

4.3

**ERF 434, 15 PEAK ROAD, PRINGLE BAY, OVERSTRAND MUNICIPAL AREA:
APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE
PENALTY: PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF DE
TERBLANCHE & SE HOMAN**

434 KPRB (4497/2023)

H van der Stoep

28 May 2025

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 6 October 2023 from Plan Active Town & Regional Planners on behalf of DE Terblanche & SE Homan on Erf 434, Pringle Bay for the following:

- ❖ **Departure** in terms of Section 16(2)(b), read with Section 17.1.2.(c) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the provision of alternative and additional parking bays within the road reserve in order to deviate from the requirement to accommodate parking on site i.e. nine (9) off-site parking bays.
- ❖ **Determination of an Administrative Penalty** in terms of Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the unauthorised land use of a parking bay within the road reserve.

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

Erf 434 is located in the Pringle Bay Central Business District (CBD) area and situated at Peak Road. The erf measure 383m² in extent and zoned for business purposes. The property consists of a restaurant and shop and is surrounded by business and residential land uses.

4. SUMMARY OF APPLICANT'S MOTIVATION

THE MOTIVATION CAN BE SUMMARIZED AS FOLLOWS:

- Due to the location of the building, configuration of the site and the extent of the erf, the owners have no choice to buy-out parking.
- With the building approval in 2022 six (6) on-site parking bays were approved, however the parking was not constructed on the erf at the time.
- The owner constructed nine (9) parking bays in the road reserve with a small area of 8,3m² being on site.
- The residential component on first floor level will be converted into a shop and an additional parking bay is required, thus seven (7) parking bays for the development.

DETERMINATION OF THE ADMINISTRATIVE PENALTY**(a) nature, duration, gravity and extent of the contravention**

The owner constructed nine (9) parking bays in the road reserve and the extent of the transgression is 166,7m². The parking bays constructed are also in line with the character for the Pringle Bay CBD as the paving used by the owners are the same as the paving used within the CBD.

(b) the conduct of the person (allegedly) involved in the contravention

The owner constructed the parking bays and take full responsibility.

(c) whether the unlawful conduct was stopped

The construction of the parking bays is completed.

(d) a report by a quantity surveyor in matters of unauthorised building/construction

This office is of the opinion that such a report is not required at this stage but will be made available on request.

(e) whether the person allegedly involved in the contravention has previously contravened this by-law or a previous planning law

To the best knowledge of the applicant and confirmed by the landowners, the owners have never previously contravened the By-Law.

The Administrative Penalty determined as follows:

The owner already constructed 9 parking bays in the road reserve at his cost. In terms of the Overstrand Municipality the formula to determine the value of the parking bays is as follows:

- **1 parking bay constitutes (25m² x 7 required bays) – 8.3m² (for the portion of the parking bays situated on Erf 434);**
- = (166.7m²) x (value of the land per m²).

Calculation for 6 parking bays

25m² (1parking bay) x (R 345 000 Land value ÷ 383m² total area)
 =R 22 519.58 per bay x 6
 = R 135 117.48

Calculation for 1 parking bay - Minus ±8.3m² (portion of bays constructed onsite)

25m²- 8.3m² x (R 345 000 Land value ÷ 383m² total area)
 16.7m² x 900.78
 =R 15 043.08

Total: ± R150 160.56

Once this application is approved the final value payable will be determined. The owners respectfully request that the final value be settled over a period of **twelve (12) months**.

SPATIAL PLANNING POLICIES

Municipal Spatial Development Framework (MSDF)

The application complies with the objectives in the document.

Overstrand Municipal Growth Management Strategy (2010)

The property falls within Planning Unit 3 that consists of the existing retail node of Pringle Bay.

Heritage Value

The property is situated within the Heritage Overlay Zone but is not earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report, 2009.

Biophysical Environment

The application does not trigger any listed activities as per NEMA, 1998.

PLANNING PRINCIPLES

Spatial Justice

The proposed application will not contribute to past spatial injustices and not applicable.

Spatial sustainability

The proposal will have no impact on the conservation worthy areas of Pringle Bay CBD and spatially the land use will be in keeping with the business character of the area.

Efficiency

The business erf is conveniently located within the Pringle Bay CBD where on-street parking is easily accessible that are located in the immediate vicinity as 9 parking bays were constructed in front of the subject property by the owners.

Spatial Resilience

The proposal is well aligned with the spatial plans and policies and that will enable the subject property to be able to resist and absorb environmental and economic shocks.

Good Administration

The Applicant has followed due process as determined by the Overstrand Land Use Scheme.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	8 March 2024	12 April 2024
Registered notices	Yes	8 March 2024	12 April 2024
Internal departments	Yes	8 March 2024	12 April 2024
Ward councillor	Yes	8 March 2024	12 April 2024
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

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

Name	Date received	Summary of comments
Services Report	12/06/2024	See Annexure F.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

One (1) letter of objection was received from Pringle Bay Ratepayers Association (PBRA) during public participation.

A letter of comment was also received from Mr A Beneke (via Ward Councillor T Els) but was subsequently withdrawn. A positive comment was received from Bermag Family Trust. See Annexure D.

The applicant was provided with an opportunity to respond to the objections. See Annexure E.

See below a summary of the objections and applicant's response thereon, and also the Municipal Town Planners comments thereon.

COMMENT 1: FROM A BENEKE

Parking to be provided on site. The developer has already built the parking bays and are forcing the Municipality to accept the situation with a penalty payment thus creating a precedent.

APPLICANT'S RESPONSE

The process for buy-out is outlined in paragraph 17.1.2.(c) of the Overstrand Municipality Land Use Scheme, 2020. The parking bays in question were constructed in a manner consistent with the configuration, design and paving elements of surrounding properties within the CBD area of Pringle Bay.

TOWN PLANNER'S RESPONSE

The CBD of Pringle Bay business erven does have the option to buy out parking in accordance with the Parking Master Plan. This has been allowed since 2011 and is deemed an acceptable method to provide parking.

COMMENT 1: PRINGLE BAY RATEPAYERS ASSOCIATION

Two aspects are to be addressed namely:

Buyout of parking in terms of the Overstrand Land Use Scheme, 2020 and the value determined of a minimum area of 25m².

Demolishment of illegal structures: The legal precedent of Bet-el-Faithe Mission vs Matthamme and Others (5306/2017) [2020] ZAFSHC 6, is summarised in an article by Ashersons Attorney titled "Your neighbour Builds Without Plans – Can you get a Demolition Order", dated April 2020, which among others states:

"... A court deciding a demolition application has "discretion to reach and equitable and reasonable solution in terms of the common law by ordering payment or compensation rather than removal in cases where the cost of removal would be disproportionate to the benefit derived from the removal."

The ratepayers do not consider the demolition of the illegal parking bays a viable option.

APPLICANT'S RESPONSE

The PRBRA acknowledges the illegal structures and does not see demolition as a viable alternative.

TOWN PLANNER'S RESPONSE

Noted.

COMMENT 2:

We submit that a full Master Plan documentation for the Pringle Bay business node parking plan should be considered, and not only a diagram as submitted by the applicant. This will not only ensure current but also future fairness in allocating alternative parking to proposed developers and current landowners. We have previously requested the detailed parking master plan documentation from the Overstrand Municipality. To date we have not received the requested documentation from the Overstrand Municipality Planning Department.

APPLICANT'S RESPONSE

The PBRA suggested the development of a Pringle Bay Business Area Parking Master Plan to ensure fair allocation for both current and future developers and landowners.

TOWN PLANNER'S RESPONSE

In 1995, Planning Partnership (now Planning Partners) proposed to the former Hangklip-Kleinmond Council that parking in the CBD be provided within the road reserve. Their proposal was based on the fact that most of the erven are small and there is not enough space on site for adequate parking and the necessary buildings. It was further mentioned that the road reserves are very wide and have more than enough space to accommodate a road carriageway, a sidewalk and on-street parking.

It is evident that the Pringle Bay Ratepayers deemed the parking Master Plan of Pringle Bay CBD as unfair towards surrounding other businesses and that the plan be revisited to ensure fair parking ration for each business. However, the Parking Master Plan was a need identified in 2002 and paid for by Ward 10 in 2005 with Ward funds. The plan has been implemented since 2008 and in order to expedite the implementation, the arrangement is that the applicant, who intends to make use of this arrangement, is liable for payment of the off-site parking bays, but responsible for the construction of the bays as per the Master Plan to ensure uniformity.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Paragraph 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner's comment on objections/and response thereon)

See Paragraph 7 above.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)**10.1 Background**

N/A

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

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

The objectives relating to:

Spatial Justice

The proposal relates to parking provision and will not in any way contribute to the perpetuation of the past apartheid spatial development imbalances.

Spatial Sustainability

The proposal is situated in the Central Business District of Pringle Bay and is for the buyout of parking. The parking will be located within the road reserve and not impact on any valuable agricultural land or environmentally sensitive and biodiversity rich areas.

Efficiency

The proposal is designed to optimally utilise the space available on the subject property.

Spatial Resilience

The proposed development will not lead to any economical and/or environmental shocks as the application will be compliant with the National Building Regulations and SANS.

Good Administration

Good procedure was followed and with a good public participation process.

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

Same as Point 10.2 above.

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

Same as Point 10.2 above.

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

N/A

10.6 Impact on Municipal Engineering Services

As discussed in point 7 of this report, the nine (9) alternative parking bays will be provided within the road reserve. Engineering services will be

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The proposed application is to depart from the required number of on-site parking bays. The scheme makes provision for the deviation of parking bays by means of a departure application for which the applicant has applied.

The application is in line with the Overstrand Spatial documents.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL**DEPARTURE OF PARKING REQUIREMENTS:**

The property is located within the CBD of Pringle Bay. The zoning is Business Zone 3: Local Business and has an existing building on the property. The development consists of residential and shop which is in line with the applicable zoning however falls short with regards to the parking requirements.

