



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

A G E N D A

DATE:	31 OCTOBER 2019
VENUE:	TOWN PLANNING COMMITTEE ROOM HERMANUS
TIME:	10:00

OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT
Civic Centre
HERMANUS
7200

9 October 2019

TO : THE MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

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

NOTICE IS HEREBY GIVEN that a meeting of the **Municipal Planning Tribunal (MPT)** will go into session on **Thursday, 31 October 2019 at 10:00, Town Planning Committee Room, 16 Paterson Street, Hermanus**, to consider the attached agenda.

S MÜLLER
CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL

Distribution:

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

**MUNICIPAL PLANNING TRIBUNAL
(MPT)**

31 October 2019

I N D E X

<u>ITEM</u>		<u>PAGE NUMBER</u>
APPLICATIONS FOR LEAVE OF ABSENCE		
4.1	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	1
4.2	ERF 6256, 76 SEVENTH STREET, HERMANUS (VOËLKLIP): OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE AND DEPARTURE: MESSRS WARREN PETTERSON PLANNING TOWN AND REGIONAL PLANNING CONSULTANTS ON BEHALF OF SEAGULLS VIEW	72
4.3	ERF 1849, 20 INDUSTRY CLOSE, GANSBAAI: PROPOSED DEPARTURES: MESSRS WARREN PETTERSON PLANNING TOWN AND REGIONAL PLANNING CONSULTANTS (WPP) ON BEHALF OF EM BRITZ	132
4.4	ERVEN 2295 AND 2296, 76 AND 78 LONGSTREET, SANDBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSOLIDATION, DEVIATION FROM THE OVERSTRAND MUNICIPALITY GROWTH MANAGEMENT STRATEGY (2010), REZONING, SUBDIVISION AND DEPARTURES: MESSRS FJC CONSULTING ON BEHALF OF BAJAK INVESTMENTS (PTY) LTD	165
4.5	ERF 1068, STANFORD, OVERSTRAND MUNICIPAL AREA: PROPOSED CONSENT USE: MESSRS SETTLEMENT PLANNING SERVICES (WESTERN CAPE) T/A SETPLAN CC ON BEHALF OF THE RICHARD METCALF FAMILY TRUST	223
4.6	ERVEN 1600, 1601 AND 1602, BERGSIG STREET, SANDBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION TO DEVIATE FROM THE OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK (2006), REZONING, AMENDMENT OF CONDITIONS IN RESPECT OF AN EXISTING APPROVAL AND CONSOLIDATION: MESSRS PLAN ACTIVE ON BEHALF OF BLAZECOR TWENTY SEVEN CC	323
4.7	PORTION 141 (A PORTION OF PORTION 133) OF THE FARM HANGKLIP NO. 559, CALEDON DIVISION: REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND DEPARTURE: MESSRS ME PLANNERS ON BEHALF OF THE FREE LIFE TRUST	378

- 1. OPENING**
- 2. APPLICATIONS FOR LEAVE OF ABSENCE**
- 3. CONFIRMATION OF MINUTES**
- 3.1 Minutes of a Municipal Planning Tribunal Meeting held on 1 October 2019**

4. ITEMS FOR CONSIDERATION

- 4.1 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**

Report attached

- 4.2 ERF 6256, 76 SEVENTH STREET, HERMANUS (VOËLKLIP): OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE AND DEPARTURE: MESSRS WARREN PETTERSON PLANNING TOWN AND REGIONAL PLANNING CONSULTANTS ON BEHALF OF SEAGULLS VIEW**

Report attached

- 4.3 ERF 1849, 20 INDUSTRY CLOSE, GANSBAAI: PROPOSED DEPARTURES: MESSRS WARREN PETTERSON PLANNING TOWN- AND REGIONAL PLANNING CONSULTANTS (WPP) ON BEHALF OF EM BRITZ**

Report attached

- 4.4 ERVEN 2295 AND 2296, 76 AND 78 LONGSTREET, SANDBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSOLIDATION, DEVIATION FROM THE OVERSTRAND MUNICIPALITY GROWTH MANAGEMENT STRATEGY (2010), REZONING, SUBDIVISION AND DEPARTURES: MESSRS FJC CONSULTING ON BEHALF OF BAJAK INVESTMENTS (PTY) LTD**

Report attached

- 4.5 ERF 1068, STANFORD, OVERSTRAND MUNICIPAL AREA: PROPOSED CONSENT USE: MESSRS SETTLEMENT PLANNING SERVICES (WESTERN CAPE) T/A SETPLAN CC ON BEHALF OF THE RICHARD METCALF FAMILY TRUST**

Report attached

- 4.6 ERVEN 1600, 1601 AND 1602, BERGSIG STREET, SANDBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION TO DEVIATE FROM THE OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK (2006), REZONING, AMENDMENT OF CONDITIONS IN RESPECT OF AN EXISTING APPROVAL AND CONSOLIDATION: MESSRS PLAN ACTIVE ON BEHALF OF BLAZECOR TWENTY SEVEN CC**

Report attached

- 4.7 PORTION 141 (A PORTION OF PORTION 133) OF THE FARM HANGKLIP NO. 559, CALEDON DIVISION: REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND DEPARTURE: MESSRS ME PLANNERS ON BEHALF OF THE FREE LIFE TRUST**

Report attached

4.1

**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**

602 GPB (4157)

SW van der Merwe
2 September 2019

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 3 October 2018 from Messrs Wrap on behalf of Steady Grow Trading CC for the following:

- ❖ removal of restrictive title condition with reference to clause C.4(b) of Title Deed T61368/2017 applicable to Erf 602, Pearly Beach in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) in order to permit a restaurant and the sale of alcoholic beverages;

Condition C.4(b) contained in Title Deed T61368/2017 to be removed, reads as follows:

"it shall be used for shop purposes only."

- ❖ consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to conduct a restaurant and to permit the sale of alcoholic beverages.

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 T61368/2017 is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The application property is situated within a commercial node at the entrance of Pearly Beach. The property is zoned for Business Zone 3: Local Business purposes and measures 535m² in extent. The property is developed with a business building measuring 250m² in extent, situated to the rear of the property with a parking forecourt and access off Commercial Street. The building was previously used as a retail shop and is currently vacant.

The current owner bought the property in 2017 with the intention to open a restaurant and micro-brewery, hence the application for consent use and removal of restrictive title conditions to permit a restaurant and sale of alcoholic beverages.

In terms of the Scheme Regulations a micro-brewery is permitted under the applicable primary rights, provided that the manufacturing component does not exceed 50% of the total area of the shop, but does not include the sale of alcoholic

beverages, hence the proposed consent use. The proposed micro-brewery will have a total area of 42m². The remainder of the building will be utilised as a family restaurant with associated ablution, kitchen and storage facilities.

4. SUMMARY OF APPLICANT'S MOTIVATION

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

- ❖ The proposal blends in with the prevailing urban fabric of the area.
- ❖ The proposal will contribute towards improving the visual appearance of the property and neighbourhood.
- ❖ The proposal complies with the planning principles in terms of LUPA and SPLUMA.
- ❖ The proposal complies with the applicable forward planning documents (PSDF, SDF, IDF and OMGMS).
- ❖ The proposal adheres to the development parameters in terms of the Zoning Scheme.
- ❖ The existing building is already connected to municipal services.
- ❖ The proposal will have a positive economic impact through the creation of employment opportunities and improved livelihoods.
- ❖ The proposal will have a positive social impact providing access to leisure opportunities for families.
- ❖ The proposal is for a restaurant which is compatible with the character of the area and not for a bar, tavern or place of entertainment.
- ❖ The applicant's investment will have a positive impact on the neighbourhood.
- ❖ The proposal will not impact on views, sunlight or privacy of adjoining properties.
- ❖ The subject property is not heritage sensitive.
- ❖ The proposal is consistent with the planning principles in terms of LUPA / SPLUMA.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Press	Yes	22 November 2018	18 January 2019
Gazette	Yes	23 November 2018	18 January 2019
Notices	Yes	20 November 2018	18 January 2019
Internal Departments	Yes	19 November 2018	21 December 2018
Ward councillor	Yes	19 November 2018	21 December 2018
Total comments	Three (3)		
Total letters of support	None		
Was public participation undertaken in accordance with Section 46 - 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

In case of application for removal, amendment or suspension of restrictive title conditions if notices in accordance with Section 35(3)(d) of the By-Law on Municipal Land Use Planning was served on all persons mentioned in the title deed for whose benefit the restriction applies?	N/A
--	-----

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

Name	Date received	Summary of comments	Recommendation
Waste Management Services	19/11/2018	Refuse area must be erected according to municipal specifications.	Positive
Engineering Services	18/12/2018	Annexure G.	Positive
Fire Services	21/12/2018	Annexure H.	Positive
Environmental Services	15/01/2019	No objection.	Positive
Telkom	16/01/2019	Annexure I.	Positive
Building Department	22/01/2019	No objection.	Positive

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Three (3) letters of objection against the application for removal of restrictive title conditions and consent use were received from PG Germishuys (owner of Erf 628), Beach Kerugma Produksies CC (owner of Erf 626) and NE Streicher (owner of Erf 614, Pearly Beach. The letters of objection are attached per Annexure E. The applicant's response to the objections received is attached as Annexure F.

The objections can be summarized as follows:

Objection pertaining to the behaviour of alcohol consumers

Point of objection

"Laat middag op 5 Desember 2018 het 'n groep mense in die gebou te Erf 602 'n geweldige lawaai opgeskop en dit het tot baie laat die aand geduur. Dit was baie steurend. As dit n voorsmaak is van wat op ons as inwoners wag, is dit absoluut onaanvaarbaar dat n bierbrouery en restaurant, wat alkoholiese drank verkoop, bedryf sal word op Erf 602.

Met verwysing na u bovermelde skrywe gedateer 22 November 2018, word hiermee as bewoner van Erf 628 te Pearly Beach, ernstig beswaar aangeteken teen die wysiging van die Titelakte ten opsigte van Erf 602, Commercialstraat Pearly Beach.

Ek verwys ook graag na my skrywe van 12 September 2018, vir aandag Mnr. Schalk van der Merwe, waar beswaar aangeteken is teen die uitreiking van 'n dranklisensie ingevolge Artikel 33(1)(a) en Artikel 33(1)(b) van die Drankwet, vir die eienaar van Erf 602, Pearly Beach.

Daar word ernstig beswaar gemaak teen die hersonering van Erf 602 se Titelakte, aangesien die bedryf van 'n bierbrouery en restaurant 'n uiters nadelige effek op my as inwoner sal hê. My Erf 628 is skuinsoor Erf 602 geleë, ongeveer 30 meter ver. Daar is geen waarborg, soos in die aansoek uiteengesit, dat slegs beskaafde en deftige mense die restaurant/brouery sal besoek nie. En dit is algemeen bekend dat mense wat alkohol geneem het, se optrede en reaksies verskil van hoe hul optree wanneer hul sober is.” (sic)

Applicant's response

The subject property is normally vacant, and no land uses have commenced due to the property owner not having the appropriate land use rights to operate a restaurant and brewery. The noise levels which the objector refers to only happened on the 5th of December when his daughter and friends made pizza and had a social gathering with friends on the subject property. The incident of noise which occurred on the subject property cannot be used to pre-emp the future behaviour of patrons at the subject establishment. The fact that the objector only makes reference to a single incident of noise which occurred on the subject property was an isolated incident. The property owner will also do everything possible to ensure that the peace and comfort of neighbours is not disrupted.

The application relates to the rezoning of the erf and not rezoning of the Title Deed as asserted by the objector.

The owner of the subject property does not intend to operate a bar on the subject erf, but intends to operate a family restaurant which caters for children and parents alike. The nature of such family restaurants tends to attract parents who indulge in minimal alcohol in front of kids in the restaurant to ensure that behaviour remains exemplary to kids. The ambiance envisaged in the subject restaurant is similar to the ambiance which SPUR has. The alcohol which is going to be brewed at the subject restaurant is going to be sold at a premium price to genteel parents who will visit the subject establishment. Considering the merits of this proposal, the subject restaurant is projected to attract genteel guests.

Town Planner's response

The subject property is currently vacant. The incident referred to relates to a private party on the property and is considered an isolated event that cannot be singled out to be representative of the future use of the premises. The application does not entail a rezoning of the Title Deed or the property (with reference to the applicant's comment), but a removal of a restrictive title condition.

Objections pertaining to the previous use of the subject erf

Point of objection

“Die nuwe eienaar van Erf 602 was daarvan bewus dat, toe hy die eiendom gekoop het in 2018, die eiendom bedryf was as 'n algemene handelaar/kafee en dat die erf

ook gesoneer was vir dié doel (wat vir ons as inwoners aanvaarbaar was, synde dat dit bedryf was binne gewone besigheidsure).” (sic)

Applicants comment

The owner of the subject property was aware of the land use rights which are applicable on the subject property before purchasing the property. This awareness of primary land use rights however does not absolve a property owner from submitting a land use application to expand commercial land use rights.

Town Planner’s response

The applicant’s comment is noted and agreed with. The proposed consent use applied for (restaurant and sale of alcoholic beverages) is a secondary right under the existing zoning and should be considered on its individual merit having had regard to the respective legislative requirements.

Point of objection

“Die bedryf van n algemene handelaar was aanvaarbaar vir ons as inwoners, aangesien dit in gewone besigheidsure (8 tot 5) bedryf was, en dit het geen na-ure se geraas en verkeer meegebring wat steurend vir ons as inwoners was nie.” (sic)

Applicants comment

The approval and implementation of this proposal is not projected to have an adverse impact on the noise levels which neighbours have been accustomed to in Pearly Beach as the subject restaurant will function as a family restaurant which will attract genteel guests.

Town Planner’s response

The subject property is situated within a business node at the entrance of Pearly Beach. The Scheme Regulations caters for a restaurant as a consent use as a secondary right. The application is not for a bar or tavern that is more likely to have an impact on adjoining properties after normal business hours with regard to noise and disturbance. Lastly, it should be noted that the proposed Draft Zoning Scheme By-Law proposes to introduce a restaurant as a primary right.

Objections pertaining to traffic

Point of objection

“Die eienaar van Erf 602 beplan in sy aansoek om 'n bier-/ginbrouery te open. 'n Bierbrouery behoort in 'n industriële gebied opgerig te word. Die feit dat bier en gin gebrou en verwerk sal word op n perseel vir verkope aan die publiek, asook vir verspreiding na ander ondernemings, maak dat hierdie as 'n fabriek binne n residensiële area bedryf sal word — wat totaal onaanvaarbaar is. Die oplaai en aflaai van bier en gin produkte vir verkope en verspreiding na ander besighede en plekke, sal geweldige verkeer meebring, wat vir ons as inwoners steurend sal wees. 'n Bierbrouery behoort nie binne n residensiële area bedryf te word nie.” (sic)

Applicant's response

Page 9 and 10 of the Motivation Report, highlights that small-scale manufacturing may occur on the subject property on condition that it does not exceed 50% of the property. The Site Development Plan (SDP) clearly illustrates that manufacturing on the subject property does not exceed 50% and is permissible on the property without having to occur in an industrial area.

There is sufficient parking on the subject property as illustrated in page 14 of the report which is not projected to cause any parking related problems. The traffic which the subject property will attract will not be drastically different from the traffic which was caused by the previous trader/café owner who operated on the subject property which the objector highlights in the objection as acceptable due to the Gross Lettable Area (GLA) remaining unchanged as the footprint of the building is the same. Considering that the GLA is the same, the traffic impact on the objector will be the same and not worse as asserted in the objection.

Town Planner's response

The applicant's comment is noted and agreed with.

Objections pertaining to the liquor license application**Point of objection**

"Daar was aansoek gedoen vir twee (2) tipes dranklisensies: Artikel 33(1)(a) en Artikel 33(1)(b) vir dieselfde perseel 602. Die vraag is hoe beheer uitgeoefen sal kan word om te voorkom dat alle soorte drank nie ook verkoop sal word vir gebruik buite die perseel nie." (sic)

Applicant's response

The on-consumption liquor license application pertains to serving alcohol to seated patrons in the restaurant and the off-consumption liquor license application pertains to selling liquor to be consumed off the subject premises. The liquor license application submitted to the Western Cape Liquor Authority was accompanied by plans which clearly delineate the areas where the rights of the two (2) licenses will be exercised on the property. The objector is more than welcome to peruse the plans and documents at the Police Station and lay a complaint to the Western Cape Liquor Authority if the opinion is that the sale of liquor is contrary to the approved plans. This will be a sufficient policing mechanism.

Town Planner's response

The applicant's comment is noted and agreed with.

Point of objection

"Ons het reeds in September verlede jaar beswaar aangeteken teen die toekenning van die dranklisensies waarvoor die eienaar aansoek gedoen het, en geen amptelike terugvoering van u kantoor ontvang nie. Al wat ons ontvang het, is 'n motivering van die eienaar van Erf 602 vir die beplande bierbrouery en gelisensieerde restaurant. Vandaar hierdie beswaar. Omdat ons geen terugvoering ontvang het nie, mag daar

dus 'n sekere mate van duplisering wees van ons vorige beswaar, maar ter wille van duidelikheid wil ons graag ons saak volledig stel.” (sic)

Applicant's response

The previous objection which was made by the objector to the Western Cape Liquor Authority was responded to by Messrs WRAP Consultancy and addressed in detail.

