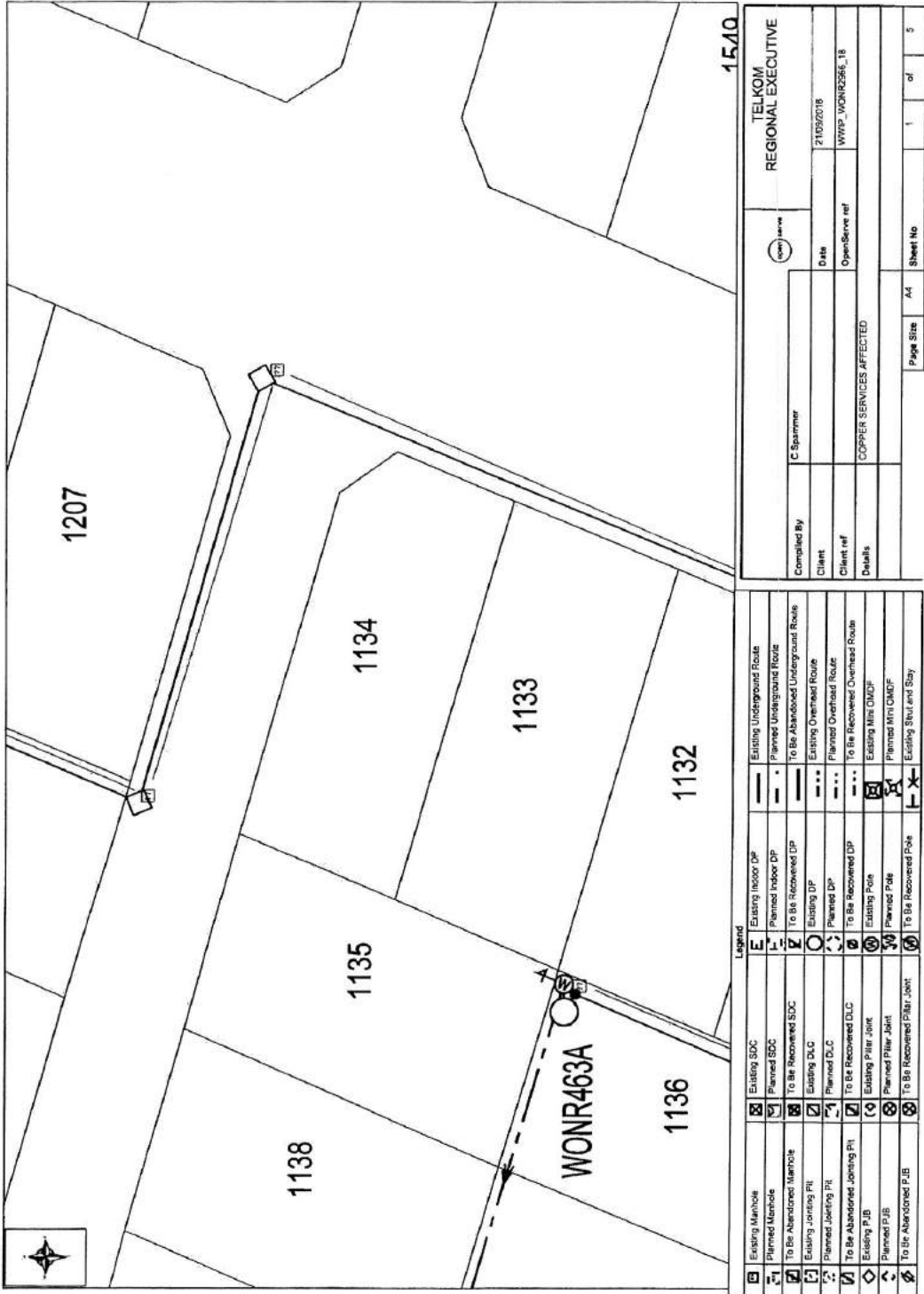
1. No mechanical plant or vibrator type compactors may be used within three meters of any Open Serve Plant (I.E. any Telecommunication equipment above or below ground level).
2. The position of our plant affected by the proposal is indicated as approximate and **Frederik Swart** at Telephone No **081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

Date: 2018/09/21

By: C Spammer
For Regional General Manager
Western Cape

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





(over) leave TELKOM REGIONAL EXECUTIVE	
Compiled By	C Spammer
Client	21052016
Client ref	WVSP_WONR266_18
Details	COPPER SERVICES AFFECTED
Page Size	A4
Sheet No	1 of 5

Legend	
	Existing Manhole
	Planned Manhole
	To Be Abandoned Manhole
	Existing Jointing Pit
	Planned Jointing Pit
	To Be Abandoned Jointing Pit
	Existing PJB
	Planned PJB
	To Be Abandoned PJB
	Existing Inodor DP
	Planned Inodor DP
	To Be Recovered DP
	Existing DP
	Planned DP
	To Be Recovered DP
	Existing Pole
	Planned Pole
	To Be Recovered Pole
	Existing SDC
	Planned SDC
	To Be Recovered SDC
	Existing DLC
	Planned DLC
	To Be Recovered DLC
	Existing P/B Joint
	Planned P/B Joint
	To Be Recovered P/B Joint
	Existing Undergound Route
	Planned Undergound Route
	To Be Abandoned Undergound Route
	Existing Overhead Route
	Planned Overhead Route
	To Be Recovered Overhead Route
	Existing Mini OMDP
	Planned Mini OMDP
	Existing Strut and Stay