The parking layout falls short for the following reasons:

- The previous building plan approval permitted six (6) parking bays.
- The approved layout of the parking bays falls short of acceptable standards of manoeuvrability accessibility to the business.
- The property has an irregular shape with an existing approved building which restricts a viable parking layout as per acceptable parking standards.
- The existing approved building plan (a general dealer and the flat. was approved in 2022 indicating six (6) parking bays on-site.
- With the conversion of the flat into a shop, an additional parking is required.
- The applicant also proposes to buy-out one (1) parking bay in accordance with Section 17.1.2.(c).

The provision of off-site parking is desirable and in line with the character of parking bays in the Pringle Bay CBD. With reference to the figure below, it is clear that erven (Erf 1889, Erf 1861, Erf 369 and Erf 366 Pringle Bay) have been developed to their full potential and has approval for off-street parking. The development on Erf 434 Pringle Bay should therefore also be provided the opportunity to utilise the off-street parking as per the Pringle Bay CBD Master Parking Plan as per the Mayoral Committee decision letter, dated 29 December 2005.

From a town planning perspective, the provision of off-site parking is desirable for the following reasons:

- ✚ The businesses within the Pringle Bay CBD area are offered the chance to utilise off-site parking provision in relation to the adjacent erven.
- ✚ The 50/50 parking principle is available to all business properties within the Pringle Bay CBD; however not all erven has opted to utilise this principle.

- ✚ In cases where there is merit, deviation of the principle can be evaluated as in this case and similar previous approvals.

Considering the above, the provision of the nine (9) parking bays off-site is recommended since it will be available to the general public.

Section 17.1.2.(c) of the Overstrand Land Use Scheme states the following:

“Pay the Municipality the amount to the value of the parking to be provided in accordance with the zoning concerned, together with the construction cost, in cases where the provision of parking is precluded; in terms of other legislation or site-specific constraints a contribution is made to an approved Municipal parking fund or project for the provision of parking”.

The area of extent relates to Section 17.1.3 *“for the purpose of determining the value of a parking bay, a minimum area of 25m² will be utilised”.*

Note:

Considering the Mayoral Committee decision letter relating to the parking dated (28 December 2005), the parking off-site is to be at the cost of the property owner/developer. Therefore, the calculation for parking buyout will not include construction cost.

A Valuation Report was done by HCB Property Valuations dated 17 April 2025. See Annexure G.

➤ Land value:	R345 000,00
➤ Erf size:	383m ²
➤ Parking:	7
➤ Minimum area:	25m ²
❖ Price per m²	= R80,00 / m ²
❖ Value of Parking	= Price/m ² x Parking Area
	= R80,00 x 25m ²
	= R2000,00

Total buy out value: R2000,00 x 7= R14000,00

❖ Parking on-site	8,3m ²
	8,3m ² x R80,00
	R664,00

Therefore, the buy-out of seven (7) parking bays equates to R14000,00 (7x R2000,00) – R664,00= R13336,00.

Considering the above-mentioned, the application for the buy-out of seven (7) parking bays equating to the amount of **R13336,00** is recommended for approval from a town planning perspective.

ADMINISTRATIVE PENALTY:

The applicant requested that no penalty fee be determined due to the following:

- The low impact of the unauthorised building work and the buy out for the parking bays in the road reserve.
- The applicant has complied with the Parking Master Plan of Pringle Bay in its construction of the parking bays.
- The present situation is a much better aesthetically and in practice vis a vie the previous parking lay out as approved with the building plan.
- The applicant did construct nine (9) off street parking bays, two (2) more parking bays than is required at its own cost.
- The parking bays were constructed as per accordance to the Pringle Bay parking master plan in terms of construction material and parking parameters.
- The parking bays were constructed illegally without consultation with the Municipality and taking the abovementioned into consideration the opinion that no administrative penalty be levied, due to the financial liability incurred from the buyout by the applicant.

13. RECOMMENDATION

1. Comments / Objections noted;
2. that the application in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 read with Section 17.1.2.(c) of the Overstrand Municipality Land Use Scheme, 2020 on Erf 434, Pringle Bay for a departure for the provision of alternative and additional parking bays within the road reserve in order to deviate from the requirement to accommodate parking on site i.e. nine (9) off-site parking bays, **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
 - (a) that an amount of **R13 336,00**, be payable for the shortfall of seven (7) parking bays within sixty (60) days from the final date of the decision;
 - (b) that an off-site parking layout plan be submitted to the Engineering Services Department to their satisfaction for the nine (9) outstanding parking bays;
 - (c) that the conditions in the Engineering Report (attached as Annexures F), be adhered to;
 - (d) that building plans be submitted to the Building Department of the Overstrand Municipality, and that any requirements by the Fire- and Building Departments at that stage be complied with;
 - (e) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with, and
 - (f) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.

3. that the determination of an administrative penalty in terms of Section 90.(4) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Erf 434, Pringle Bay for the unauthorised land use of a parking bay within the road reserve, **not be imposed**.
4. that the applicant and persons who commented be notified of its right of appeal in terms Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

14. REASONS FOR RECOMMENDATION

- ❖ The present building plan was approved with six parking bays on-site. The parking created within the road reserve along the eastern portion of the property results in a more accessible and practical parking layout.
- ❖ The Overstrand Municipality Land Use Scheme makes provision for alternative parking provision for which have been applied.
- ❖ The Mayoral Committee decision letter makes provision for a 50/50 principle relating to on-site and off-site parking. However, the viability of the 50/50 principle cannot be implemented on this site due to the shape site. The parking must rather be moved to a more viable scenario in terms of safety and manoeuvrability.
- ❖ The proposal to provide off-site parking is in line with the Pringle Bay CBD Parking Master Plan.
- ❖ The request for a payment schedule over a year (365 days) not be supported. The business is operating and the parking bays were illegally constructed and that the recommended payment period be reduced to sixty (60) days.
- ❖ The administrative penalty is not applicable due to the cost incur for the buy out of the already built parking bays. The construction was done by the applicant in accordance with the Master Plan and thus is in line with the rest of the CBD parking arrangement.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Objection/comments received
Annexure E:	Applicant's response to objection
Annexure F:	Services Report
Annexure G:	Valuation Report by HCB Property Valuations
Annexure H:	Master Plan for Roads and Parking 2008

SIGNATURES

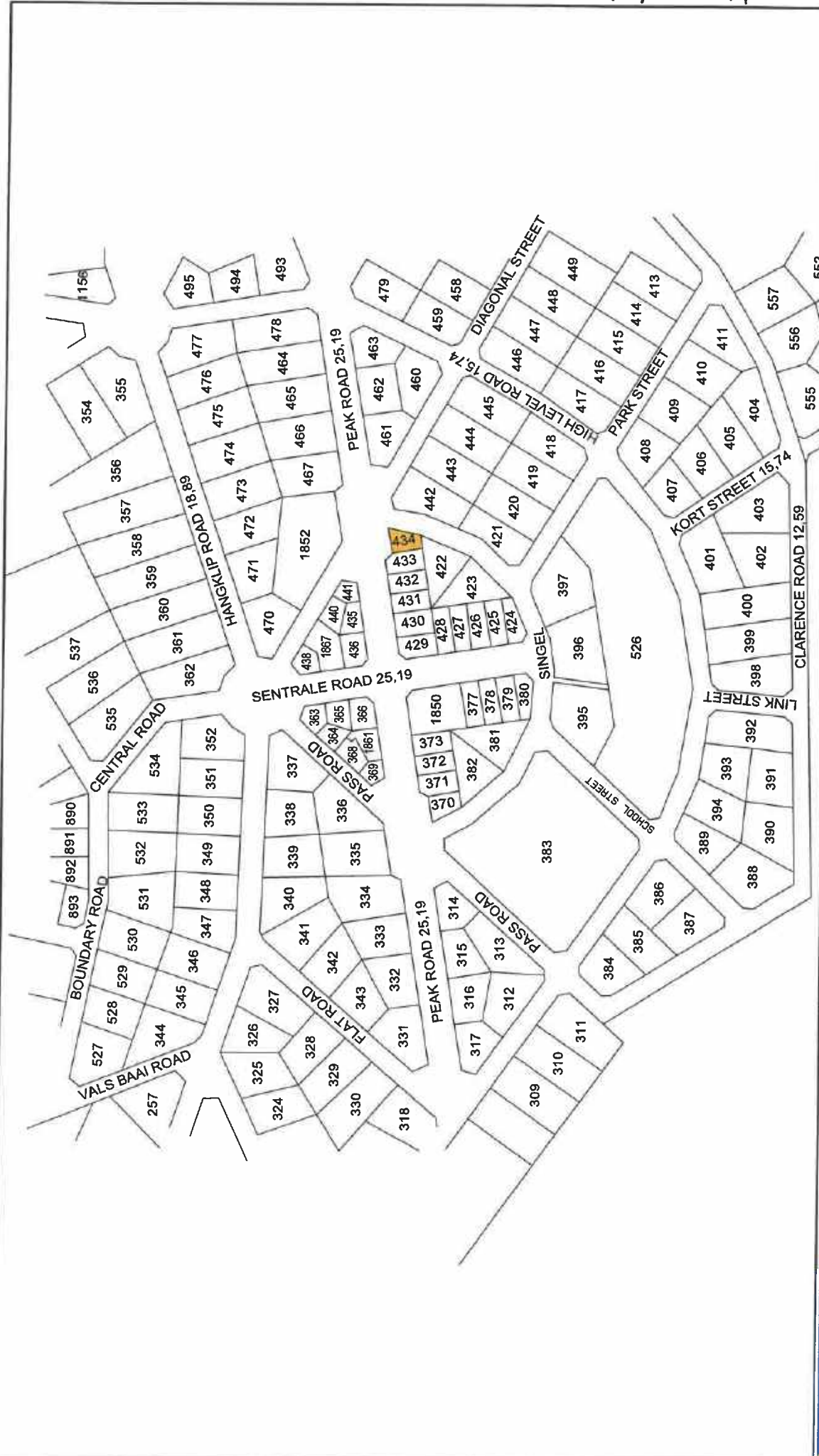
AUTHOR

Name: **H VAN DER STOEP**

SACPLAN Reg No: **A/1708/2013**

Signature: _____

Date: _____



Scale: NTS
 Drawing Nr: erf 434 pbl.dwg
 Date: AUGUST 2023

Plan Description:
LOCALITY MAP

Property Description:
**ERF 434
 PRINGLE BAY**

All distances approximate
 and subject to survey.
 COPY RIGHT RESERVED

PLActive Stads- en Streeksbeplanners
 Town & Regional Planners

**PROPOSED ALTERNATIVE PARKING
PROVISION AND DETERMINATION OF AN
ADMINISTRATIVE PENALTY**

ERF 434 PRINGLE BAY

DIVISION: CALEDON

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

Mr. D.E. Terblanche and Ms. S.E. Homan, owners of Erf 434 Pringle Bay, have instructed the company Plan Active Town Planners to apply for the determination of an administrative penalty and provision of alternative parking as stipulated in Section 17.1 of the Overstrand Municipal Land Use Scheme, 2020.