Town Planner's response

The objection to the liquor license is dealt with by the competent authority, namely the Western Cape Liquor Board and not Overstrand Municipality.

Point of objection

“Ingevolge die Wes-Kaapse Nuwe Drankregulasies Artikel 34(e)(1) mag dranklisensies nie uitgereik word waar die inwoners van 'n residentiële area benadeel sal word nie. (My woonhuis Erf 628 is skuins oorkant Erf 602.)” (sic)

Applicant's response

The subject property is located in a commercial area which predominantly has commercial erven. The projected impact of the approval and implementation of this proposal on the residential area will therefore be minimal.

Town Planner's response

Applicant's comment is noted and agreed with. In addition, the planning application is considered on the basis of merit in accordance with the legislative provisions in terms of the applicable planning legislation. The competent authority for the liquor license will consider the application for a liquor license in accordance with the provisions of the Liquor Act. Should permission not be granted by the said authority, the sale of liquor will not be permitted.

Point of objection

“Regoor Erf 602 is n natuur tuin/speelpark vir publiek en kinders. Nog 'n sterk drank verkoepunt en bierbrouery regoor die oopruimte en park, sal beslis nie tot voordeel van die gemeenskap wees nie.” (sic)

Applicant's response

The property across the subject property is not zoned as an Open Space: Public Open Space, but Zoned as Authority Zone: Authority usage which is contrary to the assertion of the objector. Just because children allegedly play there, the intention of the subject property in terms of the municipal zoning map was never for it to function as a park

Town Planner's response

The applicant's comment is noted and agreed with. The proposal is for a restaurant and not a bar or place of entertainment, and for the sale of liquor which may not be consumed outside the licenced premises (i.e. the public).

Point of objection

“Daar word nie saamgestem met die voordele soos voorgehou dat meer mense die omgewing sal besoek nie. Meer mense na ure sal uiters steurend wees vir inwoners naby geleë aan die besigheid.” (sic)

Applicant's response

The proposed restaurant is small and low key in nature and is not projected to attract large crowds of people and traffic as projected by the objector. The impact on noise levels will therefore either be minimal or remain unchanged.

Town Planner's response

The application property is situated within a commercial node where these types of land uses normally occur. The proposal is not for a bar or a tavern and as such, not considered to unacceptably detract from the residential amenities of the surrounding area, including the objectors. The objector(s) properties are situated adjacent to a business node that at the time of purchase was most probably more affordable compared to other residential properties outside this commercial node. The opinion is thus held that it is unrealistic from the objectors to expect total silence at night, given the location of the application property within a commercial node.

Point of objection

“Hiermee versoek ek u ernstig om die aansoek vir hersonering van Erf 602 nie goed te keur nie. Dit word beklemtoon dat 'n restaurant/bierbrouery binne 'n residensiële area sal indruis teen 'n redelike mens se regte as landsburger.” (sic)

Applicant's response

The restaurant and brewery will not encroach on a residential area as the erf is in a commercial area and surrounded by erven which are zoned for commercial purposes.

Town Planner's response

The application does not entail rezoning, but consent use which is an extension of the existing primary rights as well as a removal of a restrictive title condition. The proposed activities are catered for in the Scheme Regulations. Also, it should be noted that the microbrewery is not of an industrial scale, provided that operations complies with the Scheme Regulations (i.e. manufacturing not to exceed 50% of the floor space) and could therefore be accommodated on the premises.

Point of objection

“Wanneer die unieke aard en karakter van Pearly Beach vernietig word, sal dit beslis nie bydra tot die styging van eiendomspryse nie, maar eerder tot die daling daarvan. Ons is oortuig dat 'n restaurant en brouery op ons voorstoep beslis die eiendomspryse van ons huise hier baie negatief sal beïnvloed.” (sic)

Applicant's response

When a neighbourhood has an increase in the number of amenities or areas for leisure such as restaurants and shops, property prices tend to increase due to the neighbourhood becoming more desirable and people willing to pay a premium to reside in the neighbourhood. The approval and implementation of this proposal is therefore projected to contribute to the increase in the property value of the objector.

Town Planners' response

This point of objection is speculative and not substantiated by facts. It is re-iterated that the objectors' properties, although single residential are situated at the main entrance to Pearly Beach adjacent to a business node. If the activities and land uses reasonably associated with commercial properties poses to be that problematic, the objectors should have done their homework better and not invested in properties in such close proximity to a business node where it is more likely for business activities to occur outside normal office hours.

Point of objection

“Die eienaar voer ook aan dat geen kroeg, of plek van plesier geskep sal word op die beoogde perseel wat die regte van die eienaars van die residensiële area in die omgewing sal skend nie. Maar op Woensdag, 5 Desember 2018, was daar onder jurisdiksie van die huidige eienaar mense in die gebou bedrywig en die musiek was tot laat die nag so hard dat dit ons werk geheel en al belemmer het. Om 22:00 het ek handdoek ingegooi. Ek kon nie eers die woorde van die spreker op die redigeerstasie hoor bo die musiek wat van Erf 602 gekom het nie. Dit is 'n helder duidelike opname, maar ek kon glad nie volg wat die persoon sê nie. Dit terwyl ek die agtergrond suising tussen die woorde moes evalueer en elimineer. Ek kon dus GLAD NIE werk nie! Ondervinding het geleer dat enige alkoholverwante bedrywigheede potensieel lei tot lawaai en onsosiale gedrag. Vandaar die verbod van die Wes-Kaapse regering op alkohol op die strande. Wanneer die eienaar dus aanvoer dat die beoogde restaurant en brouery nie "a pub, bar tavern or place of entertainment" sal wees "who can potentially make noise", dan glo ons dat dit wat op 5 Desember 2018 gebeur het, vir ons oortuigend bewys het wat ons te wagte kan wees wanneer die hersonering en lisensies toegestaan gaan word.” (sic)

Applicant's response

This isolated incident, which is highlighted by the objector, is not a reflection on the desirability of the approval and implementation of this proposal. The objector is more than willing to contact SAPS should noise ever emanate again from the subject property or other properties in Pearly Beach.

Town Planner's response

The incident due to a private function of the owner's children is considered to be an isolated incident with no bearing on the desirability of the proposal. The application does not entail a place of entertainment and being a family restaurant combined with micro-brewery will not unacceptably detract from the character of the area by reason of noise and disturbance.

Point of objection

“Die meeste permanente inwoners in die omgewing is afgetredenes, wat saans vroeg al slaap. Na ons hier ingetrek het, het ons gou geleer om nie na 18:00 saans by ons bure aan weerskante aan te klop nie aangesien die mense vroeg reeds inkrui. Ons kinders wat veral oor Desember kom vakansie hou was al baie verontrief deur die alkoholverwante lawaai in die omgewing. 5 Desember 2018 het finaal bewys dat die hersonering van Erf 602 tot restaurant vir ons en die ander inwoners in die omgewing ‘n baie groot ramp sal wees.” (sic)

Applicant’s response

The noise levels which the objector bemoans regarding what occurred on 5 December 2018 is not a reflection of the daily noise levels which occur in Pearly Beach.

Town Planner’s response

The application property constitutes a commercial property situated within a commercial node in Pearly Beach. Alcohol related noise, save for the isolated incident, could not in the past impacted the objector, since the application property is still vacant. It is thus assumed that the alleged impact relates from other establishments in the surrounding area operating on the basis of a bar / pub, which is not representative from the application under consideration comprising a restaurant and sale of liquor for off-site consumption. It is also not reasonable from the objectors’ point of view to expect total peace and quiet outside normal office hours due to the location of their properties adjacent to a business node.

Unique Situation**Point of objection**

“Ons het verder hier te doen met 'n unieke situasie, naamlik 'n residensiële area met 'n fynbos reservaat en in familie-speelparkie reg by die nuwe kroeg (voorheen “Die Rooibier”), 'n restaurant/kroeg, nl. Stasie 7 en die Pearly Beach klub wat ook 'n restaurant/kroeg is. Ons het hier dus reeds drie (3) persele met dranklisensies so naby mekaar, wat dit reeds soveel keer in die verlede vir die inwoners en vakansiegangers baie moeilik gemaak het vanweë onsosiale gedrag wat gepaardgaan met alkohol verbruik. Wie sou nou kon dink dat dranklisensies toegestaan sou word aan besighede op industriële erwe omring van residensiële ewe en 'n woonstelblok? En dit alles binne stapafstand van die dorp se kerkgebou.” (sic)

Applicant’s response

The subject property is zoned for commercial purposes and surrounded by other commercial properties. The consent use application for a restaurant and the sale of alcoholic beverages is merely to expand the existing commercial rights on the subject property. The genteel clients who will visit the subject restaurant are not projected to be a nuisance to the public as in the same manner as guests to other establishments which the objector quotes.

Town Planner's response

It should be noted that the playpark and fynbos reserve are situated on an Authority Zone erf and not a nature reserve as per the impression of the objector. The subject property is situated within a commercial node and not an industrial node as per the objection. Lastly, there is no relevance between the existence of a restaurant/brewery with a liquor license and the existence of the play park as play areas for children are usually provided and used by visitors and young children.

Point of objection

“Ons vertrou dat u uit die bogenoemde duidelik sal kan sien dat die hersonering van Erf 602 tot 'n restaurant en die toeken van 'n dranklisensie en die lisensie vir 'n bierbrouery, volgens ons, onder geen omstandighede oorweeg moet word nie.” After careful consideration we concluded to act against the removal of the restrictive title deed condition necessary to permit a proposed microbrewery. Kindly note that our objections against the usage of Erf 602 in excess of our requirement “THAT IT SHALL BE USED FOR SHOP PURPOSES ONLY.” (sic)

Applicant's response

The objector provides no substantive facts to support the objection made against the town planning application.

Town Planner's response

The applicant's comment is agreed with.

Residents in residential area affected by award of liquor license**Point of objection**

“Ons het op 20 Junie 2014 ingetrek in die huis te Erf 626, Langmarkstraat 5, Pearly Beach om hier ons kerklike bediening, “Kerugma Produksies”, voltyds te bedryf. Hierdie bediening behels meer as een aspek. Die belangrikste of hoof aspek is dat ons geestelike uitsaai programme wat onder andere deur SABC 2 uitgesaai word vervaardig. Die tweede aspek is dat ons oral in kerke bedien as gevolg waarvan ons mense hier ontvang vir geestelike berading.

As videograwe is ons albei ses (6) dae 'n week voltyds besig met die redigeer van hierdie programme. Die belangrikste komponent van so 'n produksie is die redigering van die klankbaan daarvan. Die beste video beteken niks as die klank daarvan swak is nie. Video-redigering kan 'n mens dus slegs doen in 'n stil omgewing waar daar geen agtergrond geruis is wat verhinder dat jy kan hoor waar wind-, verkeer- of ander geruis in die agtergrond in die beeldmateriaal is nie. Waar dit voorkom moet jy by herhaling baie fyn daarna luister ten einde dit doeltreffend te kan elimineer. Aangesien ons Pearly Beach deur die jare tydens vakansie tye leer ken het, het ons gereken dat dit die plek is waar ons ons werk elke dag tot 23:00 saans ongesteurd sou kon doen. Dit is verder ook waarom ons die eiendom te Langmarkstraat gekoop het, want dit is ver genoeg van die see af sodat die geruis van branders nie die klankredigering sou belemmer nie.

Verder wil ons u net herinner aan die bepaling in die Western Cape Liquor Act, 2008, (Beklemtoning vir u aandag deur ons aangebring):

“59 (5) The Liquor Licensing Tribunal may not grant an application referred to in subsection (4) unless it is satisfied on a balance of probabilities that the granting thereof -

- (a) is in the public interest; and*
- (b) does not prejudice -*
 - (i) the residents of a residential area;*
 - (ii) the residents of an institution for the aged or frail;*
 - (iii) the learners of an educational institution who are under the age of eighteen (18) years;*
 - (iv) the patients of an institution for drug or alcohol related dependencies; or (v) the congregants of a religious institution located in the vicinity of the licensed premises concerned.”*

Die speelpark en fynbos tuin reg oorkant Erf 602 wat bedoel is vir kinders onder 18 jaar oud, is beslis te naby aan Erf 602 waar drank nie net vervaardig gaan word nie, maar ook gebruik gaan word.

Die gebou van die NG Kerk is ook baie naby aan Erf 602.

Die feit dat erwe met besigheidsregte hier in die middel van 'n residensiële area geleë is, skep 'n geweldige probleem wanneer dranklisensies aan al die besighede toegeken word.

Dit sal die veiligheid van die mense in die omgewing bedreig. Die besighede wat reeds drank verkoop, het reeds tot gevolg dat mense laat in die nag met hulle motors deur die dorp jaag.” (sic)

Applicant's response

The objector is exercising the applicable primary right of operating a home occupation on the property which is zoned Residential Zone 1: Single Residential. The home occupation of the objector as highlighted in the objection operates until 23:00 in the evening.

The following land use parameters are applicable in terms of the Overstrand Municipality Zoning Scheme, 2013 (OMZS) for home occupations:

- “5.1.8.g: The hours of operation are restricted to 07:30 and 17:30 Monday to Friday and 07:30 to 13:00 on Saturdays.”

Considering the above, the operating hours of the objector are in contravention of the OMZS. Considering that restaurants which also sell liquor normally operate in full capacity after 17:30 on weekdays and on weekends, the objector therefore cannot complain that such operations would interfere with the home occupation of “Kerugma Produksies”, because it is not permissible for “Kerugma Produksies” to be in operation during those hours.

The premise of the objection is based on the assumption that the approval of the restaurant and brewery will lead to excessive noise which will interfere with the objector's comfort in the occupation of his property. Here are some facts which will put the objector at ease:

- The application is for a restaurant which serves meals, alcoholic and non-alcoholic beverages to seated genteel patrons and not for a bar, pub or tavern.
- The proposal is not for a place of entertainment which is characterised by ear shattering music which unreasonably keeps neighbours awake at night until the early hours of the morning.

The objection to the town planning application is therefore premised on the incorrect assumption that the approval and implementation of this proposal will interfere with the tranquillity which the objector enjoys in the neighbourhood which is incorrect.

- ❖ The property across the subject property is not zoned as an Open Space: Public Open Space, but zoned as Authority Zone: Authority Usage which is contrary to the assertion of the objector. Just because children allegedly play there, the intention of the subject property in terms of the municipal zoning map was never for it to function as a park.
- ❖ There is no church building near the subject property.
- ❖ With reference to the zoning plan which was submitted with the town planning application, the subject property is surrounded by properties which are zoned Business Zone 3: Local Business, Authority Zone: Authority Usage, Transport Zone 2: Transport Usage and not Residential Zone 1: Single Residential as asserted by the objector.

The poor driving skills of people who drive above the permissible speed limit are not a reflection on the desirability of this proposed liquor license.

Town Planner's response

The objectors' response is agreed with, save for the comment with reference to the location of the church, which is situated more than 400m south east of the application property on the opposite (south eastern side) of Main Road, Pearly Beach.

Objections pertaining to the economic impact of this proposal

Point of objection

“Die motivering deur die aansoeker dat nege (9) addisionele poste geskep sal word, klink vergesog, aangesien die huidige restaurante met kroeë wat hier te Pearly Beach bedryf word, slegs gebruik maak van twee (2) tot drie (3) addisionele werkers.” (sic)

Applicant's response

The fact that the subject restaurant will have a brewing component, labour required is significantly more than for restaurants which do not have a brewing component

Town Planner's response

The applicant's comment is noted and agreed with.

Point of objection

“Die motivering van die eenaar van Erf 602 wat ons ontvang het, meld dat die beperking van die Titelakte uitgedien is, en dat dit ekonomiese groei van Pearly Beach belemmer. Ons is egter van mening dat omdat die eenaar, na die beste van ons wete, nie in die woongebied van Pearly Beach self woonagtig is nie, hy nie hieroor 'n ingeligte mening kan vorm nie. Daar is op die oomblik reeds Twee (2) restaurante/pubs en een (1) kroeg in die onmiddellike omgewing van Erf 602. Behalwe gedurende die Desember vakansie is hulle nie eers elke aand van die week oop nie. Die redenasie dat nog 'n restaurant en bierbrouery die ekonomiese groei van die omgewing sal stimuleer dra, wat ons betref, geen gewig nie.” (sic)

Applicant's response

The financial viability of the restaurant is determined by the quality of service and food which are offered to clients. This by implication means that number of guests who visit a restaurant and the frequency of the guests are determined by service and quality of food. Considering that the service and quality of food which will be offered at the subject restaurant and existing restaurants and bars are different, the frequency rates of operation hours will be different. The above nullifies the predictions made by the objector regarding the viability of the subject restaurant.

Town Planner's response

The opinion is held that the proposal will contribute to the economic viability of the town, promote tourism and in doing so provide employment opportunities in a town currently with limited employment opportunities. It is a fact that the tourism / business sector plays a fundamental role in this regard and as such the opinion is held that the removal of the restrictive title condition will be indeed beneficial.

Point of objection

“Ons het hier in Pearly Beach byvoorbeeld mense uit Engeland leer ken wat jaarliks hier kom vakansie hou. Hulle kom juis hierheen omdat dit 'n stil kusedorp is, weg van die gejaag en geraas van die stad. Niemand wat in die Cederberge gaan vakansie hou, soek restaurante en kroë daar nie. Mense gaan daarheen vir ander redes, redes uniek aan die Cederberge. Dieselfde geld vir Pearly Beach wat bekend is vir sy ongerepte skoon strande, hengelgeleenthede en absolute rustigheid. Die stilte is wat mense trek - dit is waaroor dit hier gaan. Om nou hier in Pearly Beach die restaurante en brouerye van die stad te kom vestig, sal juis hierdie unieke karakter van die dorp vernietig. Die mense van Pearly Beach en die toeriste wat hierheen kom, geniet die rustigheid en stilte. Hier is geen natuurlike hawe waarvandaan bote kan uitgaan om walvisse te kyk nie. Walviskykers gebruik die vele huise wat te huur is regdeur die jaar om walvisse te kyk. Dit is dus onwaar dat toerisme bevorder sal word deur die bierbrouery. Dit is juis in sterk kontras met die huidige karakter van die dorp. Die inwoners van Pearly Beach is mense wat juis die keuse gemaak het om nie industriële werksaamhede te ervaar nie. Dieselfde geld vir die toeriste.” (sic)

Applicant's response

The proposed restaurant and brewery are very small and will not attract large crowds of people as asserted by the objector. The quiet ambiance and character of Pearly

Beach will therefore be maintained in the current form as valued by the objector if this application is approved and implemented.

Town Planner's response

The applicant's comment is noted and agreed with.

Point of objection

"Sedert ons hier bly was daar al 'n hele verskeidenheid pogings om die perseel van Erf 602 as wegneemete plek of as restaurant en selfs 'n koffiekamer te bedryf, ook tot laat saans. Dit was alles geheel en al onsuksesvol." (sic)

Applicant's response

The failure of the previous property owner to operate a restaurant should not be seen as reflecting on the ability of the prospective property owner to operate a restaurant. Restaurant managers have different managerial skills which ultimately determine if a restaurant will be successful or not.

Town Planner's response

The applicant's comment is noted and agreed with.

Objection pertaining to other outlets which sell liquor.

Point of objection

"Die ondervinding met Stasie 7 (kroeg/restaurant) en die Hengelklub (kroeg/restaurant) wat albei baie naby geleë is, asook Rooibier wat verkoop is en nou deur die nuwe eienaar as n kroeg/restaurant bedryf word, is dat mense onder die invloed van drank, laat aand 'n geweldige lawaai opskop wat rusverstorend is. Bande wat skreeu en merke op die grondpad wys dikwels die volgende dag die besoekers se wyse van bestuur. Pearly Beach beskik ongelukkig nie oor 'n polisie stasie nie" (sic)

Applicant's response

The proposed family restaurant is not projected to attract the profile of clients who go to "Stasie 7", "Hengelklub" and "Rooibier". The behaviour of the future guests of the subject establishment is projected to be orderly and considerate to the land use rights which are enjoyed by the surrounding property owners.

The police did have an opportunity to comment on the submitted liquor license application and the comments regarding the proposal were positive. In the highly unlikely event that some noise does emanate from the subject property, the objector can contact the police to put an end to noise on the subject property to obtain the appropriate relief.

Town Planner's response

The applicant's comment is noted and agreed with.

Point of objection

“Daar het ook nou in die huidige jaar (2018) n nuwe restaurant in Pearly Beach oopgemaak (nl. Die Fynbos Deck Restaurant) waarvoor ook nou 'n dranklisensie uitgereik is.” (sic)

Applicant's response

Messrs WRAP Consultancy compiled and submitted the application for the new restaurant which the objector refers to.

Town Planner's response

The objectors' comment is noted. The new restaurant (“Fynbos Dek”) comprises a family friendly establishment that to date did not have any complaints with reference to the behaviour of patrons.

Point of objection

“Ongelukkig moet ons sê dat ons sedert ons intrek te Langmarkstraat 5, juis weens sekere alkoholverwante faktore, wreed in hierdie verwagting ontnugter is. Volgens ons ondervinding was dit nie altyd die geval nie, maar sedert ons hier bly is die kroeg en restaurant (Die Rooibier) vele aande tot in die vroeë oggendure en selfs Sondag middag verskriklik aan die lawaai.” (sic)

Applicant's response

The intention of the applicant is to establish a classy venue where families can come and enjoy a decent meal with craft beer as well as soft drinks. There are currently not enough family establishments in Pearly Beach where a family can enjoy a decent outing. The proposed licenced premises are therefore not projected to operate the same way as “Die Rooibier”, which the objectors bemoan. There will also be no loud music played at the subject restaurant. It is therefore unreasonable for the owner of the subject restaurant to be put under the same umbrella by the alleged concerning behaviour of patrons at “Die Rooibier”.

The statement that two (2) outlets which sell alcohol allegedly have ear shattering noise emanating from the premises on an occasional basis should not reflect on the general desirability of this proposed removal of restrictive title deed condition and consent use. This is because the management of this proposed outlet intend to ensure that all operations in the sale of liquor are sensitive to the rights which neighbours enjoy in the comfort of occupation of their properties. When the objector was disturbed by the alleged noise which emanated from the two (2) outlets, it is the responsibility of the objector to either contact the SAPS to bring order in calm amidst the alleged noise.

The manager who will be present when liquor is sold on the premises is committed towards running an orderly establishment which will ensure that visitors do not make noise which is ear shattering to neighbours. In the highly unlikely event that noise emanates from the subject property and reaches unacceptable levels, the public has recourse of contacting the SAPS to bring the situation under control.

Town Planner's response

The objectors' comment is noted and agreed with. Also, the town planning office to date did not receive any complaints with reference to the alleged behaviour of patrons of the establishments referred to by the objectors.

Point of objection

"Ons wil net noem dat al hierdie besware ook geld vir die persele wat reeds dranklisensies het. As dit moontlik is sou ons baie dankbaar wees as daardie dranklisensies teruggetrek kan word." (sic)

Applicant's response

The objectors are using the public participation process of the submitted town planning application to object to the existing places which sell liquor in Pearly Beach is not procedurally correct. Considering that most of the objections pertain primarily to the existing establishments which sell liquor in Pearly Beach, the applicability of these objections to the submitted town planning application can therefore be nullified.

Town Planner's response

The objection do not relate to the merit of the application under consideration, namely a restaurant with a micro-brewery aiming to provide a family friendly facility.

8. MUNICIPAL ASSESSMENT OF COMMENTS

N/A

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

N/A

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 approval and implementation of 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.

Spatial sustainability

The subject property is located in a mixed use urban environment and intended to contribute to allowing a functional space economy. The proposal does not transgress environmentally sensitive, biodiversity rich areas or viable agricultural land.

Efficiency

The proposal entails the optimal use of the property.

Spatial Resilience

The proposal is consistent with the SDF, OGMS, IDP and PSDF, which policy documents 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, OGMS and IDF.

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 on the basis of availability and capacity of services.

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

Environmental Management Services confirmed that the proposal does not trigger NEMA.

The proposed rezoning does not trigger the requirements of Section 38 of the National Heritage Resources Act, whilst the development on the property is not older than 60 years.

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. The proposed restaurant and sale of alcoholic beverages are provided for in the Scheme Regulations as consent uses, therefore the application for consideration.

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

The owner will benefit financially due to the income generated through the proposed development of the property in terms of the Zoning Scheme, which is less restrictive than the Title Deed. 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 of the restaurant and micro-brewery and sale of alcoholic beverages.

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

The only social benefit for the community should the restrictive condition remain in place is that sale of alcoholic beverages would not be permitted. The removal of the restrictive title condition would create employment possibilities, promotes tourism and economic development.

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. The no subdivision, coverage and building line restrictions will remain.

11. THE DESIRABILITY OF THE PROPOSAL**Existing forward planning for the area**

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 SDF, OGMS and IDF promote amongst others tourism and economic development as well as the protection of the natural and built environment. The proposed restaurant, micro-brewery and sale of alcoholic beverages (craft beers) are thus consistent with the forward planning vision of the area.

Character and amenity of the area

The subject property is situated in a commercial node comprising mixed land uses, (i.e. a shop, three (3) bar's / pub's in the vicinity of the subject property, first floor residential accommodation, flats and single residential properties) with more activity compared to a low density single residential neighbourhood. It is thus clear that the surrounding area has a mixed character. The proposal is therefore not considered to appear out of keeping with the character of the surrounding area.

The applicant motivates the proposed restaurant / micro-brewery to be family friendly. The proposal does not entail a place of entertainment where live music / games is played, nor is it the intention to create a bar or tavern, which generally

attracts a different clientele and potentially has a greater impact on the surrounding area. The restaurant will attract families and its location in a commercial node is not considered to be incompatible with the surrounding land uses or to unacceptably detract from the amenity of the area.

Access and Parking

The proposal provides eight (8) on-site parking bays and manoeuvring in accordance with the requirements of the Scheme Regulations. The applicant submitted detail of vehicle manoeuvring, which is considered to be acceptable by the Engineering Services Department.

Municipal Services

The opinion is held that the proposal will not have a significant impact on municipal services, 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.

The proposed micro-brewery is catered for under the definition of a shop provided that the manufacturing component does not exceed 50% of the floor area of the building. The Title Deed contains a shop only restriction; hence the application for the removal of restrictive title conditions to permit a micro-brewery. The relevant condition that will be removed as per Title Deed T61368/2017 is as follows:

“C. 4. 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 Scheme Regulations that is less restrictive. The proposal is to create a family friendly restaurant and not a bar, tavern or place of entertainment. The proposed micro-brewery due to the limited scale is not considered an industrial activity and could be accommodated within the existing building. 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.

12. RECOMMENDATION

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;
 - (b) that provision be made for on-site parking in accordance with the Site Development Plan appended to the application;
 - (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 (attached as Annexure G), be complied with;
 - (k) that the requirements of Fire Services and Telkom (attached as Annexures H and I), 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.

12. 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.

13. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Title Deed T61368/2017
Annexure E:	Objections received
Annexure F:	Comment on objections
Annexure G:	Services Report
Annexure H:	Comment: Fire Services
Annexure I:	Comment: Telkom

SIGNATURES

REGISTERED PLANNER


Name : **SW VAN DER MERWE**

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

Signature : _____

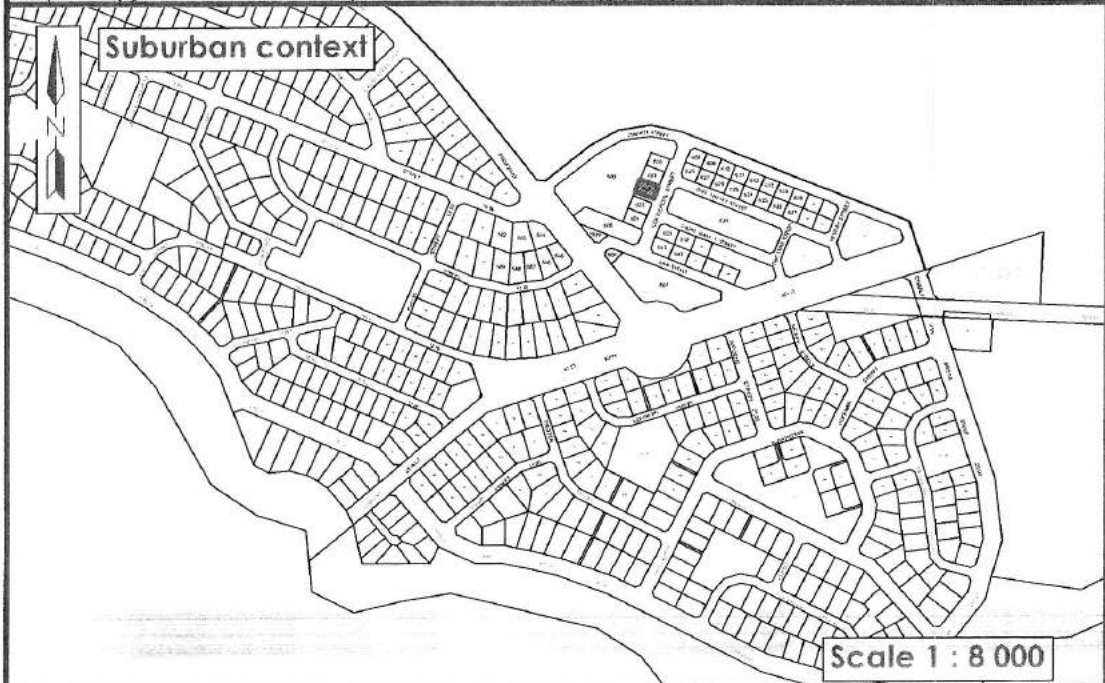
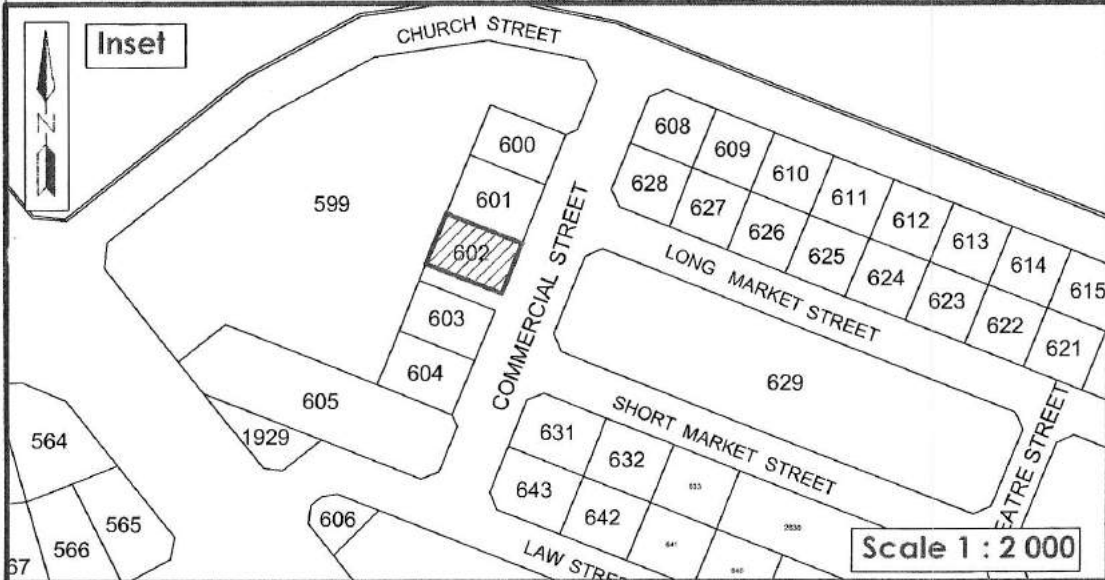
Date: _____

Plan 1: Locality Plan Erf 602 Pearly Beach

 Subject property (535m²)

Plan prepared by: Reatlehle Jankie

All distances are approximate
and subject to a survey



WRAP

EXECUTIVE SUMMARY

2. ABBREVIATIONS

OMZS	Overstrand Municipality Zoning Scheme, 2013
SDF	Overstrand Municipality Spatial Development Framework, 2006
OM	Overstrand Municipality
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
IDF	Integrated Development Framework
DEADP	Western Cape Department of Environmental Affairs and Development Planning
SDP	Site Development Plan

3. KEY TERMINOLOGY

Restrictive title deed conditions	These are conditions contained in the title deed which prohibit several land-uses and developments on the applicable property.
Consent use	The use of a property for any purpose specified as a consent use in the OMZS provided that the Council grants its prior written consent.
Urban fabric	The physical aspect of an urban area, emphasizing building types, land uses, thoroughfares, open space, frontages, and streetscapes but excluding environmental, functional, economic and sociocultural aspects.

4. SUMMARY OF PROPERTY DETAILS

Applicant	WRAP (Wright Approach Consultancy)
Registered owner	Steady Grow Trading 33 CC
Erf number	602
Suburb	Pearly Beach
Property extent	535m ²
Building footprint	250m ²
Title deed	T61368/2017
Restrictive title deed conditions	C(4)(b)
Applicable zoning scheme	OMZS
Current zoning	Local Business Zone 3: Local Business (B3)
Permissible primary uses on B3	Shops, flats (above ground floor), offices
Current land use	Business premises which is not utilised.

WRAP

File 17/93

Erf 602 Pearly Beach

August 2018

Amended September 2018

Page 8

WRAP

EXECUTIVE SUMMARY

5. BACKGROUND

The owner purchased the subject property in 2017 with the intention to establish a restaurant and a micro-brewery. This proposal is for the owner of the subject property to obtain the appropriate land use rights to operate a restaurant and a micro-brewery on the premises.