In August 2022 a building plan was approved by the Overstrand Municipality for Erf 434 Pringle Bay. With the approved land uses, **6 on-site parking bays** were approved on the subject property. The approved 6 parking bays were **not constructed on the subject erf** at the time, but **9 parking bays were subsequently constructed by the owner in the road reserve** with a small area (8.3m²) of the parking bays situated over the street boundary line onto the Erf 434 Pringle Bay. We are therefore applying for the determination of an administrative penalty and the "buy out" of the area of the required parking bays.

With the proposed application, a land use change is also proposed and will have an impact on the provision of the required number of parking bays. The existing two-bedroom flat that required two parking bays will be converted into shopping space that will require 3 parking bays. Subsequently **1 additional parking bay is required. (=7 parking bays in total)**

Erf 434 Pringle Bay is 383m² in extent and is held by Title Deed No.T16141/2022.

2. APPLICATION DETAILS

Application is made in terms of:

- Section 17.1.2(c) of the Overstrand Municipality Land Use Scheme Regulations that read as follows:
Alternative Parking Provision: c) pay the Municipality the amount to the value of the parking to be provided in accordance with the zoning concerned, together with the construction cost, in cases where the provision of parking as precluded in terms of other legislation or site-specific constraints or a contribution is made to an approved Municipal parking fund or project for the provision of parking.
- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an administrative penalty.

3. DESIRABILITY

3.1 PROPERTY DESCRIPTION

The subject property is situated at 15 Peak Road, on the corner of Peak Road, Crescent Road and Diagonal Road within the Pringle Bay Central Business District and is currently developed. Please refer to the aerial photograph below:



3.2 ZONING

Erf 434 Pringle Bay is zoned Business Zone 3: Local Business.

Adjoining properties are also zoned as Business Zone 3: Local Business with residential erven to the North, North-East and Eastern side of the subject property. Please refer to the zoning map abstract below:



3.3 LAND USE

Erf 434 Pringle Bay is currently developed. The building is used for business purposes, a shop is established on the subject erf.

Land uses North-West, West and South-West surrounding the subject property are all used for business related uses within the Pringle Bay Central Business District. Land uses North, North-East and South-East are predominantly single residential.

3.4 PROPOSAL

Application is made for the provision of alternative parking in terms of:

- Section 17.1.2(c) Overstrand Municipality Land Use Scheme Regulations that read as follows:
Alternative Parking Provision: c) pay the Municipality the amount to the value of the parking to be provided in accordance with the zoning concerned, together with the construction cost, in cases where the provision of parking as precluded in terms of other legislation or site specific constraints or a contribution is made to an approved Municipal parking fund or project for the provision of parking.
- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an administrative penalty

With reference to the previous building plan approval in 2022, a two-bedroom flat was approved on the first floor of the exiting building with 6 parking bays approved on-site. The parking bays however were later constructed in the road reserve. The intention of the owners is to convert the flat on the first floor into shopping space (business use), which will require one additional parking bay. Currently the Land Use Scheme prescribes that 4 parking bays per 100m² GLA be provided onsite. With reference to Section 17.1.2(c) alternative parking can be provided. The last mentioned section read as follows:

“c) pay the Municipality the amount to the value of the parking to be provided in accordance with the zoning concerned, together with the construction cost, in cases where the provision of parking as precluded in terms of other legislation or site-specific constraints or a contribution is made to an approved Municipal parking fund or project for the provision of parking.”

Due to the location of the building, the configuration of the site and the extent of the erf, the owners have no other choice than to “buy-out” an additional parking bay in terms of Section 17.1.2(c) in order to accommodate the required GLA with the proposed land use change from a flat to shopping space (business use) on the first floor. The parking bays provided within the road reserve are in line with the character of provision of parking space within the CBD and were constructed in the same manner.

It is therefore proposed that the land be evaluated in order to determine the cost of the parking bays required that cannot be accommodated on the site in terms of Section

17.1.2(c) excluding the construction costs be considered. The owner already constructed 9 parking bays in the road reserve at his cost. In terms of the Overstrand Municipality the formula to determine the value of the parking bays is as follows:

- 1 parking bay constitutes $(25\text{m}^2 \times 7 \text{ required bays}) - 8.3\text{m}^2$ (for the portion of the parking bays situated on Erf 434);
- $= (166.7\text{m}^2) \times (\text{value of the land per m}^2)$.

Calculation for 6 parking bays

$$25\text{m}^2 (1\text{parking bay}) \times (\text{R } 345\,000 \text{ Land value} \div 383\text{m}^2 \text{ total area})$$

$$= \text{R } 22\,519.58 \text{ per bay} \times 6$$

$$= \text{R } 135\,117.48$$

Calculation for 1 parking bay - Minus $\pm 8.3\text{m}^2$ (portion of bays constructed on-site)

$$25\text{m}^2 - 8.3\text{m}^2 \times (\text{R } 345\,000 \text{ Land value} \div 383\text{m}^2 \text{ total area})$$

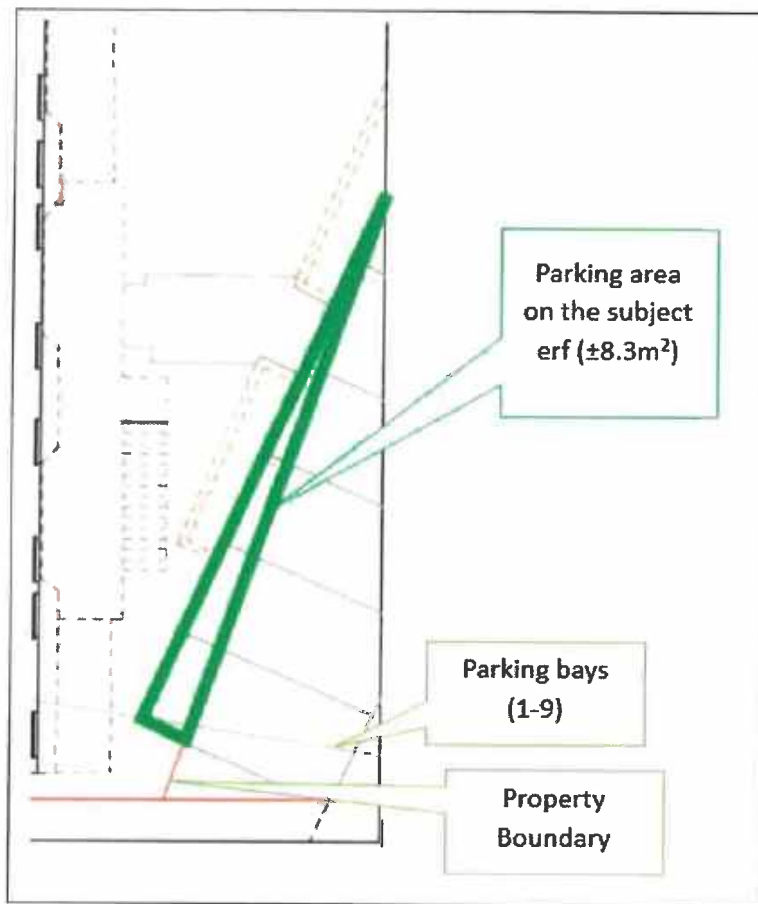
$$16.7\text{m}^2 \times 900.78$$

$$= \text{R } 15\,043.08$$

Total $\pm \text{R } 150\,160.56$

Once this application is approved the final value payable will be determined. The owners respectfully request that the final value be settled over a period of **twelve (12) months.**

It is important to note that the parking bays have already been constructed and therefore no construction costs are required to be paid to the municipality. A portion of the parking bays ($\pm 8.3\text{m}^2$) were constructed on the subject property as seen in the calculation above and the plan below.



The business even in Pringle Bay are very small in extent and it is difficult to accommodate the required parking bays on-site. The proposed Master Plan for the Pringle Bay CBD proposed on-street parking bays within certain roadreserves.

The paving used for the construction of the parking bays is in line with the character of the area and from a visual point of view of the Pringle Bay CBD the same pavers were used for the construction thereof.

3.4.2. Determination of an administrative penalty

With reference to the building plan approval in August 2022, six parking bays were approved to be situated on-site. Only a small portion of the parking bays was constructed on the subject property but the majority of the parking bays were constructed in the road reserve. The intention of the owners are to **“buy out”** the required number of parking bays as per Section 17.1.2(c) of the Overstrand Municipality Land Use Scheme Regulations, 2020.

In terms of **Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020**, an application is made for the determination of an administrative penalty for unauthorised land use. In terms of **Chapter 10, Section 90(1)**, "A person who is in contravention of this By-Law, and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned".

In terms of **Chapter 10, Section 90(3)**, of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 the applicant must to the satisfaction of the municipality, provide the following in terms of:

3.4.1.1 CRITERIA FOR DETERMINATION OF AN ADMINISTRATIVE PENALTY

The Nature, duration, gravity, and extent of the contravention

The required parking bays were constructed in the road reserve, in Crescent Road, Pringle Bay, 9 parking bays were constructed.