6. PROPOSAL

The building on the subject property is ideally located to the rear of the erf boundary which leaves ample space closer to the street boundary which can be used for parking purposes. For the owner of the subject property to have the appropriate land use rights in place to operate a restaurant and micro-brewery, the following is proposed:

Proposal	Rational
<p>1. Removal of the following restrictive title deed condition: Condition C.4(b) <i>"it shall be used for shop purposes only."</i></p>	<p>This title deed condition is outdated and does not respond to the development pressures which are experienced in Pearly Beach. The reasoning for the removal of this restrictive title deed condition will be elucidated in Section 9 of this report.</p>
<p>2. Consent use for a restaurant The OMZS provides the following definition for a restaurant: <i>"restaurant means a licensed business in which mainly meals and beverages are primarily sold to seated patrons and includes the on-site consumption of liquor but does not include premises used exclusively as a bar, a pub or tavern."</i></p>	<p>The subject restaurant will serve patrons who are seated meals and alcoholic beverages for on consumption (subject to the approval of the liquor license). This proposal therefore complies with the definition of a restaurant.</p>

This proposal is sensitive to the surrounding locational context and the following benefits will be derived with the approval and implementation of this proposal:

- i. Will contribute to the process of enhancing the built environment in Pearly Beach through the renovations which will occur on the subject property;
- ii. Will increase the number of social amenities in the neighbourhood; and
- iii. Will contribute to the enhancement of the tourism value of the area.

The subject property will also house a micro-brewery which constitutes 42m² and constitutes 16,8% of the floor area on the subject property. A shop is a primary right on the subject property and the definition for a shop in terms of the OMZS is the following:

"Shop" means a property or part of a property used for the retail sale of goods, items and services to the public, including a retail concern where goods which are sold are

WRAP

File 17/93
Erf 602 Pearly Beach
August 2018
Amended September 2018
Page 9

manufactured and repaired; provided that the floor space relating to such manufacture or repair shall not exceed 50% of the floor space of the shop; "shop" does not include, service trade, motor repair garage, service station, restaurant, adult entertainment business or sale of alcoholic beverages, and if such uses are included on the property they shall be regarded as separate uses subject to such separate development rules as may be determined by Council;"

The proposed micro-brewery entails the brewing/manufacturing of alcohol on the subject site for which a micro-manufacturers liquor licence will be obtained and only constitutes 16.8% of the floor space. This is a primary right in terms of the definition of a shop. The alcohol which will be brewed on the subject premises is intended to be sold to patrons at the restaurant as well as other establishments which want to purchase the alcohol. The definition of a shop prevents the sale of alcoholic beverages on the subject property. A consent use for the sale of alcoholic beverages is proposed to allow the property owner to sell the alcohol which will be manufactured on the subject property.

7. ENTERPRISE SPECIFICS

The fittings envisaged for the food preparation area will be ceramic tiles serving and prepping pizza's and stainless-steel tops in kitchen area for initial prep work. Floors in kitchen area will be tiled with splash back tiles, windows and sliding doors are aluminium with glass windows. The ceiling in kitchen area will be normal ceiling board, customer seated area will be painted floors with open "rafter type" ceilings. Light fittings will be fluorescent and LED.

Herewith is the number of staff members which will be employed, should this proposal be approved and implemented:

- Chef's x 2 (one Pizza and one burger);
- Waiters x 2;
- Serving counter barman x 1;
- Brewers assistant x 1;
- Driver and delivery x 1;
- Opportunity to 1 self-motivated person to outsource a Pizza delivery service; and
- One farm laborer to grow fresh produce for restaurant.

This proposal is not for a pub, bar, tavern or place of entertainment as such land uses can potentially contribute to attracting undesirable elements to the subject property who could potentially make noise. This would unacceptably disrupt the ability of surrounding property owners in the enjoyment of existing land use rights.

Items which will be served at the subject establishment will include soft drinks expresso coffees, cakes and meals in the form of pizzas, burgers and pot of the day. Alcohol will also be served, such as craft beer, craft gins, selection of local wines with ports, but not the "brandy and coke" style. The proposed restaurant is intended to function as an up-market family restaurant which is projected to exclusively attract genteel guests and families who will contribute to the enhancement of the general ambience in Pearly Beach.

8. URBAN FABRIC

A plan showing the urban fabric of Pearly Beach within the immediate surrounding of the subject property is attached as **Plan 4**.

Plan 4 shows that there are three restaurant/pubs within a 200 m radius from the subject property. The approval and implementation of this proposal would therefore be in harmony with the prevailing commercial land uses in the area.

The zoning plan (refer to **Plan 2**) reveals that the zonings which surround the subject property range from residential, business and authority. The part of Pearly Beach as depicted on the zoning plan is therefore characterised by a diversity of zonings/land uses which are clustered together in a very complementary manner. The approval and implementation of this proposal will not alter the prevailing building types, land uses, thoroughfares, open spaces, frontages and streetscape which are valued by the residents of Pearly Beach.

9. TITLE DEED CONDITION PROPOSED FOR REMOVAL

Title deed restriction	<ul style="list-style-type: none"> • Condition C.4 (b) "it shall be used for shop purposes only."
Motivation	<p>The removal of restrictive title deed condition is necessary to permit the proposed microbrewery.</p> <p>Background The insertion of this restrictive title deed condition occurred in 1934 when the most prominent commercial enterprises were shops which had an exclusively local customer base.</p> <p>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.</p>

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.

WRAP

MOTIVATION

(a) The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the personas of the owner of a dominant tenement.	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 benefit; The owner of the subject property will be able to operate a restaurant on the property and contribute to economic growth in Pearly Beach.
(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.	Herewith are the social benefits; <ul style="list-style-type: none"> • Promote an enhanced sense of interaction in Pearly Beach which will subsequently increase the closeness and bond among community members; and • Contribute to increasing rates and taxed in the OM which will increase the amount of money available for service delivery; and • Employ 9 staff members who are currently unemployed.
(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.

10. ZONING

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

Business Zone 3: Local Business (B3)			
	Parameters	Proposal	Comply/ deviate
Primary use	shops, flats (above ground floor), offices	N/A	N/A

WRAP

File 17/93
Erf 602 Pearly Beach
August 2018
Amended September 2018
Page 12

WRAP		MOTIVATION	
Consent use	bottle store, business premises, clinic, conference facility, flats (on ground floor), town housing, guest house, hotel, informal trading, institution, place of assembly, place of entertainment, place of instruction, place of worship, recreational facilities, residential building, restaurant , rooftop base station, sale of alcoholic beverages, service station, service trade, transmission tower.	Restaurant	Applied for
Land Use Restrictions			
Coverage	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 subject Erf is 535m ² and the building is 250m ² which equals a coverage of 46,72%	Comply
Floor factor	The maximum floor factor is 1.5		Comply
Height	(i) The maximum height of a building measured from the base level to the top of the roof is 8,5 m; (ii) The maximum number of storeys is 2; and (iii) Earth banks and retaining structures shall comply with 16.6.	(i)The height is below 8,5m; (ii) There is only one storey; and (iii) Comply	Comply
Setback	(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.	(i) This is subject to the discretion of Council; (ii) This is subject to the discretion of Council; and (iii) This is subject to the discretion of Council.	Comply
Building lines	(i) The street building line is 0 m; provided that a 3,5 m building	(i) 13m from the street boundary;	Comply

WRAP

MOTIVATION

	<p>line applies where fuel pumps are erected;</p> <p>(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;</p> <p>(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;</p> <p>(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</p> <p>(v) The building line exemptions in 16.1 apply.</p>	<p>(ii) 0m from the side boundary;</p> <p>(iii) 0m from the rear boundary;</p> <p>(iv) This is subject to the discretion of Council.</p> <p>(v) Comply</p>	
Window and door placement	<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</p> <p>(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, together with such additional length of wall as is required to make up a total of 3,0 m.</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</p> <p>(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>	Comply
Parking and access	<p>Parking and access shall be provided on the land unit in accordance with 17.1.</p> <p>Restaurants 6 bays per 100m² of GLA</p> <p>GLA is defined as follows:</p>	<p>The GLA on the property is 165m² which requires 10 parking bays and 10 parking bays are provided.</p>	Comply

WRAP

File 17/93
Erf 602 Pearly Beach
August 2018
Amended September 2018
Page 14

WRAP	MOTIVATION		
	<p>"Gross leasable area" means the area of a building designed for, or capable of, occupancy and control by owners or tenants, measured from the centre line of the joint partitions to the inside finished surface of the outside walls, and shall exclude the following:</p> <p>(i) All exclusions from the definition of floor space;</p> <p>(ii) Toilets;</p> <p>(iii) Lift shafts, service ducts, vertical penetrations of floors;</p> <p>(iv) Lift motor rooms and rooms for other mechanical equipment required for the proper functioning of the building; and</p> <p>(v) Interior parking and loading bays.</p>		
Loading Bays	Loading bays must be provided on the land unit in accordance with 17.2.	Not applicable as the GLA of the restaurant is below 500m ² .	Comply
Screening	<p>(i) The Council may require screening in accordance with 16.7; and</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>(i) This is subject to the discretion of Council;</p> <p>(ii) This is subject to the discretion of Council;</p>	Comply
Site development plan	Council may require that a site development plan be submitted for approval in accordance with 16.3.	An SDP which complies with 16.3 is submitted with the application.	Comply

11. SERVICES

11.1 Electricity

The subject building is connected to the existing electricity network in the area.

11.2 Water

The subject building is connected to the existing water network in the area.

11.3 Sewage

The subject building has a functional septic tank.

WRAP

MOTIVATION

11.4 Access and egress

Access can be gained via Commercial Street.

12. DESIRABILITY

DEADP issued the "Provincial support document on Relevant Considerations 2015" which should be considered before the Municipality makes a decision. The desirability guideline in the document will be used to assess the desirability of the approval and implementation of this proposal.

Element consideration	for	Motivation of the impact of the approval and implementation of this proposal.
Economic impact		This proposed change in land use is projected to have a positive economic impact in Pearly Beach as a minimum of 8 employment opportunities will be created on the subject property and therefore improve the livelihood of some residents.
Social impact		This proposal is aimed at attaining greater access to opportunities for the community as well as providing additional area for leisure for a family which would like to enjoy meals and beverages on the subject site. This is in harmony with the settlement restructuring process which promotes development proposals which have a positive social impact.
Scale of the capital investment		The property owner intends to invest approximately R2 million in the proposed development on the subject property. This is to refurbish the property to make it aesthetically appealing for the public which will have a positive impact on the neighbourhood.
Compatibility with surrounding uses		The compatibility of this proposal with the surrounding land uses was elucidated in Section 8 of this report.
Impact on safety, health and wellbeing of the surrounding community;		The restaurant owner intends to operate a restaurant which complies with all prescribed health standards pertaining to the preparation and serving of food and will therefore not be a health hazard to customers and the public. The guests who will make use of the restaurant will add additional surveillance to the streetscape which will contribute to increasing the safety in Pearly Beach.
Impact on heritage		The subject property and the surrounding properties are not heritage sensitive and the approval of this proposal will therefore not alter that. The building plans for the subject property have already been approved and the status quo will therefore be maintained.
Whether the imposition of conditions can mitigate an adverse		The general concern which the public may have about this proposal is that a bar, tavern or place of entertainment may be operated on the subject property. Such land uses would unreasonably attract undesirable

WRAP

File 17/93
Erf 602 Pearly Beach
August 2018
Amended September 2018
Page 16

WRAP

MOTIVATION

Impact of the proposed land use	elements and lead to excessive noise which would unfairly infringe on the rights of surrounding property owners in the occupation of their land. This would also adversely detract from the vision that the property owner has for the subject enterprise to be a restaurant which serves families. No bar, tavern or place of entertainment will be operated from the subject premises.
Aspects which impact on quality of life (including views, sunlight, privacy, visual impact, character)	The existing subject building only has a ground floor. This will not in any way impact on the views, sunlight, privacy or have any visual impact on the character of the area. The approval and implementation of this proposal will also not have any cumulative impacts or unacceptable opportunity cost for the area.

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 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 proposal will therefore contribute to making tourists appreciate the scenic and cultural landscape which exists in Pearly Beach.

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.

Space economy

The urban coast economy in the Western Cape is cited as being greatly dependent on fishing and tourism. Pearly Beach functions as a very popular destination for fishing, leisure and commercial purposes. This proposed restaurant which is related to tourism

WRAP

File 17/93
Erf 602 Pearly Beach
August 2018
Amended September 2018
Page 17

is complementary to the urban coast economy and will contribute to the flourishing thereof.

IDF

The IDF addresses specific planning needs identified and not currently addressed within the existing spatial planning context. The integrated approach of the document therefore contributes to combatting the fragmentation within the legislative and policy environment of the Overstrand Municipality.

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

Tourism and lifestyle in the OM

The IDF cites that the OM has created a balance between growth and development while preserving the natural environment in the area which is cited as being integral to the character of the area. This proposal is aligned with the prevailing urban built form of Pearly Beach and does not encroach on any natural environments in the area and will contribute to the preservation of the current urban form/urban fabric prevalent in the area.

Whale watching

Hermanus is cited in the IDF as being known as being the best land-based whale watching destination in the world which enhances the reputation of the town. The guests who will visit the subject property will also have an opportunity to watch whales at the coast at Pearly Beach and spread a positive word of mouth at the areas of origin about whale watching in the area.

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.

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 allocating the appropriate land use rights for a restaurant and refurbishing the subject premises.

Promote tourism based on the ecological value of the region

Pearly Beach is characterised by a diversity of complementary natural systems and ecological value. The guest 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.



WRAP

MOTIVATION

Promote Pearly Beach as a tourism village

The proposed restaurant is projected to attract a variety of people from different 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.

OMGMS

The purpose of the Growth Management Strategy is to improve the Overstrand Municipalities' overall environmental sustainability by enhancing the quality and efficiency of the built environment. It will be outlined how the proposed development will contribute towards the aims and objectives of this strategy.

Enhance the built environment

The OMGMS highlights that the built environment and landscapes in Hermanus should be enhanced and well managed. The owner of the subject property has instituted a process to refurbish the subject property to enhance the visual look of the subject property to the benefit of the guests who will visit the subject enterprise. The property owners will also ensure that the subject enterprise is well managed.

Mixed land uses

The development of cities which are characterised by mixed land uses are cited as providing for vitality, opportunities and integrated living environments and are to be promoted. This proposal is contextually appropriate within a mixed-use environment characterised by residential and commercial enterprises.

Optimal land use planning

The OMGMS promotes optimal land use planning through the efficient use of services and land. This proposal is intended to make use of the existing urban infrastructure on the property, within the services capacity limits of the area to the benefit of the tourists.

Spatial Proposal Plan

The subject property is earmarked for residential purposes with a density of more than 30 dwelling units per hectare. The subject property already has a commercial zoning and the proposed consent use does not result in the change of zoning on the premises and does not require a deviation from the OMGMS.

Consistency with the various planning principles

The analysis of the spatial planning documents 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, IDF, SDF and OMGMS can be deemed as encompassing the core objectives of planning as set out in the documents.



WRAP

File 17/93
Erf 602 Pearly Beach
August 2018
Amended September 2018
Page 19

WRAPMOTIVATION

14. COMMON LAW

In terms of common law, a restaurant owner may not use his land in a manner which would interfere with the rights of others (*sic utere tuo ut alienum non laedas*). In other words, an application can become a nuisance when the implementation thereof is projected to reasonably interfere with the neighbour or public's welling, health and comfort in the occupation of land. An objector should however illustrate that he/she is not oversensitive.

The test of reasonableness becomes applicable. The question which would be posed is that, would a reasonable person or the public be of the opinion that a small restaurant which is located on land which is zoned for commercial purposes within a commercial precinct in the area which is compliant with different policies and guidelines tolerate the proposed land use. Would the health, wellbeing and comfort in the occupation of the neighbour or public be compromised should this application be approved and implemented. The subject restaurant is of a small scale and contextually appropriate. The subject proposal is not for a place of entertainment which would lead to the emission of ear shattering cacophonous sounds which would unreasonably be a huge discomfort to the neighbours in the occupation of their land.

WRAP

File 17/93
Erf 602 Pearly Beach
August 2018
Amended September 2018
Page 20

15. 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 subject restaurant 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 subject property is ideally located within a contextually appropriate mixed-use environment and is intended to contribute to allowing a functional space economy in Pearly Beach. This proposal does not entail the encroachment on environmentally sensitive, biodiversity rich areas or agriculturally viable land. The approval and implementation of this proposal will therefore contribute to a more spatially sustainable urban landscape in Pearly Beach.

Efficiency

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

Spatial Resilience

The PSDF, IDF, SDF and OMGMS have policy proposals which pertain to the subject property promoting spatial resilience. This proposal is aligned with these policy proposals as elucidated in Section 15 of this report. The approval and implementation of this proposal therefore promotes spatial resilience.

Good Administration

The OM has a very good track record of promoting integrated, consultative planning practices with all spheres of government and interested and affected parties to ensure that a joint planning approach is attained through this proposal. The consultative planning approach will also be applied with this application and the comments from the public will be taken into consideration and handled with sensitivity. This is intended to ensure that good administration prevails until the subject application is finalised.

WRAP

EVALUATION AND RECOMMENDATION

16. EVALUATION

Application

Removal of restrictive title deed condition C.4 (b) and consent use for a restaurant and sale of alcoholic beverages.

Urban fabric

The approval and implantation of this proposal is aligned with the prevailing urban fabric in Pearly Beach.

Removal of title deed restrictions

The following title deed is proposed for removal:

Condition C.4 (b) "it shall be used for shop purposes only."

The removal of this restrictive title deed condition will lead have a variety of benefits for the community of Pearly Beach as well as the owner of the subject property.

Zoning

- This application is for a consent use which is a restaurant;
- The permissible coverage is 75% and the coverage of the existing building is 46,72%;
- The height, setback and prescribed building lines are complied with;
- There are 10 parking bays required and 10 bays are provided; and
- There are no loading bays provided on site.

Services

Policy	Motivation	Availability Yes or No
Electricity	The subject building is connected to the existing electricity network in the area.	<u>Yes</u>
Water	The subject building is connected to the existing water network in the area.	<u>Yes</u>
Sewage	The subject building is connected to the existing sewage network in the area.	<u>Yes</u>
Access and egress	Access can be gained via Commercial Street.	<u>Yes</u>

Desirability

Element for consideration	Motivation	Impact Positive of Negative
Economic impact	Employment opportunities will be created on the subject property.	Positive
Social impact	Greater access to consumer items will be attained with the approval and implementation of this proposal.	Positive

WRAP

WRAP

EVALUATION AND RECOMMENDATION

Scale of the capital investment	Approximately R 2 million will be invested in the refurbishment of the subject property.	Positive
Impact on safety, health and wellbeing of the surrounding community;	The safety of residents will not be compromised and the and the increased people to the subject property will enhance surveillance.	Positive
Impact on heritage	The subject building is existing and is not heritage sensitive.	Positive
Whether the imposition of conditions can mitigate an adverse impact of the proposed land use	No bar, tavern, pub or place of entertainment will be operated from the subject property.	Positive

Spatial planning policies

Policy	Motivation	Compliance
PSDF	The approval and implementation of this proposal will achieve the following: <ul style="list-style-type: none"> • Promote Pearly Beach as a world class tourist destination; and • Unlock socio economic opportunities. 	Yes
IDF	The approval and implementation of this proposal will achieve the following: <ul style="list-style-type: none"> • Contribute to enhancing the tourism image of the OM; and • Encourage visitors to go whale watching. 	Yes
SDF	The approval and implementation of this proposal will result in the following: <ul style="list-style-type: none"> • Promote tourism based on the ecological value of Pearly Beach; and • Promote Pearly Beach as a tourism village. 	Yes
OMGMS	The approval and implementation of this proposal will result in the following: <ul style="list-style-type: none"> • Contribute to enhancing the built environment; • Enhance complementary mixed land uses; and • Promote optimal land use planning. 	Yes

Common law

The approval and implementation of this proposal is not projected to interfere with the land use rights or comfort in the occupation of reasonable neighbours in the occupation of their land.

Planning Principles

WRAP

File 17/93
Erf 602 Pearly Beach
August 2018
Page 23

WRAP

EVALUATION AND RECOMMENDATION

Planning Principle	Motivation	Compliance
Spatial Justice	The approval and implementation of this proposal will contribute to promoting a more spatially just urban landscape in Pearly Beach.	<u>Yes</u>
Spatial Sustainability	The proposal promotes spatial sustainability in a variety of dimensions.	<u>Yes</u>
Efficiency	The approval and implementation of this proposal promotes the optimal utilisation of resources on the subject property within the engineering services capacity limits.	<u>Yes</u>
Spatial Resilience	This proposal is aligned with the spatial resilience policy proposals for the subject site.	<u>Yes</u>
Good Administration	The subject proposal will be in harmony with the prescripts of the By-Law which promote good administration.	<u>Yes</u>

17. RECOMMENDATION

It has been motivated that this proposal blends in with the prevailing urban fabric of the area and will contribute towards improving the visual appearance of the property and neighbourhood.

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

- **Removal of title deed restriction** condition C.4 (b) from Title Deed T61368/2017 of Erf 602 Pearly Beach, in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015;
- **Consent** use for a restaurant in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015; and
- **Consent** use for the sale of alcoholic beverages in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015.

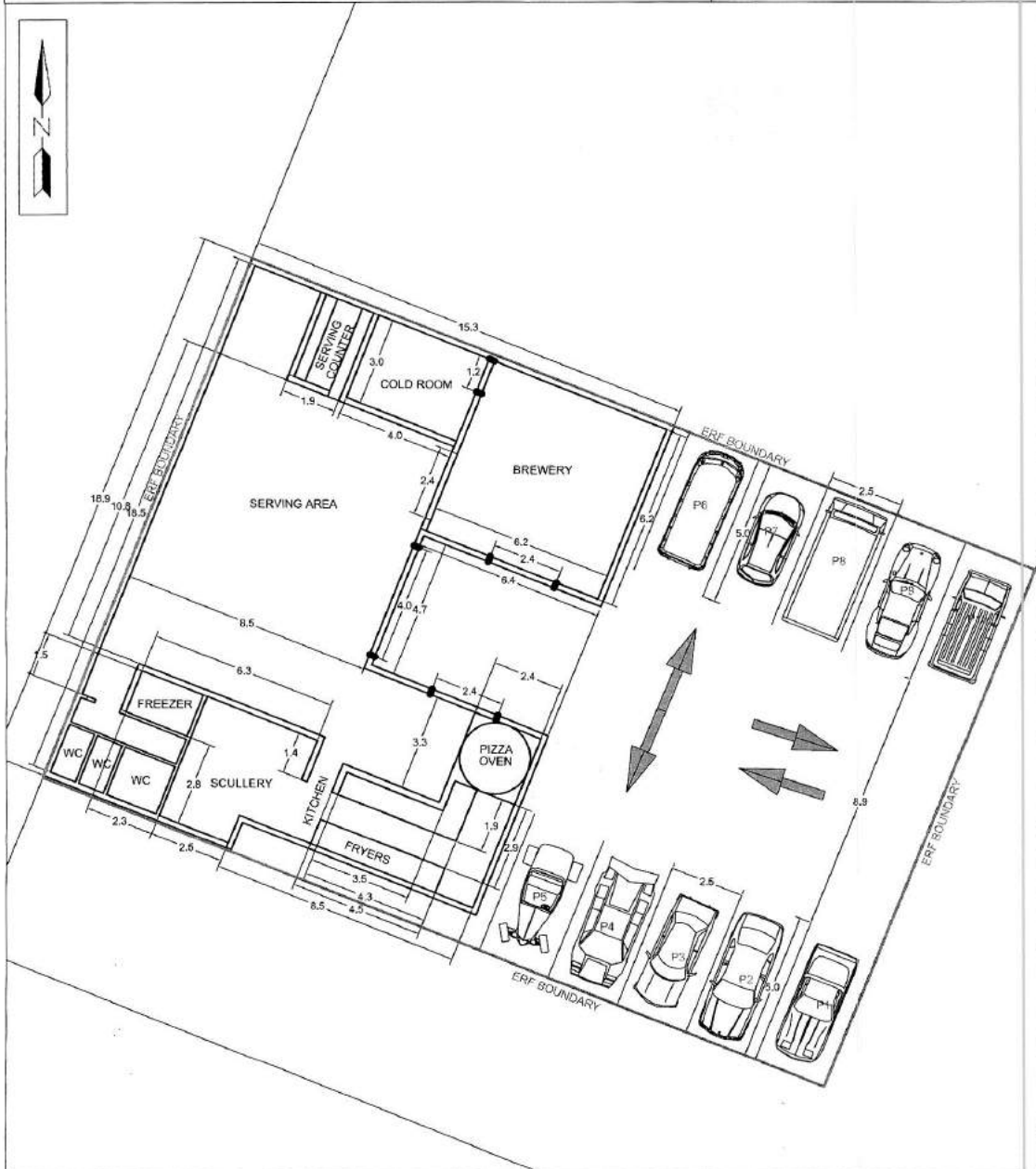
WRAP

Plan 3: Site Development Plan Erf 602 Pearly Beach

Scale 1 : 125 (Print in A3)

Plan prepared by: Reathhle Jankie

All distances are approximate
and subject to a survey



7

Fee and/or other amount	
Amount	R 580 00
Address	R 600 000 00
Area/Value	
LINDSAY & WATERS 54 BLAUWBERG ROAD TABLE VIEW 7441	
Reason for registration	Section 1 & 6
Col.	Section

Prepared by me

CONVEYANCER
CHARMAINE YVONNE LINDSAY

VERBIND	MORTGAGE
VIR FOR R	350 000 00
B 000027399 / 2017	
17 OCT 2017	

T 000061360 / 2017

DEED OF TRANSFER

DATA / CAPTURE
24 OCT 2017
YOLANDI OLIVIER

BE IT HEREBY MADE KNOWN THAT

~~PATRICIA MARY BARWISE~~ MAURITZ RYK HENDRIK BRIERS

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at Table View on 23 August 2017 granted to him by

WILLEM WENTZEL PRETORIUS
Identity Number 460709 5030 08 4
and
MARIE PRETORIUS
Identity Number 470529 0100 08 0
Married in community of property to each other

DATA / VERIFY
30 OCT 2017
FATGEYAH LARNEY

Short Convey 16.1.1.6

Page 2

And the appearer declared that his said principal had, on 30 July 2017, truly and legally sold by Private Treaty, and that he, the said Appearer, in his 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 602 PEARLY BEACH, IN THE OVERSTRAND MUNICIPALITY,
BREDASDORP DIVISION, WESTERN CAPE PROVINCE

IN EXTENT 535 (FIVE HUNDRED AND THIRTY FIVE) Square metres

FIRST TRANSFERRED by Deed of Transfer Number T 20421/1992 with
Diagram No. 758/1992 relating thereto and held by Deed of Transfer Number
T58582/2008

- A. **SUBJECT** to the conditions referred to in Deeds of Transfer Nos. T6412/1910 and T5397/1917.
- B. **NOT SUBJECT** to condition B. on page 2 of Deed of Transfer No. T58582/2008, by virtue of Section 53 of the Mining Titles Registration Amendment Act 24 of 2003.
- C. **SUBJECT FURTHER** to the following conditions contained in Deed of Transfer No. T20421/1992 imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance No. 33/1934 when approving the establishment 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 17th 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.

GhostConvey T6.1.1.6

^

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, fences, verandahs and balconies shall be erected nearer than 2,36m to the street line which forms a boundary of this erf.

Page 4

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

WILLEM WENTZEL PRETORIUS and MARIE PRETORIUS, Married as aforesaid

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

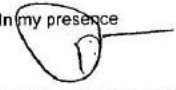
STEADY GROW TRADING 33 CC
Registration Number 2005/157247/23

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 R600 000,00 (SIX HUNDRED 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 17 October 2017

q.q.

In my presence


REGISTRAR OF DEEDS

TP-A Theart
(Svld merke)



U verw. 17/93

P G Germishuys

Mun verw. 602GPB(4157)

Posbus 1083, Gansbaai 7220

10 Desember 2018

Die Stadsbeplanner

Posbus 1248

HERMANUS 7200

ERF 602, PEARLY BEACH: AANSOEK VIR WEGDOENING / OPHEFFING VAN

BEPALENDE TITEL AKTE VOORWAARDES EN KONSENT GEBRUIK

1. Met verwysing na u bovermelde skrywe gedateer 22 November 2018, word hiermee as bewoner van erf 628 te Pearly Beach, ernstig beswaar aangeteken teen die wysiging van die titel akte ten opsigte van erf 602, Commercialstraat Pearly Beach.
2. Ek verwys ook graag na my skrywe van 12 September 2018, vir aandag Mnr. Schalk vd Merwe, waar beswaar aangeteken is teen die uitreiking van drank lisensie ingevolge art 33 (1) (a) en art 33 (1) (b) van die drankwet, vir die eienaar van erf 602, Pearly Beach.
3. Daar word ernstig beswaar gemaak teen die hersonering van erf 602 se titel akte, aangesien die bedryf van n bier brouery en restaurant 'n uiters nadelige effek op my as inwoner sal hê. My erf 628 is skuinsoor erf 602 geleë, ongeveer 30 meter ver. Daar is geen waarborg, soos in die aansoek uiteengesit, dat slegs beskaafde en deftige mense die restaurant/brouery sal besoek nie. En dit is algemeen bekend dat mense wat alkohol geneem het, se optrede en reaksies verskil van hoe hul optree wanneer hul sober is.
4. Die nuwe eienaar van erf 602 was daarvan bewus dat, toe hy die eiendom gekoop het in 2018, die eiendom bedryf was as n algemene handelaar/kafee en dat die erf ook gesoneer was vir dié doel (wat vir ons as inwoners aanvaarbaar was, synde dat dit bedryf was binne gewone besigheids ure).

FILE NO:	EL 602-GPB
SCAN NO:	GPB 602
COLLABORATOR NO:	1240373

TP
11 DEC 2018

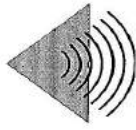
2

5. Die eienaar van erf 602 beplan in sy aansoek om 'n bier/gin brouery te open. 'n Bier brouery behoort in 'n industriële gebied opgerig te word. Die feit dat bier en gin gebrou en verwerk sal word op n perseel vir verkope aan die publiek, asook vir verspreiding na ander ondernemings, maak dat hierdie as 'n fabriek binne n residensiële area bedryf sal word – wat totaal onaanvaarbaar is. Die oplaai en aflaaai van bier en gin produkte vir verkope en verspreiding na ander besighede en plekke, sal geweldige verkeer meebring, wat vir ons as inwoners steurend sal wees. n Bier brouery behoort nie binne n residensiële area bedryf te word nie.
6. Daar was aansoek gedoen vir 2 tipes dranklisensies: art 33 (1) (a) en art 33 (1) (b) vir dieselfde perseel 602. Die vraag is hoe beheer uitgeoefen sal kan word om te voorkom dat alle soorte drank nie ook verkoop sal word vir gebruik buite die perseel nie.
7. Ingevolge die Wes Kaapse Nuwe Drankregulasies Art 34 (e) (1) mag drank lisensies nie uitgereik word waar die inwoners van 'n residensiële area benadeel sal word nie. (My woonhuis erf 628 is skuins oorkant erf 602).
8. Die ondervinding met Stasie 7 (kroeg/restaurant) en die Hengel Klub (kroeg/restaurant) wat albei baie naby geleë is, asook Rooi Bier wat verkoop is en nou deur die nuwe eienaar as n kroeg/restaurant bedryf word, is dat mense onder die invloed van drank, laat aand 'n geweldige lawaai opskop wat rusverstorend is. Bande wat skreeu en merke op die grondpad wys dikwels die volgende dag die besoekers se wyse van bestuur. Pearly Beach beskik ongelukkig nie oor 'n polisie stasie nie.
9. Laat middag op 5 Desember 2018 het n groep mense in die gebou te erf 602 'n geweldige lawaai opgeskop en dit het tot baie laat die aand geduur. Dit was baie steurend. As dit n voorsmaak is van wat op ons as inwoners wag, is dit absoluut onaanvaarbaar dat n bierbrouery en restaurant wat alkoholiese drank verkoop, bedryf sal word op erf 602.
10. Regoor erf 602 is n natuurtuin/speelpark vir publiek en kinders. Nog n sterk drank verkope-punt en bier brouery regoor die oop ruimte en park, sal beslis nie tot voordeel van die gemeenskap wees nie.

3

11. Die gebou waar Rooi Bier bedryf was (ongeveer 100 meter van my woning af), was aanvanklik as 'n algemene handelaar/kafee bedryf en later is 'n dranklisensie oorgedra. Die besigheid is ongeveer 2 maande terug verkoop en die nuwe eienaar bedryf tans n kroeg/restaurant.
12. Daar het ook nou in die huidige jaar (2018) n nuwe restaurant in Pearly Beach oopgemaak (nl. Die Fynbos Deck Restaurant) waarvoor ook nou 'n dranklisensie uitgereik is.
13. Die bedryf van n algemene handelaar was aanvaarbaar vir ons as inwoners, aangesien dit in gewone besigheids ure (8 tot 5) bedryf was, en dit het geen na-ure se geraas en verkeer meegebring wat steurend vir ons as inwoners was nie.
14. Die motivering deur die aansoeker dat 9 addisionele poste geskep sal word, klink vergesog, aangesien die huidige restaurante met kroë wat hier te Pearly Beach bedryf word, slegs gebruik maak van 2 tot 3 addisionele werkers.
15. Daar word nie saamgestem met die voordele soos voorgehou dat meer mense die omgewing sal besoek nie. Meer mense na ure sal uiters steurend wees vir inwoners naby geleë aan die besigheid.
16. Hiermee versoek ek u ernstig om die aansoek vir hersonering van erf 602 nie goed te keur nie. Dit word beklemtoon dat 'n restaurant/bier brouery binne 'n residensiële area sal indruis teen 'n redelike mens se regte as landsburger.