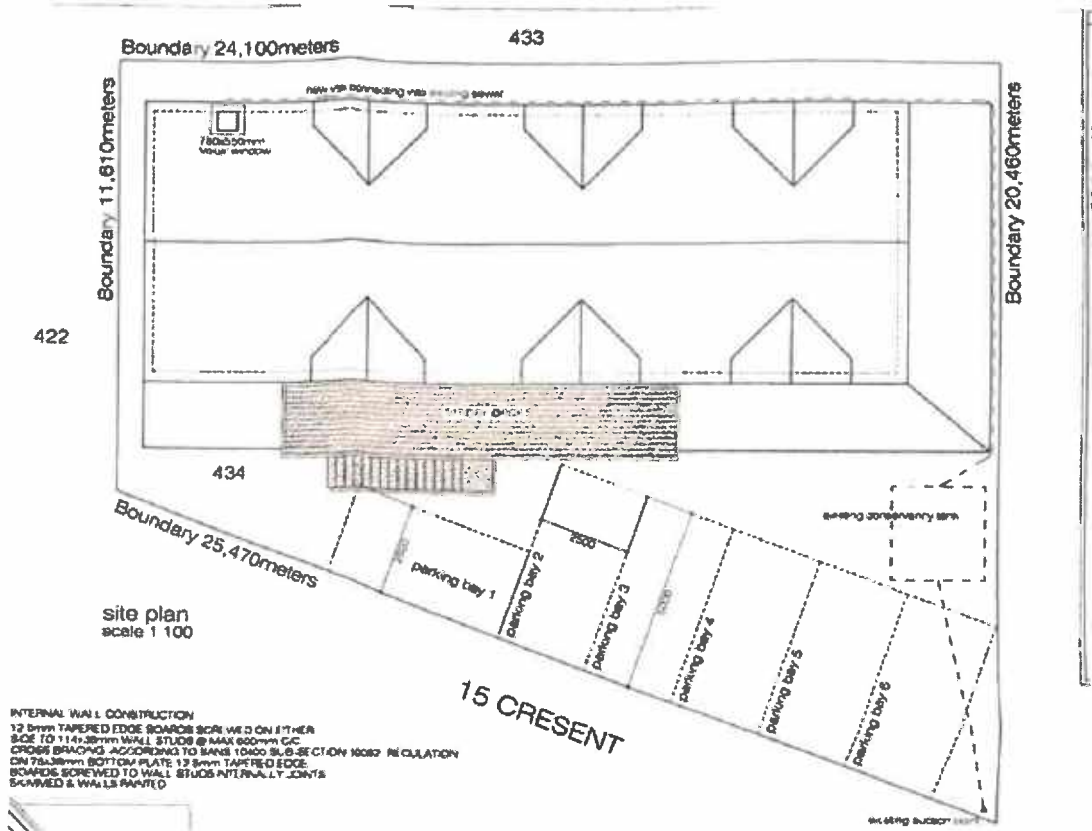
The extent of the unauthorised building work is as follows:

Structure	Extent of unauthorised building work
9 parking bays	±166.7m ²
Total Extent of unauthorised building work	±166.7m²

The owners of the subject property intend to provide their full co-operation to the Overstrand Municipality to address the illegal construction of parking bays in the road reserve. The applications for the determination of an administrative penalty and the "buy out" of parking bays are submitted simultaneously in order to address the encroachments of parking bays onto the road reserve.

The position and nature of the unauthorised parking bays are unobtrusive in nature and do not impact negatively on the surrounding properties, as no complaints from surrounding property owners has been received. As seen in the aerial photograph below the existing parking bays have the same impact at the current position as at the position indicated on the approved building plans.

Parking layout as approved August 2022



Parking bays as constructed



As indicated above, in terms of the approved building plan and the actual constructed parking bays, in both scenarios vehicles will reverse into the road, we are therefore of the opinion that the impact remains the same.

The parking bays constructed by the owners of Erf 434 Pringle Bay are also inline with the character for the Pringle Bay CBD as the paving used by the owners are the same as the paving used within the CBD as seen in the aerial photograph below:



The conduct of the person involved in the contravention.

The existing parking bays were constructed by the owners and they take full responsibility.

A report by a quantity surveyor in matters of unauthorised building/construction

If the Overstrand Municipality finds it necessary that an administrative penalty fee needs to be enforced for the unauthorised parking bays, we will submit a report from a quantity surveyor with reference to the unauthorised building work. The reason being is that the owners are incurring cost to address the contraventions and still have to "buy out" the required parking bays which is also a considerable amount.

Whether the unlawful conduct was stopped

The owners are in the process of addressing the contravention by applying for the determination of an administration penalty and the "buy out" of the area of the required parking bays. The construction of the parking bays are completed.

Whether a person involved in the contravention has previously contravened this By-Law or a previous planning law

To the best knowledge of the applicant and as confirmed by the landowners, the owners have never previously contravened this By-Law or any other previous planning law.

We appeal to the Overstrand Municipality to take into consideration the low impact the unauthorised building work has on the surrounding area. It should also be considered that no complaint from surrounding property owners has been received with regards to the unauthorised parking bays as it is the norm in the specific area of Pringle Bay as the erven are relatively small in extent to provide parking bays on-site. We therefore respectfully request that a penalty fee **not** be imposed on the property owners for the reasons given above.

3.5 ACCESS & PARKING

6 parking bays have been approved onsite as per the building plan submitted, as previously mentioned but the required parking bays were not formalised on the subject erf. With the current proposal, the flat (which requires two parking bays and is ±58.533m² in extent) will now be converted into shopping space (business use) and therefor one additional parking bay will be required in order to comply with the parking requirements. The difference can be seen as tabled below:

Parking requirement with the flat established on first floor		
Land use	Extent	Parking requirement
Flat	58.533m ² (two bedrooms)	2 parking bays

Parking requirement with the proposed land use change from the flat on first floor to General business		
Land use	Extent	Parking requirement
General Dealer	58.533m ²	4 parking bays per 100m ² $(58.533 \div 100) \times 4$ =2.3 parking bays required (3 parking bays)

As seen in the tables above, one (1) additional parking bay needs to be provided to the 6 parking bays, as previously approved.

Ample parking is available on-street, in front of the subject property in Crescent Road, Pringle Bay as seen below.



The parking bays were constructed illegally in the road reserve by the owners of Erf 434 Pringle Bay and therefore the application to “buy out” the required parking bays. The impact of the off-street parking will remain the same as the parking bays approved on-site.

3.6 SERVICES

All services on the subject property already exist. Additional services are not required and therefore the proposal will not have a negative impact on existing services that are provided by the Overstrand Municipality. The application constitutes an application to pay the Overstrand Municipality the amount to the value of 7 parking bays as mentioned above under Section 3.4 & 3.5.

3.7 TITLE DEED

The Title Deed T16141/2022 has no restrictions that need to be removed for this application to be approved.

3.8 FORWARD PLANNING

Overstrand Growth Management Strategy (2010)

With reference to the Overstrand Growth Management Strategy the subject property falls within Planning Unit 3 that consists of the existing retail node of Pringle Bay.

With the proposal, the business use of the property will be retained and expanded. Therefore, the proposal falls within the prescribed guidelines for the specific area of Pringle Bay.

Overstrand Municipality Spatial Development Framework (2020)

The subject property is located within the Pringle Bay Business hub as demarcated in the Overstrand Municipality Spatial Development Framework (2020).



The zoning of the subject property is Business Zone 3 and will be retained. The primary land uses as defined in the property's zoning will be utilised and subsequently the land use is in line with the current zoning of the property and the forward planning frameworks mentioned above in this section.

3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.9.1 HERITAGE VALUE

Erf 434 Pringle Bay is situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010) and the Overstrand Municipality Spatial Development Framework (2020). The property is not earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009).

The subject property is not associated with any important persons or groups or important events and activities. The subject property has no association with the history of slavery and is not used for living heritage.

Considering the above mentioned it is evident that the proposal to "buy-out" the area of the required number of parking bays will not have a negative impact on the heritage value of the subject property or the greater area of the Pringle Bay CBD.

3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposal to "buy-out" the area of the required number of parking bays does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

3.10 PLANNING PRINCIPLES

The planning principles of spatial justice, spatial sustainability, efficiency and spatial resilience of this application can be described as follows:

Spatial justice refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access to opportunities, facilities, services and land. In the broadest sense, it seeks to promote the integration of communities and the creation of settlements that allow the poorest of the poor to access opportunities. In a spatially just settlement, opportunities and access are provided to those whose historical access and opportunities have been impeded by the practice of apartheid spatial planning. Land development procedures must include provisions that accommodate access to, and facilitation of, security of tenure and the incremental upgrading of informal areas. The principle of spatial justice is not applicable to this application.

Spatial sustainability: The proposal will provide the owners the opportunity to expand the business potential of the subject property located within the CBD that will be a great asset to the area. By expanding the floor area of the business, a number of job opportunities will be created in the area where it is much needed. The proposal will have no impact on the conservation worthy areas of the Pringle Bay CBD, and spatially the land use will be in keeping with the business character of the area.

Efficiency: The business erf is conveniently located within the Pringle Bay CBD where on-street parking bays are easily accessible that are located in the immediate vicinity as 9 parking bays were constructed in front of the subject property by the owners. The last mentioned makes the subject property very accessible.

Spatial resilience in the context of land use planning refers to the need to promote the development of sustainable livelihoods for the poor (i.e. communities that are most likely to suffer the impacts of economic and environmental shocks). Spatial resilience also refers to the requirement for flexibility in spatial plans, policies and land use management systems to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks. The spatial plans, policies and land use management systems should enable the communities to be able to resist, absorb and accommodate these shocks and to recover from these shocks in a timely

and efficient manner, which includes the preservation and restoration of essential basic infrastructure and functions, but also adaptation in order to ensure increased resilience in terms of future shocks (United Nations Office for Disaster Risk Reduction, 2009). The principle of spatial resilience is applicable to this application.

Good administration: Our Company is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020.

4. **RECOMMENDATION**

When this application is evaluated, it is important to take note of the following:

- The proposal falls within the existing land use tendencies in the area;
- The impact on services will be minimal;
- The proposal will not have a negative impact on the current character and land values of the surrounding erven;
- The proposal creates the possibility to extend a business that will create work opportunities within the CBD of Pringle Bay;
- The proposed application is in line with Spatial Planning Land Use Management Act, 2013 (SPLUMA) and the Land Use Planning Act, 2014 (LUPA).
- We respectfully request that a penalty fee **not** be imposed and that the final amount for the "buy out" of the required parking bays be settled over a period of 12 months.