P G GERMISHUYS



Kerugma
Produksies CC



Langmarkstr 5
Pearly Beach
7221
TEL. 0861 786 831
SEL 0832270239
Web: www.kerugma.pro
Email: info@kerugma.org

4/9

Vervaardiger en Verspreider van Kwaliteit Christen Multimedia Produksies

08 Januarie 2019

Plaaslike bevelvoerende Beampte
Overstrand Munisipaliteit

eagte Mnr van der Merwe,

TP - A. Theart
(S. v. d. Merwe)

FILE NO:	EL 602 - GPB
SCAN NO:	GPB 602
COLLABORATOR NO:	1245479

Met verwysing na die AANSOEK VIR DIE OPHEFFING VAN DIE BEPERKENDE TITELAKTE VOORWAARDES EN GRONDGEBRUIK VAN ERF 602 TE PEARLY BEACH:

Verwysing: 17/93

Mun Verwysing 602 GPB (4157)

Vergun ons asseblief hiermee die geleentheid om sterk beswaar aan te teken teen die opheffing van die beperkende titelakte voorwaardes asook die toekenning van 'n dranklisensie vir die verkoop van alkoholiese drank op die perseel.

is het reeds in September verlede jaar beswaar aangeteken teen die toekenning van die dranklisensies waarvoor die eienaar aansoek gedoen het, en geen amptelike terugvoering van u kantoor ontvang nie. Al wat ons ontvang het, is 'n motivering van die eienaar van Erf 602 vir die beplande bierbrouery en gelisensieerde restaurant. Vandaar hierdie beswaar. Omdat ons geen terugvoering ontvang het nie, mag daar dus 'n sekere mate van duplisering wees van ons vorige beswaar, maar ter wille van duidelikheid wil ons graag ons saak volledig stel.

Inwoners in Residensiële Area geaffekteer deur Toekenning van Dranklisensie

Ons het op 20 Junie 2014 ingetrek in die huis te Erf 626, Langmarkstraat 5, Pearly Beach, om hier ons kerklike bediening, Kerugma Produksies, voltyds te bedryf. Hierdie bediening behels meer as een aspek. Die belangrikste of hoof aspek is dat ons geestelike uitsaai programme wat onder

andere deur SABC 2, uitgesaai word, vervaardig. Die tweede aspek is dat ons oral in kerke bedien as gevolg waarvan ons mense hier ontvang vir geestelike berading.

As videograwe is ons albei ses dae 'n week voltyds besig met die redigeer van hierdie programme. Die belangrikste komponent van so 'n produksie is die redigering van die klankbaan daarvan. Die beste video beteken niks as die klank daarvan swak is nie. Video-redigering kan 'n mens dus slegs doen in 'n stil omgewing waar daar geen agtergrond geruis is wat verhinder dat jy kan hoor waar daar wind-, verkeer- of ander geruis in die agtergrond in die beeldmateriaal is nie. Waar dit voorkom moet jy by herhaling baie fyn daarna luister ten einde dit doeltreffend te kan elimineer. Aangesien ons Pearly Beach deur die jare tydens vakansietye leer ken het, het ons gereken dat dit die plek is waar ons ons werk elke dag tot 23H00 saans ongesteurd sou kon doen. Dit is verder ook waarom ons die eiendom te Langmarkstraat gekoop het, want dit is ver genoeg van die see af sodat die geruis van die branders nie die klankredigering sou belemmer nie.

Ongelukkig moet ons sê dat ons sedert ons intrek te Langmarkstraat 5, juis weens sekere alkoholverwante faktore, wreed in hierdie verwagting ontnugter is. Dit net die agtergrond vir ons beswaar. Hiermee dan ons reaksie:

Die motivering van die eienaar van Erf 602 wat ons ontvang het, meld dat die beperking van die titelakte uitgedien is, en dat dit **ekonomiese groei** van Pearly Beach belemmer. Ons is egter van mening dat omdat die eienaar, na die beste van ons wete, nie in die woongebied van Pearly Beach self woonagtig is nie, hy nie hieroor 'n ingeligte mening kan vorm nie. Daar is op die oomblik reeds 2 restaurante/pubs en 1 kroeg in die onmiddellike omgewing van Erf 602. Behalwe gedurende die Desembervakansie is hulle nie eers elke aand van die week oop nie. Die redenasie dat nog 'n restaurant en bierbrouery die ekonomiese groei van die omgewing sal stimuleer dra, wat ons betref, geen gewig nie.

Ons het hier in Pearly Beach byvoorbeeld mense uit Engeland leer ken wat jaarliks hier kom vakansie hou. Hulle kom juis hierheen omdat dit 'n stil kusedorpie is, weg van die gejaag en geraas van die stad. Niemand wat in die Cederberge gaan vakansie hou, soek restaurante en kroë daar nie. Mense gaan daarheen vir ander redes, redes uniek aan die Cederberge. Dieselfde geld vir Pearly Beach wat bekend is vir sy ongerepte skoon strande, hengelgeleenthede en absolute rustigheid. Die stilte is wat mense trek – dit is waaroor dit hier gaan. Om nou hier in Pearly Beach die restaurante en brouerye van die stad te kom vestig, sal juis hierdie unieke **karakter van die**

dorp vernietig. Die mense van Pearly Beach en die toeriste wat hierheen kom, geniet die rustigheid en stilte. Hier is geen natuurlike hawe waarvandaan bote kan uitgaan om walvisse te kyk nie. Walviskykers gebruik die vele huise wat te huur is regdeur die jaar om walvisse te kyk. Dit is dus onwaar dat toerisme bevorder sal word deur die bierbrouery. Dit is juis in sterk kontras met die huidige karakter van die dorp. Die inwoners van Pearly Beach is mense wat juis die keuse gemaak het om nie industriële werksaamhede te ervaar nie. Dieselfde geld vir die toeriste.

Wanneer die unieke aard en karakter van Pearly Beach vernietig word, sal dit beslis nie bydra tot die styging van **eiendomspryse** nie, maar eerder tot die **daling daarvan**. Ons is oortuig dat 'n restaurant en brouery op ons voorstoep beslis die eiendomspryse van ons huise hier baie negatief sal beïnvloed.

Die eienaar meld dat **werksgeleenthede** geskep sal word. As ons realisties wil wees, hoe sal dit moontlik wees om 12 maande van die jaar 8 mense in diens te hê as die huidige restaurante nie eers elke aand van die jaar oop kan wees nie?

Sedert ons hier bly was daar al 'n hele verskeidenheid pogings om die perseel van Erf 602 as wegneemete plek of as restaurant en selfs 'n koffiekamer te bedryf, ook tot laat saans. Dit was alles geheel en al onsuksesvol.

Die eienaar voer ook aan dat geen kroeg, of plek van plesier geskep sal word op die beoogde perseel wat die **regte van die eienaars van die residensiële area in die omgewing sal skend** . Maar op Woensdag 5 Desember 2018 was daar onder jurisdiksie van die huidige eienaar mense in die gebou bedrywig en die musiek was tot laat die nag so hard dat dit ons werk geheel en al belemmer het. Om 22:00 het ek handoek ingegooi. Ek kon nie eers die woorde van die spreker op die redigeerstasie hoor bo die musiek wat van Erf 602 gekom het nie. Dit is 'n helder duidelike opname, maar ek kon gladnie volg wat die persoon sê nie. Dit terwyl ek die agtergrond suising tussen die woorde moes evalueer en elimineer. Ek kon dus GLADNIE werk nie! Ondervinding het geleer dat enige alkoholverwante bedrywigheede potensieel lei tot lawaai en onsosiale gedrag. Vandaar die verbod van die Weskaapse regering op alkohol op die strande. Wanneer die eienaar dus aanvoer dat die beoogde restaurant en brouery nie "a pub, bar tavern or place of entertainment" sal wees "who can potentially make noise", dan glo ons dat dit wat op 5 Desember 2018 gebeur het, vir ons oortuigend bewys het wat ons te wagte kan wees wanneer die hersonering en lisensies toegestaan gaan word.

Die meeste permanente inwoners in die omgewing is afgetredenes, wat saans vroeg al slaap. Na ons hier ingetrek het, het ons gou geleer geleer om nie na 18:00 saans by ons bure aan weerskante aan te klop nie, aangesien die mense vroeg reeds inkrui. Ons kinders wat veral oor Desember kom vakansie hou, was al baie verontrief deur die alkoholverwante lawaai in die omgewing. 5 Desember 2018 het finaal bewys dat die hersonering van Erf 602 tot restaurant vir ons en die ander inwoners in die omgewing 'n baie groot ramp sal wees.

Ons maak dus 100% beswaar daarteen.

UNIEKE SITUASIE

Ons het verder hier te doen met 'n unieke situasie, naamlik 'n residensiële area met 'n fynbos reserwaat en 'n familie-speelparkie reg by die nuwe kroeg (voorheen Die Rooi Bier), 'n restaurant/kroeg, nl. Stasie 7 en die Pearly Beach klub wat ook 'n restaurant/kroeg is. Ons het hier dus reeds **3 persele met dranklisensies** so naby mekaar, wat dit reeds soveel keer in die verlede vir die inwoners en vakansiegangers baie moeilik gemaak het vanweë onsosiale gedrag wat gepaardgaan met alkohol verbruik. Wie sou nou kon dink dat dranklisensies toegestaan sou word aan besighede op industriële erwe omring van residensiële erwe en 'n woonstelblok? En dit alles binne stapafstand van die dorp se kerkgebou?

Verder wil ons u net herinner aan die bepaling in die Western Cape Liquor Act, 2008, (Beklemtoning vir u aandag deur ons aangebring):

7 (5) The Liquor Licensing Tribunal may not grant an application referred to in subsection (4) unless it is satisfied on a balance of probabilities that the granting thereof—

(a) is in the public interest; and

(b) does not prejudice—

(i) **the residents of a residential area;**

(ii) the residents of an institution for the aged or frail;

(iii) **the learners of an educational institution who are under the age of eighteen (18) years;**

(iv) the patients of an institution for drug or alcohol related dependencies; or

(v) **the congregants of a religious institution located in the vicinity of the licensed premises concerned.**

Die speelpark en fynbos tuin reg oorkant Erf 602 wat bedoel is vir kinders onder 18 jaar oud, is beslis te naby aan Erf 602 waar drank nie net vervaardig gaan word nie, maar ook gebruik gaan word.

Die gebou van die NG Kerk is ook baie naby aan Erf 602.

Die feit dat erwe met besigheidsregte hier in die middel van 'n residensiële area geleë is, skep 'n geweldige probleem wanneer dranklisensies aan al die besighede toegeken word.

Dit sal die **veiligheid van die mense in die omgewing bedreig**. Die besighede wat reeds drank verkoop, het reeds tot gevolg dat mense, soos so pas verlede week weer, in die vroeë oggendure raas en skreeu, hul motors lank aanmekaar "rev" en met skreeuende bande deur die strate jaag.

Ons het reeds 'n groot **probleem met wetstoepassing in Pearly Beach**.

Perlemoen stropery geskied helder oordag, perlemoenstropers jaag deur die strate, een van ons vriende, 'n inwoner van Pearly Beach, is onlangs op sy fiets doodgery, daaglik word daar iewers ingebreek, en so kan ons aangaan. Uit ons dure ondervinding met die lisensie wat die Rooi Bier gehad het, weet ons daar is nêrens om te kla as so 'n restaurant eers hul musiek begin maak nie. Daar is geen wetstoepassers wat sal kan optree nie. Nog dranklisensies gaan verseker nie hierdie probleem help oplos nie – intendeel.

Ons vertrou dat u uit die bogenoemde duidelik sal kan sien dat die hersonering van Erf 602 tot 'n restaurant en die toeken van 'n dranklisensie en die lisensie vir 'n bierbrouery, volgens ons, onder 3en omstandighede oorweeg moet word nie.

Ons wil net noem dat al hierdie besware ook geld vir die persele wat reeds dranklisensies het. As dit moontlik is sou ons baie dankbaar wees as daardie dranklisensies teruggetrek kan word.

Ons sal dit waardeer indien u ons van u besluit in kennis kan stel.

Baie dankie vir u aandag.

Naas en Marina le Roux





ERF 614

N.E. STECHER
14 CHURCH STREET
P.O. BOX 138
PEARLY BEACH
7221

WRAP

Consultancy
THE TOWN PLANNER

R. JANKIE

Email: wrap@telkomsa.net

ERF 602, PEARLY BEACH:

REF: 17/93
Mun Reference: 602 GPB (4157)

Dear Sir!

After careful consideration we concluded to act against the removal of the restrictive title deed condition necessary to permit a proposed microbrewery.

Kindly note our objections against the usage of ERF 602 in excess of our requirement **"THAT IT SHALL BE USED FOR SHOP PURPOSES ONLY."**

Yours faithfully
N.E. Stecher



TR A Theart
(S vld. merwe)

FILE NO:	EL 602
	Pearly Beach
SCAN NO:	GPB 602
COLLABORATOR NO:	1247871

18 JAN 2019

FILE NO:	EL 602
	Pearly Beach
SCAN NO:	14
COLLABORATOR NO:	1250467




TR A Theart
(Suid Marwe)

ESTABLISHED
2002

Town
Planning

Project
Management

Liquor
Licensing

35 Duiker Street
P O Box 1247
Hermanus
7200

Tel: +27 (0)28 313 1411

Fax: +27 0865083248

Email:
admin@wrapgroup.co.za

Web:
www.wrapgroup.co.za

Wright Approach
Investments 136 CC

Reg No
CK 2002/060745/23

Our reference: 17/93
Your reference: 602 GPB (4157)

24 January 2019

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

Sir

ERF 602 PEARLY BEACH: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE: RESPONSE TO OBJECTIONS

Objections and comments were received from:

- PG Germishuys;
- Kerugma Produksies; and
- NE Stecher.

Most of the objections were written in Afrikaans but will be responded to in English because the original application was submitted in English.

Response to objections pertaining to the behaviour of alcohol consumers.

Objections	Response
"Laat middag op 5 Desember 2018 het n groep mense in die gebou te erf 602 'n geweldige lawaai opgeskop en dit het tot baie laat die aand geduur. Dit was baie steurend. As dit n voorsmaak is van wat op ons as inwoners wag, is dit absoluut onaanvaarbaar dat n bierbrouery en restaurant wat alkoholiese drank verkoop, bedryf sal word op erf 602."	The subject property is normally vacant, and no land uses have commenced due to the property owner not having the appropriate land use rights to operate a restaurant and brewery. The noise levels which the objector refers to only happened on the 5 th of December when his daughter and friends made pizza and had a social gathering with friends on the subject property. The incident of noise which occurred on the subject property cannot be used to pre-emp the future behaviour of patrons at the subject establishment. The fact that the objector only makes reference to a single incident of noise which occurred on the subject property was an isolated incident. The property owner will also do everything possible to ensure that the peace and comfort of neighbours is not disrupted.

28 JAN 2019

Objection	Response
<p>"Met verwysing na u bovermelde skrywe gedateer 22 November 2018, word hiermee as bewoner van Erf 628 te Pearly Beach, ernstig beswaar aangeteken teen die wysiging van die titel akte ten opsigte van erf 602, Commercialstraat Pearly Beach.</p> <p>Ek verwys ook graag na my skrywe van 12 September 2018, vir aandag Mnr. Schalk vd Merwe, waar beswaar aangeteken is teen die uitreiking van drank lisensie ingevolge art 33 (1) (a) en art 33 (1) (b) van die Drankwet, vir die eienaar van Erf 602, Pearly Beach.</p> <p>Daar word ernstig beswaar gemaak teen die hersonering van Erf 602 se titel akte, aangesien die bedryf van 'n bier brouery en restaurant 'n uiters nadelige effek op my as inwoner sal hê. My erf 628 is skuinsoor erf 602 geleë, ongeveer 30 meter ver. Daar is geen waarborg, soos in die aansoek uiteengesit, dat slegs beskaafde en deffige mense die restaurant/brouery sal besoek nie. En dit is algemeen bekend dat mense wat alkohol geneem het, se optrede en reaksies verskil van hoe hul optree wanneer hul sober is."</p>	<p>The application relates to the rezoning of the erf and not rezoning the title deed as asserted by the objector.</p> <p>The owner of the subject property does not intend to operate a bar on the subject erf, but intends to operate a family restaurant which caters for children and parents alike. The nature of such family restaurants tends to attract parents who indulge in minimal alcohol in front of kids in the restaurant to ensure that behaviour remains exemplary to kids. The ambiance envisaged in the subject restaurant is similar to the ambiance which SPUR has. The alcohol which is going to be brewed at the subject restaurant is going to be sold at a premium price to genteel parents who will visit the subject establishment. Considering the merits of this proposal, the subject restaurant is projected to attract genteel guests.</p>

Response to objections pertaining to the previous use of the subject erf.