With regards to the above mentioned it would be appreciated if the proposal would be considered favourably for Erf 434 Pringle Bay.

116

Y 15460

X 3802580

X 3802600

X 3802620

X 3802620

Y 15460

Y 15460



55m

50m

STOP

OFF: 57-414

OVERSTRAND MUNICIPALITY
 Building Plan No. 143299... is recommended by
 the Board of the Municipal Engineering Department
 and Building Department on 13th of 10th 2022 and all
 other building regulations of the Building Code Officer.
 Approved by the Mayor on 16 AUG 2022
 Approved by the Council on 16 AUG 2022
 Approved by the Mayor on 16 AUG 2022
 Approved by the Council on 16 AUG 2022

OVERSTRAND DISTRICT MUNICIPALITY
 MUNICIPAL ENGINEER
 COMMERCIAL / 4181 923
 BUILDING DEPARTMENT
 16 AUG 2022

NOTES

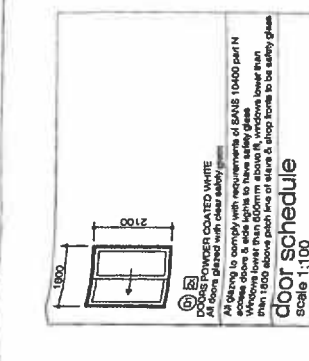
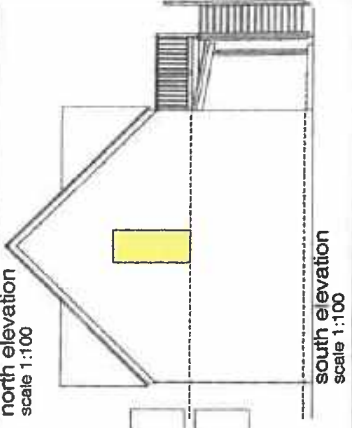
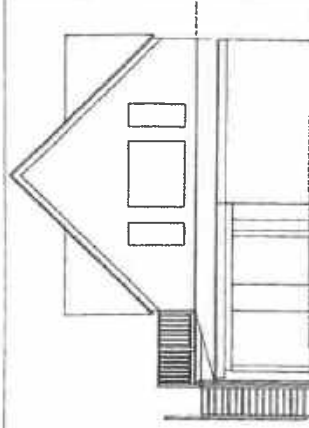
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INES DESIGN
 architecture
 Jonathan Innes
 073 256-3864
 SUITE 1, 32172 SAKOOP - ST1029
 HOUSE
 TERBLANCHE

Commercial cat B3
 MUNICIPALITY DRAWINGS
 The Crescent
 Pringle Bay
 Er-104

PLAN, ELEVATIONS

SCALE: 1:100
 DATE: 2022/15
 DRAWN: J. INNES
 CHECKED: J. INNES
 P. 4

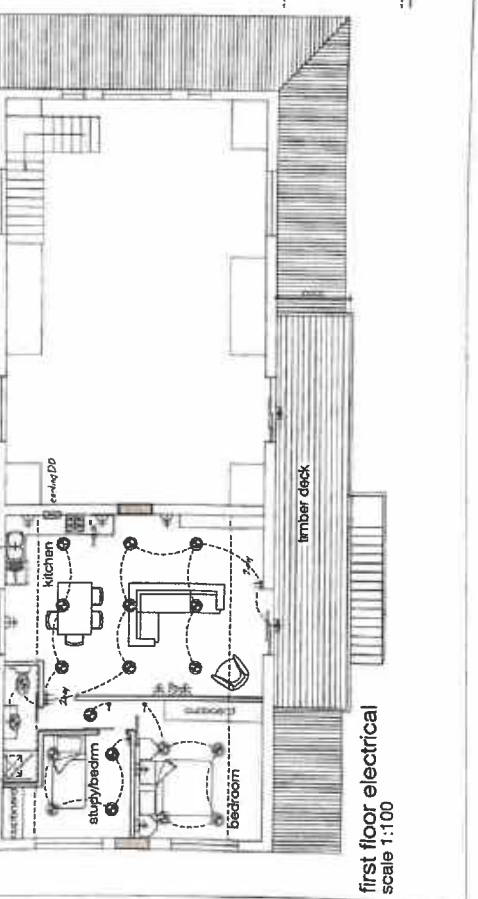
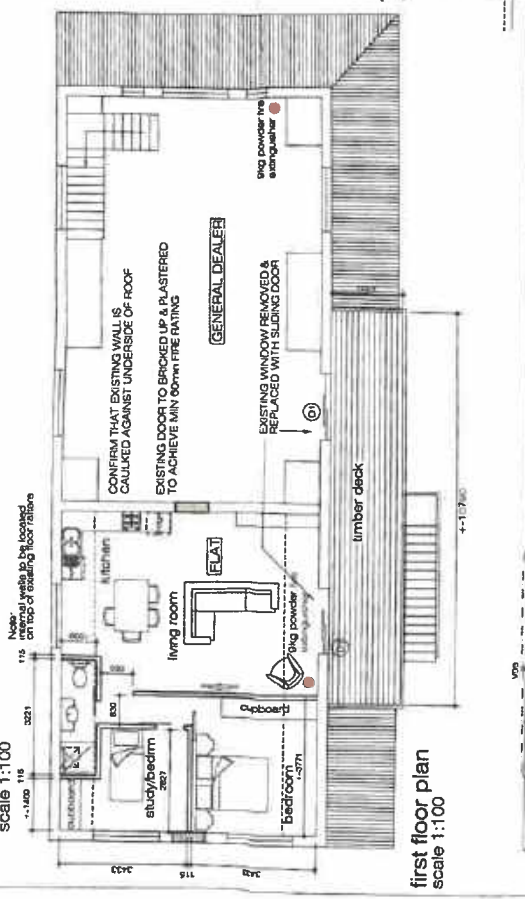
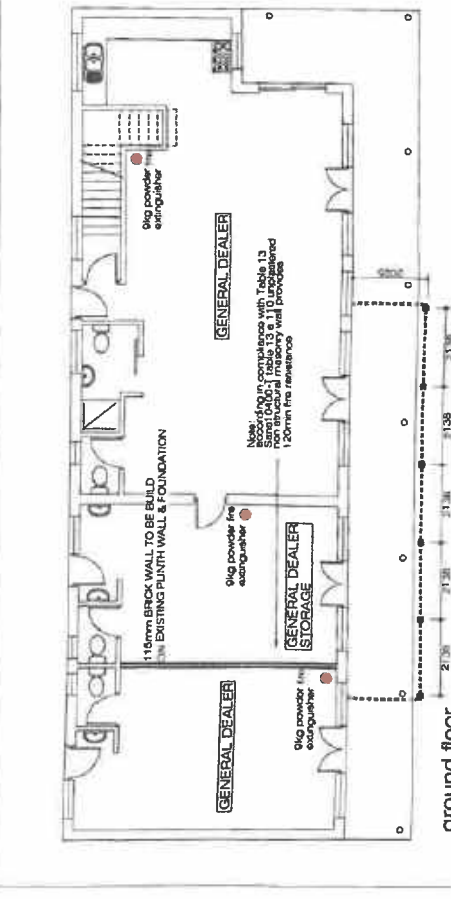
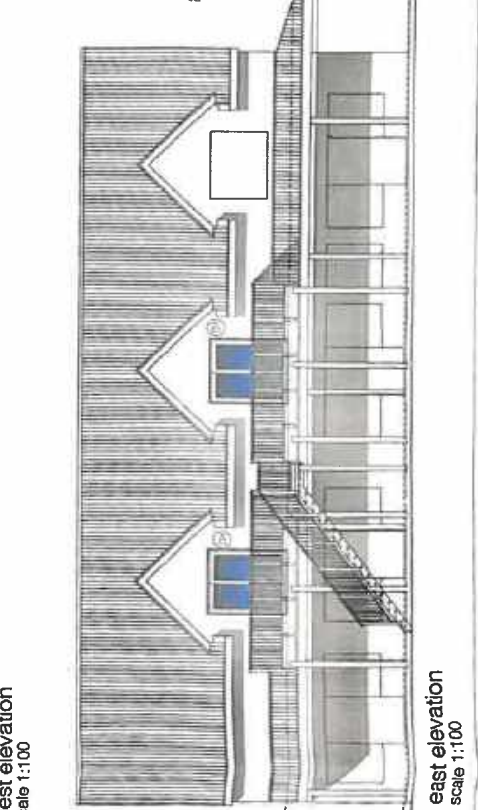
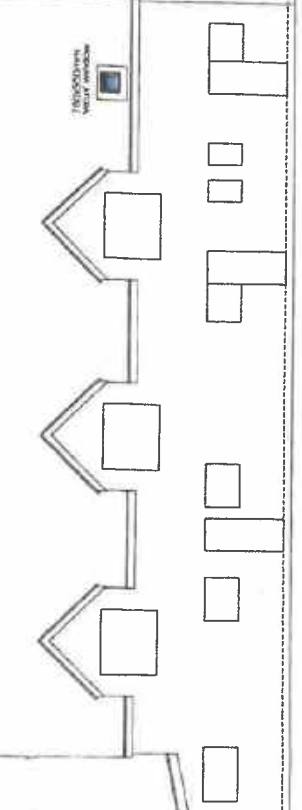


ELECTRICAL LEGEND

Light Switch	Zero Volt Switch
Wired-in Light	Wired-in Plug
Switch-Over	Dark-Over
W/I	Dimmer
Electric fan	

NOTE: POSITION OF ALL SWITCHES, PLUGS & LIGHTS TO BE SIGNED BY OWNER PRIOR TO COMMENCEMENT OF WORK.

NOTE: CONTRACTOR TO RECONCEALING PLUGS & LIGHTS AGAINST PLUMB PRICE ACCORDING.



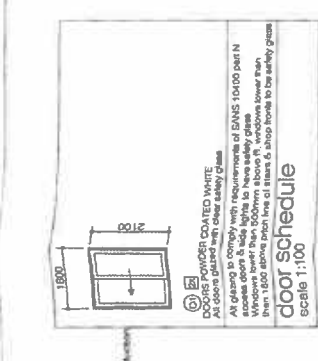
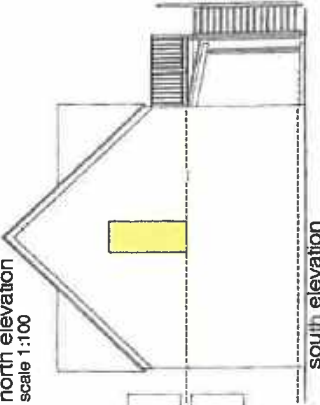
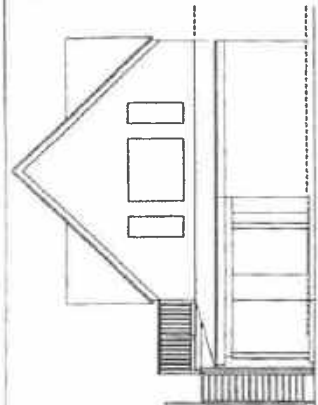
OVERSTRAND MUNICIPALITY
 2-15-2019
 16 AUG 2022
 11 AUG 2022

DATE: 11 AUG 2022
 APPROVED BY: [Signature]
 APPROVED BY: [Signature]

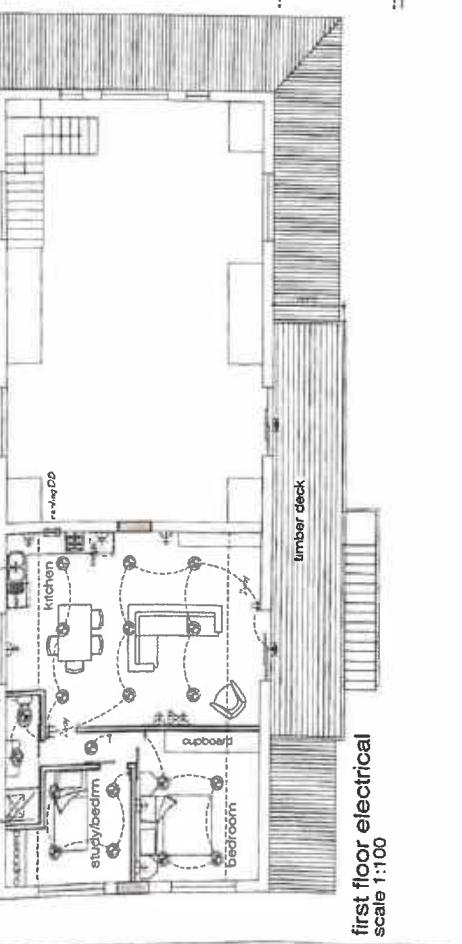
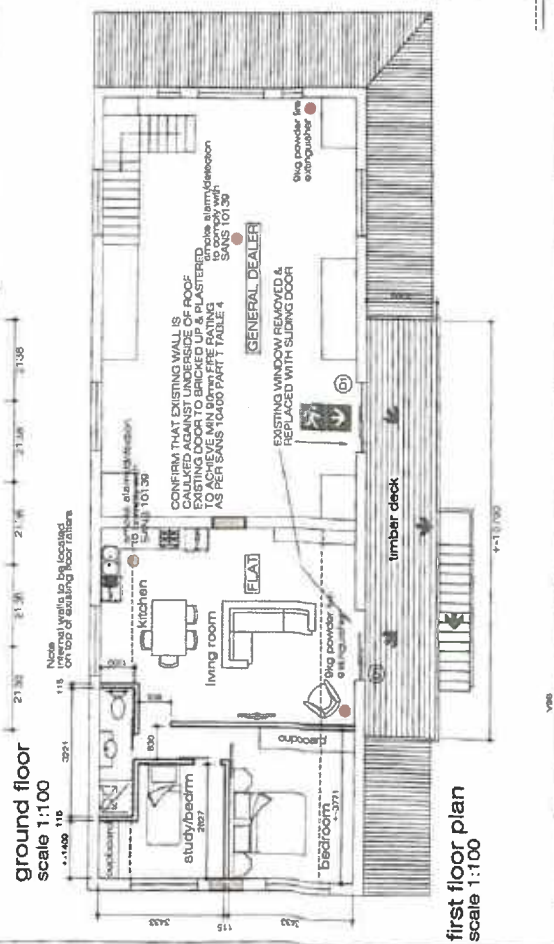
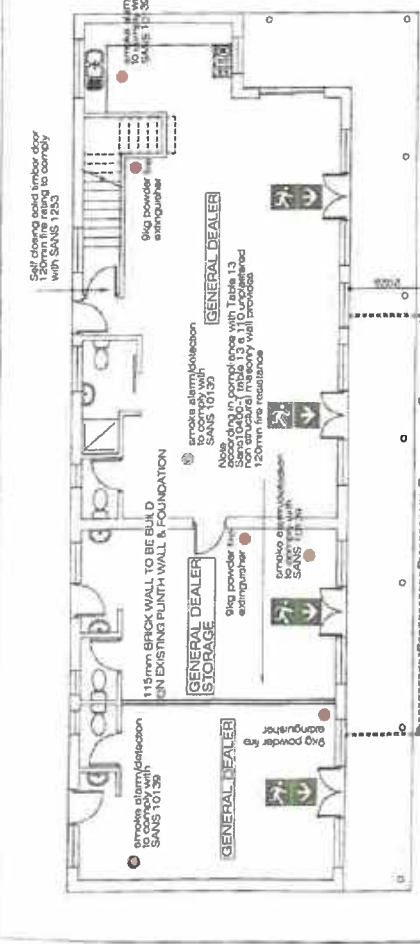
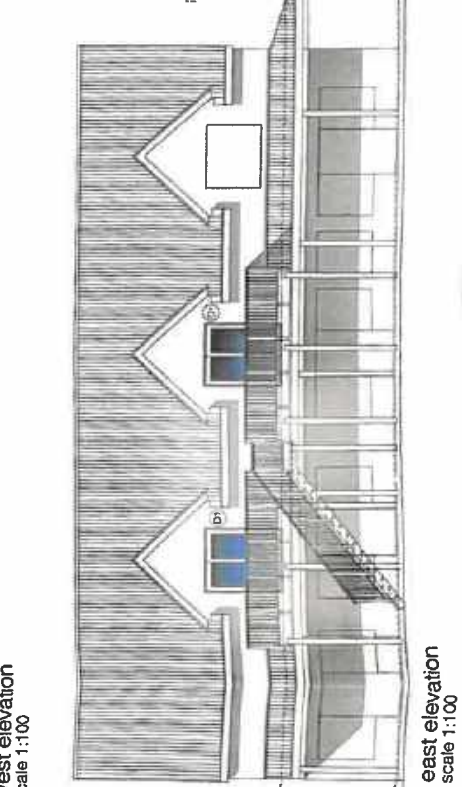
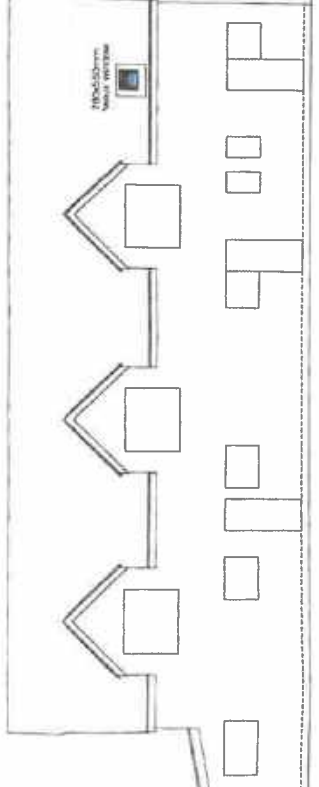
NOTES

1. THIS DRAWING IS A PRELIMINARY DESIGN AND IS SUBJECT TO CHANGE WITHOUT NOTICE.
2. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY.
3. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY.
4. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY.
5. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY.

INES DESIGN architecture
 Jonathan Innes
 072 285 3084
 SUITE 30172 SACAP - ST.1009
HOUSE REFINANCE
 Commercial cat B3
MUNICIPALITY DRAWINGS
 The Crescent
 Pongolo Bay
 2022/15 P.1



SYMBOL	DESCRIPTION
[Symbol]	Left Hand
[Symbol]	Right Hand
[Symbol]	Double Door
[Symbol]	Double Door
[Symbol]	W.C.
[Symbol]	Doorset
[Symbol]	Entrance





PRINGLE BAY RATEPAYERS' ASSOCIATION
PRINGLEBAAI BELASTINGBETALERSVERENIGING

SARS Reg. 9101/138/16/3
 NPO Reg. 214-205 www.pringlebayratepayers.co.za
 P O Box 409, Pringle Bay, 7196 / Posbus 409, Pringlebaai, 7196
 Chairman / Voorsitter: chairman@pringlebayratepayers.co.za / Tel: 084 222 1242

OVERSTRAND MUNISIPALITEIT

REKORDBEHEER

11 APR 2024

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

The Municipal Manager
 OVERSTRAND MUNICIPALITY
 PO BOX 20
 HERMANUS
 7200

PER EMAIL: loretta@overstrand.gov.za

TR. N. Meent
 (I. ud Skoop)

8 APRIL 2024

FILE NO.	ER 434 ✓
	Pringle Bay
SCAN NO.	KPRB 434
COLLABORATOR NO.	2028888

SUBJECT: ERF 434, 15 PEAK ROAD: PROPOSED ALTERNATIVE PARKING PROVISION AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PBRA COMMENTS

PREAMBLE

I, the undersigned, ALBERT WILLEM VORSTER (Identity no. 611004 5027 084) in my capacity as representative of the PRINGLE BAY RATEPAYERS' ASSOCIATION (hereafter referred to as PBRA, being a separate legal entity having a constitution, in terms of which it has a right, inter alia, to sue and to be sued), on behalf of our members who have granted a mandate to the PBRA to, amongst others, comment on and provide input on land use applications referred to the PBRA, hereby wishes to submit comments on behalf of the PBRA regarding the subject application.

1. ORGANISATION

The PBRA was started in 1967 by the first property owners of Pringle Bay to represent the interests of ratepayers and residents. Today it is a registered Non-Profit, Public Benefit Organisation.