Objection	Response
<p>"Die nuwe eienaar van Erf 602 was daarvan bewus dat, toe hy die eiendom gekoop het in 2018, die eiendom bedryf was as n algemene handelaar/kafee en dat die erf ook gesoneer was vir dié doel (wat vir ons as inwoners aanvaarbaar was, synde dat dit bedryf was binne gewone besigheids ure)."</p>	<p>The owner of the subject property was aware of the land use rights which are applicable on the subject property before purchasing the property. This awareness of primary land use rights however does not absolve a property owner from submitting a land use application to expand commercial land use rights.</p>
<p>"Die bedryf van n algemene handelaar was aanvaarbaar vir ons as inwoners, aangesien dit in gewone besigheids ure (8 tot 5) bedryf was, en dit het geen na-ure se geraas en verkeer meegebring wat steurend vir ons as inwoners was nie."</p>	<p>The approval and implementation of this proposal is not projected to have an adverse impact on the noise levels which neighbours have been accustomed to in Pearly Beach because the subject restaurant will function as a family restaurant which will attract genteel guests.</p>

Response to objections pertaining to traffic.

Objection	Response
<p>"Die eienaar van Erf 602 beplan in sy aansoek om 'n bier/gin brouery te open. 'n Bier brouery behoort in 'n industriële gebied opgerig te word. Die feit dat bier en gin</p>	<p>Page 9 and 10 of the motivation report, highlights that small-scale manufacturing may occur on the subject property on condition that it does not exceed 50% of</p>

<p>gebrou en verwerk sal word op n perseel vir verkope aan die publiek, asook vir verspreiding na ander ondernemings, maak dat hierdie as 'n fabriek binne n residensiële area bedryf sal word — wat totaal onaanvaarbaar is. Die oplaai en aflaai van bier en gin produkte vir verkope en verspreiding na ander besighede en plekke, sal geweldige verkeer meebring, wat vir ons as inwoners steurend sal wees. n Bier brouery behoort nie binne n residensiële area bedryf te word nie."</p>	<p>the property. The SDP clearly illustrates that manufacturing on the subject property does not exceed 50% and is permissible on the property without having to occur in an industrial area.</p> <p>There is sufficient parking on the subject property as illustrated in page 14 of the report which is not projected to cause any parking related problems. The traffic which the subject property will attract will not be drastically different from the traffic which was cause by the previous trader/café owner who operated on the subject property which the objector highlights in the objection as acceptable due to the GLA remaining unchanged as the footprint of the building is the same. Considering that the GLA is the same, the traffic impact on the objector will be the same and not worse as asserted in the objection.</p>
--	--

Objections pertaining to the liquor license application.

Objection	Response
<p>"Daar was aansoek gedoen vir 2 tipes dranklisensies: art 33 (1) (a) en art 33 (1) (b) vir dieselfde perseel 602. Die vraag is hoe beheer uitgeoefen sal kan word om te voorkom dat alle soorte drank nie ook verkoop sal word vir gebruik buite die perseel nie."</p>	<p>The on-consumption liquor license application pertains to serving alcohol to seated patrons in the restaurant and the off-consumption liquor license application pertains to selling liquor to be consumed off the subject premises. The liquor license application submitted to the Western Cape Liquor Authority was accompanied by plans which clearly delineate the areas where the rights of the two licenses will be exercised on the property. The objector is more than welcome to peruse the plans and documents at the Police Station and lay a complaint to the Western Cape Liquor Authority if the opinion is that the sale of liquor is contrary to the approved plans. This will be a sufficient policing mechanism.</p>
<p>"Ons het reeds in September verlede jaar beswaar aangeteken teen die toekenning van die dranklisensies waarvoor die eienaar aansoek gedoen het, en geen amptelike terugvoering van u kantoor ontvang nie. Al wat ons ontvang het, is 'n motivering van die eienaar van Erf 602 vir die beplande bierbrouery en gelisenseerde restaurant. Vandaar hierdie beswaar. Omdat ons geen terugvoering ontvang het nie, mag daar dus 'n sekere mate van duplisering wees van ons vorige beswaar, maar ter wille van duidelikheid wil ons graag ons saak volledig stel."</p>	<p>The previous objection which was made by the objector to the Western Cape Liquor Authority was responded to by WRAP and addressed in detail.</p>

Objection pertaining to the external impact of the approval and implementation of this proposal.

Objection	Response
"Ingevolge die Wes Kaapse Nuwe Drankregulasies Art 34 (e) (1) mag drank lisensies nie uitgereik word waar die inwoners van 'n residensiële area benadeel sal word nie. (My woonhuis erf 628 is skuins oorkant erf 602)."	The subject property is located in a commercial area which predominantly has commercial erven. The projected impact of the approval and implementation of this proposal on the residential area will therefore be minimal.
"Regoor erf 602 is n natuurtuin/speelpark vir publiek en kinders. Nog 'n sterk drank verkope-punt en bier brouery regoor die oop ruimte en park, sal beslis nie tot voordeel van die gemeenskap wees nie."	The property across the subject property is not zoned as an Open Space: Public Open Space but Zoned as Authority Zone: Authority Usage which is contrary to the assertion of the objector. Just because children allegedly play there, the intention of the subject property in terms of the Municipal Zoning Map was never for it to function as a park.
"Daar word nie saamgestem met die voordele soos voorgelê dat meer mense die omgewing sal besoek nie. Meer mense na ure sal uiters steurend wees vir inwoners naby geleë aan die besigheid."	The proposed restaurant is small and low key in nature and is not projected to attract large crowds of people and traffic as projected by the objector. The impact on noise levels will therefore either be minimal or remain unchanged.
"Hiermee versoek ek u ernstig om die aansoek vir hersonering van erf 602 nie goed te keur nie. Dit word beklemtoon dat 'n restaurant/bier brouery binne 'n residensiële area sal indruis teen 'n redelike mens se regte as landsburger."	The restaurant and brewery will not encroach on a residential area as the erf is in a commercial area and surrounded by erven which are zoned for commercial purposes.
"Wanneer die unieke aard en karakter van Pearly Beach vernietig word, sal dit beslis nie bydra tot die styging van eiendomspryse nie, maar eerder tot die daling daarvan. Ons is oortuig dat 'n restaurant en brouery op ons voorstoep beslis die eiendomspryse van ons huise hier baie negatief sal beïnvloed."	When a neighbourhood has an increase in the number of amenities or areas for leisure such as restaurants and shops, property prices tend to increase due to the neighbourhood becoming more desirable and people willing to pay a premium to reside in the neighbourhood. The approval and implementation of this proposal is therefore projected to contribute to the increase in the property value of the objector.
"Die eienaar voer ook aan dat geen kroeg, of plek van plesier geskep sal word op die beoogde perseel wat die regte van die eienaars van die residensiële area in die omgewing sal skend nie. Maar op Woensdag 5 Desember 2018 was daar onder jurisdiksie van die huidige eienaar mense in die gebou bedrywlig en die musiek was tot laat die nag so hard dat dit ons werk geheel en al belemmer het. Om 22:00 het ek handoek ingegooi. Ek kon nie eers die woorde van die spreker op die redigeerstasie hoor bo die musiek wat van Erf 602 gekom het nie. Dit is 'n helder duidelike opname, maar ek kon glad nie	This isolated incident which is highlighted by the objector is not a reflection on the desirability of the approval and implementation of this proposal. The objector is more than willing to contact SAPS should noise ever emanate again from the subject property or other properties in Pearly Beach.

<p>volg wat die persoon sê nie. Dit terwyl ek die agtergrond suising tussen die woorde moes evalueer en elimineer. Ek kon dus GLAD NIE werk nie! Ondervinding het geleer dat enige alkoholverwante bedrywighede potensieel lei tot lawaai en onsosiale gedrag. Vandaar die verbod van die Weskaapse regering op alkohol op die strande. Wanneer die eienaar dus aanvoer dat die beoogde restaurant en brouery nie "a pub, bar tavern or place of entertainment" sal wees "who can potentially make noise", dan glo ons dat dit wat op 5 Desember 2018 gebeur het, vir ons oortuigend bewys het wat ons te wagte kan wees wanneer die hersonering en lisensies toegestaan gaan word."</p>	
<p>"Die meeste permanente inwoners in die omgewing is afgetredenes, wat saans vroeg al slaap. Na ons hier ingetrek het, het ons gou geleer om nie na 18:00 saans by ons bure aan weerskante aan te klop nie aangesien die mense vroeg reeds inkruipt. Ons kinders wat veral oor Desember kom vakansie hou was al baie verontrief deur die alkoholverwante lawaai in die omgewing. 5 Desember 2018 het finaal bewys dat die hersonering van Erf 602 tot restaurant vir ons en die ander inwoners in die omgewing 'n baie groot ramp sal wees."</p>	<p>The noise levels which the objector bemoans regarding what occurred on 5 December 2018 is not a reflection of the daily noise levels which occur in Pearly Beach.</p>
<p>"UNIEKE SITUASIE Ons het verder hier te doen met 'n unieke situasie, naamlik 'n residensiële area met in fynbos reservaat en in familie-speelparkie reg by die nuwe kroeg (voorheen Die Rooi Bier), 'n restaurant/kroeg, nl. Stasie 7 en die Pearly Beach klub wat ook 'n restaurant/kroeg is. Ons het hier dus reeds 3 persele met dranklisensies so naby mekaar, wat dit reeds soveel keer in die verlede vir die inwoners en vakansiegangers baie moeilik gemaak het vanweë onsosiale gedrag wat gepaardgaan met alkohol verbruik. Wie sou nou kon dink dat dranklisensies toegestaan sou word aan besighede op industriële erwe omring van residensiële ewe en 'n woonstelblok? En dit alles binne stapafstand van die dorp se kerkgebou?"</p>	<p>The subject property is zoned for commercial purposes and surrounded by other commercial properties. The consent use application for a restaurant and the sale of alcoholic beverages is merely to expand the existing commercial rights on the subject property. The genteel clients who will visit the subject restaurant are not projected to be a nuisance to the public as in the same manner as guests to other establishments which the objector quotes.</p>
<p>"Ons vertrou dat u uit die bogenoemde duidelik sal kan sien dat die hersonering van Erf 602 tot 'n restaurant en die toeken van 'n dranklisensie en die lisensie vir 'n bierbrouery, volgens ons, onder geen omstandighede oorweeg moet word nie."</p>	<p>There are no substantive reasons which have been given by the objector which motivate the refusal of the submitted town planning application.</p>

<p>After careful consideration we concluded to act against the removal of the restrictive title deed condition necessary to permit a proposed microbrewery. Kindly note that our objections against the usage of ERF 602 in excess of our requirement "THAT IT SHALL BE USED FOR SHOP PURPOSES ONLY"</p>	<p>The objector provides no substantive facts to support the objection made.</p>
<p>"Inwoners in Residensiële Area geaffekteer deur Toekenning van Dranklisensie Ons het op 20 Junie 2014 ingetrek in die huis te Erf 626, Langmarkstraat 5, Pearly Beach, om hier ons kerklike bediening, Kerugma Produksies, voltyds te bedryf. Hierdie bediening behels meer as een aspek. Die belangrikste of hoof aspek is dat ons geestelike uitsaai programme wat onder andere deur SABC 2, uitgesaai word vervaardig. Die tweede aspek is dat ons oral in kerke bedien as gevolg waarvan ons mense hier ontvang vir geestelike berading.</p> <p>As videograwe is ons albei ses dae 'n week voltyds besig met die redigeer van hierdie programme. Die belangrikste komponent van so 'n produksie is die redigering van die klankbaan daarvan. Die beste video beteken niks as die klank daarvan swak is nie. Video-redigering kan 'n mens dus slegs doen in 'n stil omgewing waar daar geen agtergrond geruis is wat verhinder dat jy kan hoor waar wind-, verkeer- of ander geruis in die agtergrond in die beeldmateriaal is nie. Waar dit voorkom moet jy by herhaling baie fyn daarna luister ten einde dit doeltreffend te kan elimineer. Aangesien ons Pearly Beach deur die jare tydens vakansie tye leer ken het, het ons gereken dat dit die plek is waar ons ons werk elke dag tot 23:00 saans ongesteurd sou kon doen. Dit is verder ook waarom ons die eiendom te Langmarkstraat gekoop het, want dit is ver genoeg van die see af sodat die geruis van branders nie die klankredigering sou belemmer nie."</p>	<p>The objector is exercising the applicable primary right of operating a home occupation on the property which is zoned Residential Zone 1: Single Residential. The home occupation of the objector as highlighted in the objection operates until 23:00 in the evening.</p> <p>The following land use parameters are applicable in terms of the Overstrand Municipality Zoning Scheme, 2013 (OMZS) for home occupations:</p> <ul style="list-style-type: none"> • "5.1.8.g: The hours of operation are restricted to 07:30 and 17:30 Monday to Friday and 07:30 to 13:00 on Saturdays" <p>Considering the above, the operating hours of the objector are in contravention of the OMZS. Considering that restaurants which also sell liquor normally operate in full capacity after 17:30 on weekdays and on weekends, the objector therefore cannot complain that such operations would interfere with the home occupation of Kerugma Produksies because it is not permissible for Kerugma Produksies to be in operation during those hours.</p> <p>The premise of the objection is based on the assumption that the approval of the restaurant and brewery will lead to excessive noise which will interfere with the objector's comfort in the occupation of his property. Here are some facts which will put the objector at ease:</p> <ul style="list-style-type: none"> • The application is for a restaurant which serves meals, alcoholic and non-alcoholic beverages to seated genteel patrons and not for a bar, pub or tavern; and • The proposal is not for a place of entertainment which is characterised by ear shattering music which unreasonably keeps neighbours awake at night until the early hours of the morning. <p>The objection to the town planning application is therefore premised on the incorrect assumption that the approval and implementation of this proposal will interfere with the tranquillity which the objector enjoys in the neighbourhood which is incorrect.</p>

"Verder wil ons u net herinner aan die bepaling in die Western Cape Liquor Act, 2008, (Beklemtoring vir u aandag deur ons aangebring):

59 (5) The Liquor Licensing Tribunal may not grant an application referred to in subsection (4) unless it is satisfied on a balance of probabilities that the granting thereof—

(a) is in the public interest; and

(b) does not prejudice—

(i) **the residents of a residential area;**

(ii) the residents of an institution for the aged or frail;

(iii) the learners of an educational institution who are under the age of eighteen (18) years;

(iv) **the patients of an institution for drug or alcohol related dependencies; or (v) the congregants of a religious institution located in the vicinity of the licensed premises concerned.**

Die speelpark en fynbos tuin reg oorkant Erf 602 wat bedoel is vir kinders onder 18 jaar oud, is bestis te naby aan Erf 602 waar drank nie net vervaardig gaan word nie, maar ook gebruik gaan word.

Die gebou van die NG Kerk is ook baie naby aan Erf 602.

Die feit dat erwe met besigheidsregte hier in die middel van 'n residensiële area geleë is, skep 'n geweldige probleem wanneer dranklisensies aan al die besighede toegeken word.

Dit sal die veiligheid van die mense in die omgewing bedreig. Die besighede wat reeds drank verkoop, het reeds tot gevolg dat mense laat in die nag met hulle motors deur die dorp jaag.

Ons het reeds 'n groot probleem met wetstoepassing in Pearly Beach.

Perlemoen stropery geskied helder oordag, perlemoenstropers jaag deur die strate, een van die inwoners van Pearly Beach is ontangs op sy fiets doodgery, daaglik word daar iewers ingebreek, en so kan ons aangaan. Uit ons dure ondervinding met die lisensie wat die Rooi Bier gehad het, weet ons daar is nêrens om te kla as so 'n restaurant eers hul musiek begin maak nie. Daar is geen wetstoepassers wat sal kan optree nie. Nog dranklisensies gaan verseker nie hierdie probleem help oplos nie inteendeel"

- The property across the subject property is not zoned as an Open Space: Public Open Space but Zoned as Authority Zone: Authority Usage which is contrary to the assertion of the objector. Just because children allegedly play there, the intention of the subject property in terms of the Municipal Zoning Map was never for it to function as a park.

- There is now church building near the subject property.

- With reference to the zoning plan which was submitted with the town planning application, the subject property is surrounded by properties which are zoned Business Zone 3: Local Business, Authority Zone: Authority Usage, Transport Zone 2: Transport Usage and not Residential Zone 1: Single Residential as asserted by the objector.

The poor driving skills of people who drive above the permissible speed limit is not a reflection on the desirability of this proposed liquor license.

Objections pertaining to the economic impact of this proposal.