Our primary function is to liaise with the Overstrand Municipality, with whom we enjoy a close relationship and to support local environmental conservation. We represent the community on the local Ward Committee and other consultative bodies. We maintain close contact with local authorities and service providers, particularly on matters affecting ratepayers and residents.

The PBRA represents the ratepayers within the declared Urban Edge. This currently constitutes approximately 1,800 properties (erven) of which approximately 1,200 are developed (thus having a habitable structure erected on it either for residential or business purposes).



2. TWO ASPECTS NEED TO BE ADDRESSED

- 2.1. The first aspect in our opinion that needs to be addressed is the “buy out” of the area of the required parking bays as applied for in the application.
- 2.2. The second aspect in our opinion that needs to be addressed is that of illegal structures, in this case, apparently illegal formal parking bays.

3. THE APPLICABLE CLAUSES OF THE OVERSTRAND MUNICIPALITY LAND USE SCHEME, 2020

For ease of reference, we quote the relevant Overstrand Municipality Land Use Scheme 2020 in full **with our emphases in bold**.

3.1. “17.1: PARKING REQUIREMENTS

Off-street parking requirements:

17.1.1 *The following off-street parking requirements apply, unless otherwise stated in this land use scheme:*

- a) *In cases where parking requirements are not stipulated for a particular use, or in terms of a specific condition imposed by the Municipality, **parking shall be provided at a minimum ratio in accordance with the table titled “Minimum off-street parking requirements” (see below).***
- b) *The Municipality shall determine off-street parking requirements for land uses not stipulated in the table “Minimum off-street parking requirements”.*
- c) **Off-street parking shall be provided:**
 - i) *on the property for which the parking is required;*
 - ii) *subject to the Municipality’s approval, in public parking facilities available in the vicinity; or*
 - iii) *in accordance with 17.1.2. and applicable policies.*

Alternative parking provision

17.1.2 *As an alternative to compliance with the off-street parking requirements in terms of this land use scheme, an owner may, with the approval of the Municipality:*

- a) *acquire an area of land sufficient for the permanent parking requirements elsewhere in a position approved by the Municipality;*



- b) *acquire permanent rights to a parking facility or portion of a parking facility elsewhere in a position approved by the Municipality and shall register a notarial deed of servitude against such land or parking facility to link the properties concerned for the purpose of parking, and the owner shall cause the parking concerned to be constructed and maintained at his cost to the satisfaction of the Municipality, and the cost of registration of the servitude shall be borne by the owner;*
- c) *pay the Municipality the amount to the value of the parking to be provided in accordance with the zoning concerned, together with the construction cost, in cases where the provision of parking is precluded in terms of other legislation or Site specific constraints or a contribution is made to an approved Municipal parking fund or project for the provision of parking.*

17.1.3 *For the purpose of determining the value of a parking bay, a minimum area of 25m² will be utilised.*

Combined parking requirements

17.1.4 *Where two or more land uses share a common parking area, the Municipality may reduce the amount of parking required for the independent uses, provided that:*

- a) *the Municipality is satisfied that the utilisation of the same parking area by different activities is not concurrent; and*
- b) *bays intended for combined use may not subsequently be reallocated to selected uses without the approval of the Municipality."*

Clause 17.1.2(c) above applies to the first aspect in par 2.1 above, namely the alternative of "buying out" of the area of the required parking bays as applied for in the application.

3.2. The second aspect in our opinion that needs to be addressed is that of illegal structures, in this case, illegal formal parking bays, referred to in par 2.2 above.

3.2.1. Traditionally two alternatives are available for authorities to address building restriction deviations.

3.2.1.1. Demolition of illegal structures.

In this regard we considered the following legal opinions which we believe have direct bearing on this application:



3.2.1.1.1. The legal precedent of the *Bet-el Faith Mission vs Motthamme and Others (5306/2017) [2020] ZAFSHC 6*, as summarised in an article by Ashersons Attorneys titled *"Your Neighbour Builds Without Plans – Can You Get a Demolition Order"* dated April 2020, which amongst others states:

"..... A court deciding a demolition application has "discretion to reach an equitable and reasonable solution in terms of the common law by ordering payment or compensation rather than removal in cases where the cost of removal would be disproportionate to the benefit derived from the removal" " (our emphasis)

3.2.1.1.2. An article by Schindler's Attorneys titled *"Illegal Buildings"*, Dated September 2020 which states all the applicable legislation and also addresses the following salient points:

- a) Responsibility for Enforcement
- b) Can Neighbours/Communities/Ratepayers' Associations Enforce Building Laws
- c) Type of Court Order Applied For
- d) Will a Court *really* grant us a Demolition Order?
- e) What if I am Unhappy with the Approved Building Plans?
- f) What if I am Happy with the Approved Building Plans, but the Building is not Built in Line with them?
- g) An Amicable Alternative, which states the following:

"It is possible to approach the builder or owner of an illegal building with a view to coming to an agreement that measures will be put in place to relieve the impact of the illegal building. When this happens, the aggrieved neighbour may be satisfied that he is no longer being affected by the illegal building works and may do away with the need for expensive court action. However, just because the neighbour is no longer unhappy with the illegal building, this does not make it lawfully compliant. An illegal building will remain illegal until such time as it becomes compliant with the relevant building laws. The neighbour's consent to the illegal building works similarly does not render those building works lawful. It is thus no defence to claim that building works are not illegal because the neighbour knew about them and consented to them, or knew about them and did not complain about them." (our emphasis)

3.2.1.1.3. We take note that the applicant over time has had "no objections" from neighbours and other potential affected parties as is stated on page 10, paragraph 3.4 of the application where it states:

" ...



- *"... no complaint from surrounding property owners has been received with regards to the unauthorised parking bays ..."*

Taking cognisance of the above-mentioned, we therefor do not consider the alternative of demolition of the illegal parking bays a viable alternative.

- 3.2.1.2. Issuance of an Administrative Penalty which goes hand in hand with the legal aspects that need to be put in place to address the deviation without jeopardising the intention of the applicable restrictive title deed conditions, law(s) and by-law(s).

Paragraph 3.2.1.2 above is the second aspect of the application as per par 2.2 above and referred to as the "determination of an Administrative Penalty".

4. PRINGLE BAY BUSINESS AREA PARKING MASTER PLAN

- 4.1. The Applicant, in paragraph 3.4, page 6 of the application, states the following:

"The business erven in Pringle Bay are very small in extent and is difficult to accommodate the number of parking bays on-site. The proposed Mater Plan for the Pringle Bay CBD (our emphasis) proposed on-street parking bays within certain road reserves."

In our email to the OM Planning Department dated 19 September 2023 related to Erf 363, we requested as follows:

"

"Referring to the subject application (attached hereto for ease of reference), in particular Figure 7 of the application (page 7), please let me know whether an accompanying/supporting Memorandum related to the Pringle Bay Parking Master Plan exists. If so, please be so kind to forward same to me as soon as possible."

Our request above, on 6 October 2023, merely resulted in a reply from the Applicant to the OM that, apart from two drawings indicating planned and actual on-street parking in the subject area, no further supporting documentation apparently exists in support of these diagrams/figures. The supporting documents in our opinion would constitute the "Parking Master Plan". This is in actual fact confirmed by the Applicant's reply to the OM Planning Department which states:

"With reference to your e-mail dated 29 September 2023, please note that I do not have any supportive documents to the Pringle Bay Parking Master Plan; all I received from the municipality are the attached documents of which the one is an update from the previous"

We submit that the full Parking Master Plan (or policy) documentation for the PB business node parking plan should be considered, and not only the diagram as submitted by the applicant. This will not only ensure current but also future fairness in allocating alternative parking to proposed developers and current land owners."

- 4.2. We submit that the OM "parking master plan" and the memorandum thereto is in our opinion highly relevant as a **policy document**, as alternative parking provision is



applied for in terms of par 17.1.2. Importantly Clause 17.1.1(c)(iii) provides for any alternative parking in terms of par 17.1.2. to be granted subject to **“applicable policies.”**

- 4.3. We have previously requested the detailed parking master plan (or policy) documentation from the OM. **To date we have not received the requested documentation from the OM Planning Department.**
- 4.4. **We once again request from the Overstrand Municipality to provide the PBRA with the complete “Pringle Bay CBD Parking Master Plan and supporting documentation” allowing us to properly adjudicate current and future application for development in our CBD (for example Erf 372 for which we recently received your request for comment on their application).**

5. CONCLUSION

In summary we conclude as follows:

- 5.1. That the Overstrand Municipality must please apply its mind to determining the amount payable for the “buy out” in terms of the Overstrand Municipality Land Use Scheme 2020, Clause 17.1.2(c), of which a sample calculation is included in the Application (refer to Page 5 of the Motivation Report).
- 5.2. That considering demolition as an alternative to address the illegal building structure (parking bays) is not a viable alternative and is thus not supported by the PBRA.
- 5.3. That the determination of an Administrative Penalty should be considered in conjunction with the “buy out” alternative described in 5.1 above as either the one payment or the other payment alternative and not necessarily both.
- 5.4. That the Overstrand Municipality please be so kind to provide the PBRA with the **Pringle Bay CBD Parking Master Plan and supporting documentation**

We sincerely request that you will please be so kind to acknowledge receipt of our comments/objection and to take the necessary steps outlined above.

Kind regards

A handwritten signature in black ink, appearing to read 'AW Vorster'.

AW Vorster
Obo: Pringle Bay Ratepayers' Association

Loretta Gillion

From: Bertie Vorster <bvossie04@gmail.com>
Sent: Tuesday, 09 April 2024 12:57
To: Loretta Gillion
Cc: chairman@pringlebayratepayers.co.za; Heather Morkel
Subject: Erf 434 Pringle Bay - Public Participation: PBRA Response
Attachments: PBRA Erf 434 - PBRA Comments (FINAL - 8 APRIL 2024).pdf

Dear Ms Gillion

Please refer to your Notice number 38/2024 related to Erf 434, 15 Peak Road, Pringle Bay.

As per your notice, we, the Pringle Bay Ratepayers' Association (PBRA), Po Box 409, Pringle Bay, 7196 hereby submits our comments in accordance with the stipulation in the Notice we received via email on 7 March 2024 from your Ms. Loriaan Isaacs.