Objection	Response
<p>"Die motivering deur die aansoeker dat 9 addisionele poste geskep sal word, klink vergesog, aangesien die huidige restaurante met kroë wat hier te Pearly Beach bedryf word, slegs gebruik maak van 2 tot 3 addisionele werkers."</p>	<p>The fact that the subject restaurant will have a brewing component, labour required is significantly more than for restaurants which do not have a brewing component.</p>
<p>"Die motivering van die eenaar van Erf 602 wat ons ontvang het, meld dat die beperking van die tifelakte uitgedien is, en dat dit ekonomiese groei van Pearly Beach belemmer. Ons is egter van mening dat omdat die eenaar, na die beste van ons wete, nie in die woongebied van Pearly Beach self woonagtig is nie, hy nie hieroor 'n ingeligte mening kan vorm nie. Daar is op die oomblik reeds 2 restaurante/pubs en 1 kroeg in die onmiddellike omgewing van Erf 602. Behalwe gedurende die Desember vakansie is hulle nie eers elke aand van die week oop nie. Die redenasie dat nog 'n restaurant en bierbrouery die ekonomiese groei van die omgewing sal stimuleer dra, wat ons betref, geen gewig nie."</p>	<p>The financial viability of the restaurant is determined by the quality of service and food which are offered to clients. This by implication means that number of guests who visit a restaurant and the frequency of the guests is determined by service and quality of food. Considering that the service and quality of food which will be offered at the subject restaurant and existing restaurants and bars are different, the frequency rates of operation hours will be different. The above nullifies the predictions made by the objector regarding the viability of the subject restaurant.</p>
<p>"Ons het hier in Pearly Beach byvoorbeeld mense uit Engeland leer ken wat jaarliks hier kom vakansie hou. Hulle kom juis hierheen omdat dit 'n stil kusedorp is, weg van die gejaag en geraas van die stad. Niemand wat in die Cederberge gaan vakansie hou, soek restaurante en kroë daar nie. Mense gaan daarheen vir ander redes, redes uniek aan die Cederberge. Dieselfde geld vir Pearly Beach wat bekend is vir sy ongerepte skoon strande: hengelgeleenthede en absolute rustigheid. Die stilte is wat mense trek — dit is waaroor dit hier gaan. Om nou hier in Pearly Beach die restaurante en brouerye van die stad te kom vestig, sal juis hierdie unieke karakter van die dorp vernietig. Die mense van Pearly Beach en die toeriste wat hierheen kom, geniet die rustigheid en stilte. Hier is geen natuurlike hawe waarvandaan bote kan uitgaan om walvisse te kyk nie. Walviskykers gebruik die vele huise wat te huur is regdeur die jaar om walvisse te kyk. Dit is dus onwaar dat toerisme bevorder sal word deur die bierbrouery. Dit is juis in sterk kontras met die huidige karakter van die dorp. Die inwoners van Pearly Beach is mense wat juis die keuse gemaak het om nie industriële werksaamhede te ervaar nie. Dieselfde geld vir die toeriste."</p>	<p>The proposed restaurant and brewery are very small and will not attract large crowds of people as asserted by the objector. The quiet ambiance and character of Pearly Beach will therefore be maintained in the current form as valued by the objector if this application is approved and implemented.</p>

<p>"Die eienaar meld dat werksgeleenthede geskep sal word. As ons realisties wil wees, hoe sal dit moontlik wees om 12 maande van die jaar 8 mense in diens te hê as die huidige restaurante nie eers elke aand van die jaar oop kan wees nie?"</p>	<p>The operational aspects of the subject proposal are a matter which concern the owner of the subject restaurant and will not in any way impact on the objector.</p>
<p>"Sedert ons hier bly was daar al 'n hele verskeidenheid pogings om die perseel van Erf 602 as wegneemete plek of as restaurant en selfs 'n koffiekamer te bedryf, ook tot laat saans. Dit was alles geheel en al onsuksesvol."</p>	<p>The failure of the previous property owner to operate a restaurant should not be seen as reflecting on the ability of the prospective property owner to operate a restaurant. Restaurant managers have different managerial skills which ultimately determine if a restaurant will be successful or not.</p>

Objection pertaining to other outlets which sell liquor.

Objection	Response
<p>"Die ondervinding met Stasie 7 (kroeg/restaurant) en die Hengel Klub (kroeg/restaurant) wat albei baie naby geleë is, asook Rooi Bier wat verkoop is en nou deur die nuwe eienaar as n kroeg/restaurant bedryf word, is dat mense onder die invloed van drank, laat aand 'n geweldige lawaai opskop wat rusverstorend is. Bande wat skreeu en merke op die grondpad wys dikwels die volgende dag die besoekers se wyse van bestuur. Pearly Beach beskik ongelukkig nie ook 'n polisie stasie nie."</p>	<p>The proposed family restaurant is not projected to attract the profile of clients who go to Stasie 7, Hengel Klub and Rooi Bier. The behaviour of the future guests of the subject establishment is projected to be orderly and considerate to the land use rights which are enjoyed by the surrounding property owners.</p> <p>The police did have an opportunity to comment on the submitted liquor license application and the comments regarding the proposal was positive. In the highly unlikely event that some noise does emanate from the subject property, the objector can contact the police to put an end to noise on the subject property to obtain the appropriate relief.</p>
<p>"Die gebou waar Rooi Bier bedryf was (ongeveer 100 meter van my woning af), was aanvanklik as 'n algemene handelaar/kafee bedryf en later is 'n dranklisensie oorgedra. Die besigheid is ongeveer 2 maande terug verkoop en die nuwe eienaar bedryf tans n kroeg/restaurant."</p>	<p>The legality and status of the land uses which occur in the building of the Rooi Bier are not pertinent to the submitted town planning application. It is suggested that the objector raise the matter with the relevant policing authorities such as the Overstrand Municipality Town Planning Department and the Western Cape Liquor Authority.</p>
<p>"Daar het ook nou in die huidige jaar (2018) n nuwe restaurant in Pearly Beach oopgemaak (nl. Die Fynbos Deck Restaurant) waarvoor ook nou 'n dranklisensie uitgereik is."</p>	<p>WRAP compiled and submitted the application for the new restaurant which the objector refers to.</p>
<p>"Ongelukkig moet ons sê dat ons sedert ons intrek te Langmarkstraat 5, juis weens sekere alkoholverwante faktore, wreed in hierdie verwagting ontnugter is. Volgens ons ondervinding was dit nie altyd die geval nie, maar sedert ons hier bly is die kroeg en restaurant (Die Rooibier) vele aande tot in</p>	<p>The intention of the applicant is to establish a classy venue where families can come and enjoy a decent meal with craft beer as well as soft drinks. There are currently not enough family establishments in Pearly Beach where a family can enjoy a decent outing. The proposed licenced premises</p>

<p><i>die vroeë oggendure en selfs Sondag middag verskriklik aan die lawaai."</i></p>	<p>are therefore not projected to operate the same way as Die Rooibier which the objectors bemoan. There will also be no loud music played at the subject restaurant. It is therefore unreasonable for the owner of the subject restaurant to be put under the same umbrella by the alleged concerning behaviour of patrons at the Rooi Bier.</p> <p>The statement that two outlets which sell alcohol allegedly have ear shattering noise emanating from the premises on an occasional basis should not reflect on the general desirability of this proposed removal of restrictive title deed condition and consent use. This is because the management of this proposed outlet intend to ensure that all operations in the sale of liquor are sensitive to the rights which neighbours enjoy in the comfort of occupation of their properties. When the objector was disturbed by the alleged noise which emanated from the two outlets, it is the responsibility of the objector to either contact the SAPS to bring order in calm amidst the alleged noise.</p> <p>The manager who will be present when liquor is sold on the premises is committed towards running an orderly establishment which will ensure that visitors do not make noise which is ear shattering to neighbours. In the highly unlikely event that noise emanates from the subject property and reaches unacceptable levels, the public has recourse of contacting the SAPS to bring the situation under control.</p>
<p><i>"Ons wil net noem dat al hierdie besware ook geld vir die persele wat reeds dranklisensies het. As dit moontlik is sou ons baie dankbaar wees as daardie dranklisensies teruggetrek kan word."</i></p>	<p>The objectors are using the public participation process of the submitted town planning application to object to the existing places which sell liquor in Pearly Beach is not procedurally correct. Considering that most of the objections pertain primarily to the existing establishments which sell liquor in Pearly Beach, the applicability of these objections to the submitted town planning application can therefore be nullified.</p>

Principles of common law

Common law dictates that a person who operates a restaurant/brewery which has an authorised liquor license may not use his land in such a way as to interfere with the rights of others, particularly neighbours (*sic utere tuo ut alienum non laedas*). A nuisance occurs when the approval and implementation of a liquor license is reasonably projected to interfere with a neighbour's or communities health, wellbeing or comfort in the occupation

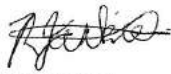
of his/her land. There must however be evidence of material interference and the complainant must not be oversensitive.

The test applied is one of reasonableness. In other words, would a reasonable man who is the neighbour or public be of the opinion that a small restaurant/brewery which attracts genteel clients, which is low key, contextually appropriate and visually attractive tolerate the subject land uses. In other words, would this proposal affect the wellbeing of the neighbours or the public in the occupation of land? Considering the merits and small scale of this proposal, a reasonable person would not be deprived of his right of occupation and wellbeing should this application be approved.

Conclusion

The objections were addressed, but there is no material evidence provided to illustrate how the approval and implementation of this proposal will prejudice any member of the Pearly Beach community.

Yours faithfully



REA JANKIE
TOWN PLANNER (B/8392/2017)

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS &
CONSENT USE: ERF 602, PEARLY BEACH (4157)**

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

Conditions:

1. that the existing water connection and sewer conservancy tank to Erf 602 shall be used to service Erf 602;
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 relevant commercial food preparation facilities must be provided with a grease trap, which must comply with the standards and specification of the Department: Operational Services;
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 any additional and / or extended vehicle entrances will be for the developer's account;
6. that stormwater be allowed to discharge through Erf 602, Pearly Beach, unobstructed;
7. that no on-street parking be allowed.


DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES


DATE

07 JAN 2019



File reference:	602 GPB (4157)
Date:	19 November 2018

INTERNAL MEMORANDUM

From	: Town Planning Department
Town Planner	: Schalk Van Der Merwe

TO:

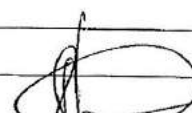
<u>Area Manager</u>	<u>Building Department</u>	<u>District Health</u>	<u>Electrical Department</u>
<u>Environmental Officer</u>	<u>Fire Department</u>	<u>Infrastructure and Planning</u>	Local Heritage Committee
<u>Operational Services</u>	<u>Traffic Department</u>	<u>Ward Councillor (Ald. D. Coetzee)</u>	<u>Waste Management</u>

Applicant	WRAP ON BEHALF OF STEADY GROW TRADING 33 CC
Property Details	ERF 602, 7 COMMERCIAL STREET, PEARLY BEACH
Application Description	REMOVAL OF RESTRICTIVE CONDITIONS & CONSENT USE

ATTACHMENTS:

1.	Notice	Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments.
2.	Locality Plan	
3.	Site Development Plan	
4.	Motivation	

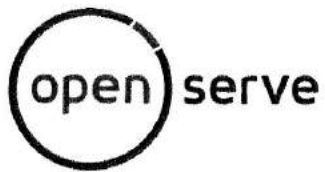
YOUR DEPARTMENT'S COMMENTS:

APPROVAL OF APPLICATION IS SUBJECT TO THE PREMISES COPLYING WITH THE REQUIREMENTS OF THE NATIONAL FIRE PROTECTION REGULATIONS SANS10400T:2011 AND THE OVERSTRND COMMUNITY FIRE SAFETY BY-LAW P.N. 6454 of 2007	
MUNISIPALITEIT OVERSTRAND MUNICIPALITY FIRE BRIGADE / BRANDWEER APPROVED / GOEDGEKEUR	
Signature: 	Date: 21 DEC 2018
	2018

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.

- Building Control Department to confirm that all structures on the property/ies are in accordance with the approved building plans.

COMMENTS REQUIRED BY: 21 December 2018



Division of Telkom SA SOC Ltd

10 Jan Smuts Drive
Pinelands
7404

Candice Spammer
Tel: 021 414 5582
Fax: 086 480 0617
Email: spammec1@telkom.co.za

Our Ref.: WWIP_WPB+0081_19
Your Ref.: S1798 282368

16 January 2019

Attention: S Muller

Overstrand Municipality
HERMANUS

**PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USES: ERF 602, 7
COMMERCIAL STREET, PEARLY BEACH**

With reference to your letter received November 2018.

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

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

Approval is granted, subject to the following conditions.

As per 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 **Frederik Swart** at telephone number **028 514 1199 / 081 363 7815 / FrederikS@openserve.co.za**

18 JAN 2019

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

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



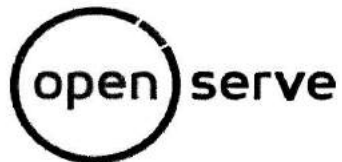
Selwyn Bowers
Operations Manager
Wayleave Management: Western Region

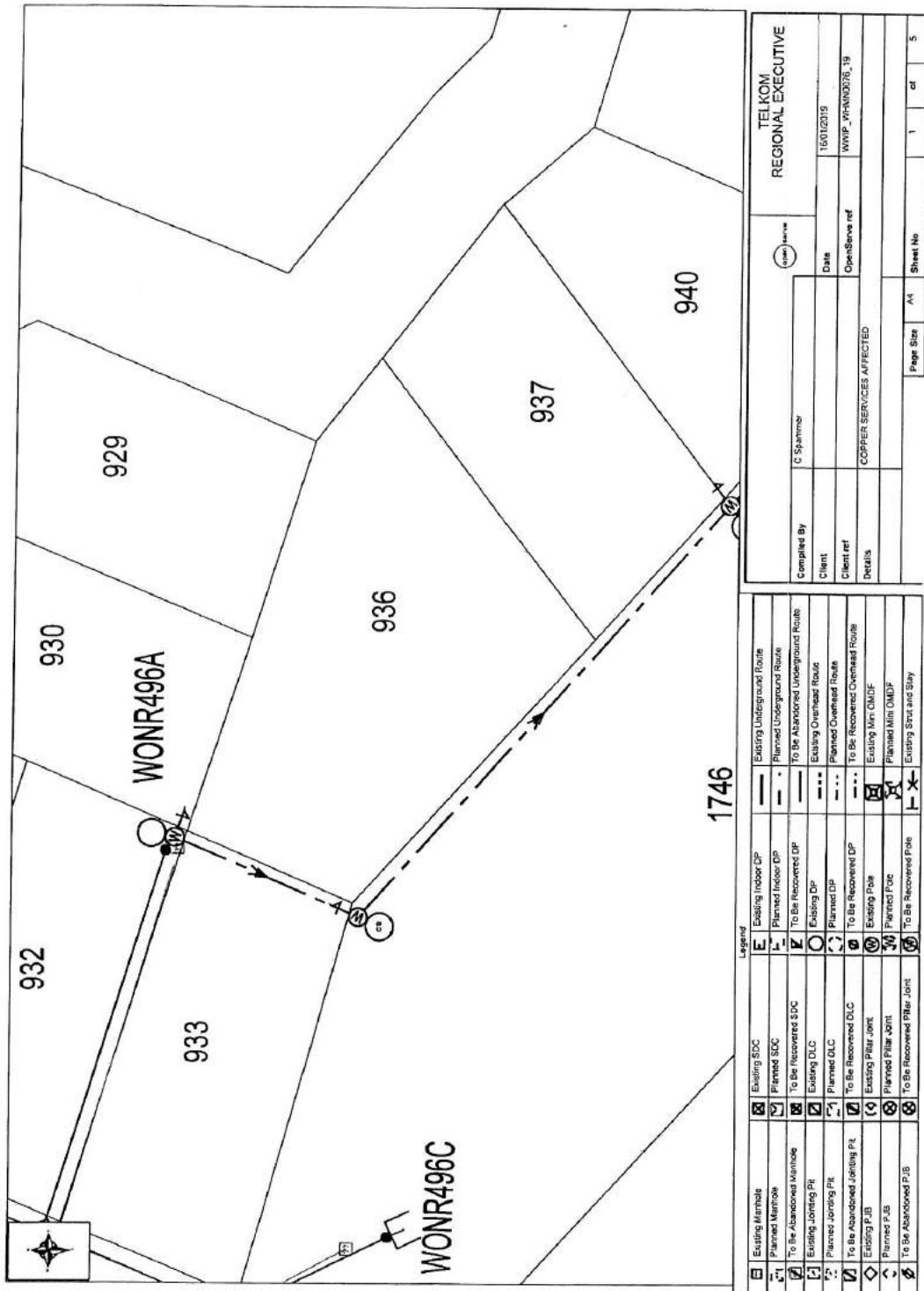
PLANT NOT AFFECTED

If any plant not indicated exists and information or supervision is required please contact this office at least 48 hours before any work commences.

Frederik Swart

081 363 7815

Reference number
WWIP_WPB+0081_19Marked Up
Candice SpammerDate
16-Jan-19



Compiled By		C Spammer	TELKOM REGIONAL EXECUTIVE	
Client	Date	16/01/2015		
Client ref	OpenServe ref	WVNF_WVWVND/R_19		
Details	COPPER SERVICES AFFECTED			
Page Size	A4	Sheet No	1	of 5

Legend	
	Existing SVC
	Planned SVC
	To Be Abandoned MWHole
	Existing Joining Pt
	Planned Joining Pt
	To Be Abandoned Joining Pt
	Existing PJB
	Planned PJB
	To Be Abandoned PJB
	Existing Indoor DP
	Planned Indoor DP
	To Be Recovered DP
	Existing DP
	Planned DP
	To Be Recovered DP
	Existing Pole
	Planned Pole
	To Be Recovered Pole
	Existing Underground Route
	Planned Underground Route
	To Be Abandoned Underground Route
	Existing Overhead Route
	Planned Overhead Route
	To Be Recovered Overhead Route
	Existing Mtr OMDP
	Planned Mtr OMDP
	Existing Strt and Stay