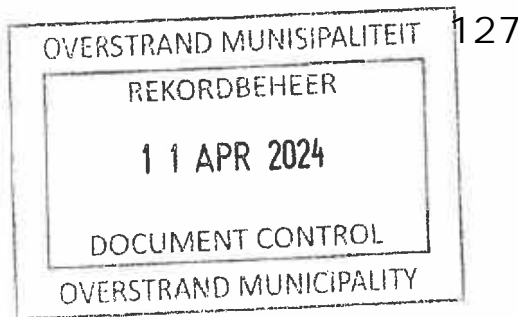
The attached document titled "***PBRA Erf 434 - PBRA Comments (FINAL - 8 APRIL 2024).pdf***" addresses our interest in the application, and our comments on the subject application.

Through this submission we consider ourselves as a registered party wishing to receive all future relevant communication in this regard. We kindly request that communications via email to chairman@pringlebayratepayers.co.za and CC vicechair@pringlebayratepayers.co.za , and secretary@pringlebayratepayers.co.za

We sincerely request that you acknowledge by return email that you have received this email as well as the mentioned attachment.

Yours Sincerely

AW Vorster
obo: PBRA
MOB: +27 (0)82 593 1575



TP. N. Aheal
(H. ud Skoop)

8/14

A. W. (BERTIE) VORSTER
148 HANGKLIP ROAD
(ERF 262)
PRINGLE BAY
WESTERN CAPE, 7196

9th APRIL 2024

ATTENTION: The Municipal Manager

OVERSTRAND MUNICIPALITY
PO BOX 20
HERMANUS
7200

PER EMAIL: loretta@overstrand.gov.za

Dear Sir

SUBJECT: ERF 434, 15 PEAK ROAD: PROPOSED ALTERNATIVE PARKING PROVISION AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: BERMAG (ERF 433): COMMENTS.

FILE NO.	ERF 434
	Pringle Bay
SCAN NO.	
COLLABORATOR NO.	2028900

PREAMBLE

We, the undersigned:

- ALBERT WILLEM VORSTER (Identity no. 611004 5027 084), a duly authorised Trustee to act on behalf of the Bermag Familietrust, the latter being the owner of Erf 433, 17 Peak Road, Pringle Bay; and
- MAGDEL VORSTER ((Identity no. 621008 0128 084) a duly authorised Trustee to act on behalf of the Bermag Familietrust, the latter being the owner of Erf 433, 17 Peak Road, Pringle Bay;

Individually and collectively, hereby wish to submit comments in support of our "no-objection" regarding the subject application.

1. COMMENTS

We refer to your Notice number 38/2024.

1.1. NOTICES TO ERF OWNERS

1.1.1. We wish to confirm that we have received your notice via email on 7 March 2024. We bear no knowledge that other property owners received similar notices.

1.2. INTENT, NEED and DESIRABILITY

1.2.1. We support the motivation in the application regarding the Intent, Need and Desirability of the provided parking bays.

1.2.2. We have no objection to the change in land use to allow the change of the residential component on the first floor to be converted into shopping space.

1.3. ENVIRONMENTAL

- 1.3.1. The Kogelberg Biosphere Reserve (KBR) is a declared conservation area in terms of the Overstrand Municipal Spatial Development Framework and the Pringle Bay urban area is in the so-called Transition Zone of the KBR. We agree with the applicant that the application does not have negative impacts on the KBR including the Transition Zone within which the subject property falls.

1.4. OUR SAFETY AND SECURITY

- 1.4.1. We do not foresee a change in our safety and security because of the approval of the application.

2. CONCLUSION

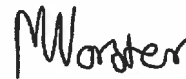
In view of the above, we have NO OBJECTION to the favourable consideration of the application given that all aspects are decided upon in accordance with the applicable laws and by-laws.

We sincerely request you to acknowledge receipt of our no-objection and take the necessary steps outlined above.

Kind Regards,



AW Vorster
Trustee
Cell: 082 593 1575



M Vorster
Trustee
Cell: 082 789 8985

ANNEXURE A

- A) BERMAG Familietrust "MAGTIGINGSBRIEF"

ANNEXURE A

J246



DEPARTEMENT VAN JUSTISIE
REPUBLIEK VAN SUID-AFRIKA

MAGTIGINGSBRIEF

Ingevolge artikel 6(1) van die Wet op Beheer oor Trustgoed, 1988 (Wet 57 van 1988)

No: IT2136/2000

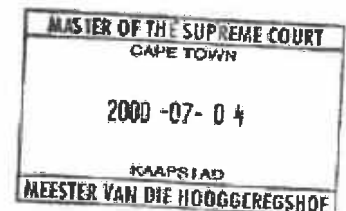
Hiermee word gesertifiseer dat **ALBERT WILLEM VORSTER,**
MAGDEL VORSTER
en **OSCAR PETER ALEXANDER DE VRIES**

gcmagtig word om as trustees van die **BERMAG FAMILIETRUST**

op te tree.

GEGEE onder my hand te **KAAPSTAD** op hede die dag van 2000


Asst. Meester van die Hooggeregshof



SR

Loretta Gillion

From: Vorster A Willem <bvossie04@gmail.com>
Sent: Tuesday, 09 April 2024 19:20
To: Loretta Gillion
Cc: Magdel Vorster
Subject: Re: Erf 434 Pringle Bay - Public Participation - You are regarded as a potentially affected property owner
Attachments: BERMAG Comments - ERF 434 - Municipal NOTICE 38 of 2024.pdf

Dear Ms Gillion

Please refer to your Notice number 38/2024 related to Erf 434, 15 Peak Road, Pringle Bay.

As per your notice, we, the Trustees of the Bermag Familietrust, hereby submit our comments in accordance with the stipulation in the Notice we received via email on 7 March 2024 from your Ms. Loriaan Isaacs.

The attached document titled "**BERMAG Comments - ERF 434 - Municipal NOTICE 38 of 2024.pdf**" addresses our interest in the application, and our comments on the subject application.

Through this submission we consider ourselves as a registered party wishing to receive all future relevant communication in this regard. We kindly request communications via return-email.

We sincerely request that you acknowledge by return email that you have received this email as well as the mentioned attachment.

Yours Sincerely

AW Vorster
MOB: +27 (0)82 593 1575

On 07 Mar 2024, at 12:29, Loriaan Isaacs <loriaanisaacs@overstrand.gov.za> wrote:

To whom it may concern

ERF 434, 15 PEAK ROAD, PRINGLE BAY: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF DE TERBLANCHE & SE HOMAN

You are regarded as a potentially affected property owner.

Attached please find a self-explanatory notice for your attention.

Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 (By-Law) requires that notice must be given, and Section 49 allows for a period of not less than 30 days from the date on which notice was given to affected persons to submit comments, objections or representations in respect of a land use planning applications. Council, during a meeting held on 30 November 2023, resolved that such notice be given via e-mail in accordance with the provisions of the Electronic Communications and Transactions Act, 25 of 2002. Due to ongoing difficulties in service delivery experienced by the South African Post Office, and as per the aforesaid Council resolution, **NO** registered mail/letters will be forwarded in the interim period.

Loretta Gillion

From: Theresa Els
Sent: Monday, 08 April 2024 11:46
To: Loretta Gillion
Subject: Erf 372 & 434 Pringle Bay Departures
Attachments: Annexures, Erf 372, Pringle Bay (departure).pdf; WARD 10 Annexures, Erf 434 Pringle Bay (departure, admin penalty).pdf

Good day,

Please find below comment from Amund Beneke, Ward 10 Committee Member
 072 184 9621

Adres: Seaview Drive 52, Betty's Baai

- **Erf 372:**
 - Die hoogte van die muur kannie wees "approximately" nie. Sien advertensie. Dis 2.6m finish en klaar. "Approximately" kan ook wees 2.65m of 2.7m
 - Maar dis vir 'n heining. Geen probleem. Maak net die 2.6m vas.
- **Erf 434:**
 - Die normale vereiste is "voorsien parkeerplekke op terrein ooreenkomstig die goedgekeurde development controls i.e. coverage en FAR"
 - Die Ontwikkelaar het reeds oortree deur onregmatig parkeerplekke binne die padreserwe te bou
 - Hulle wil dit nou kondoneer deur die Stadsraad eintlik te "dwing" om die bestaande situasie te aanvaar met 'n "penalty betaling".
 - Dis wel binne die CBD van Pringle Baai. Daar word ook verwys na die Konsep Pringle Baai SDF (wat geen regstatus het nie).
 - Hierdie is 50/50 - as dit toegelaat word, word na mening 'n president geskep vir elkeen van die Besighede om formele parkering in die padreserwe te he.

Groete
 Theresa Els
 Cllr Ward 10



TR n. Theat
 (Il. ud Skoop)

FILE NO.	EF 434
	Pringle Bay
SCAN NO.	
COLLABORATOR NO.	2026714

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
13 MAY 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Loretta Gillion

From: amund@vodamail.co.za
Sent: Monday, 13 May 2024 10:50
To: Loretta Gillion
Cc: Theresa Els
Subject: RE: ACKNOWLEDGEMENT - Erf 434 Pringle Bay (4497/2023)

Hi Loretta; sorry 😞 Please ignore the email in yellow below. Wrong comment on this Application.

Correction:

Hallo Loretta;

You well?

Referring to the email below, please be advised that the "Objection" is formally withdrawn.

The intention wasn't to object to the Application / parking on municipal land per se, but just to comment that this might create a precedent. Not that it is unusual in CBD's. Please keep this in mind when taking a decision on the Application.

Trust this will suffice.


Regards / Groetnis

Amund

Amund Beneke Pr. PLN (A/680/1992) // MSAACPP // MPRE 1137487
 M. Comm (Business Management // B. Art et Scien (Town-planning)
 Director: Platinum Town and Regional Planners CC
 Director: Platinum Town Properties (PTY) Ltd
 Director: Platinum Town Project Management (PTY) Ltd

FILE NO. Erf 434-KPRB ✓
SCAN NO. Amund
COLLABORATOR NO. 2045701

Exciting news: We have a new Office in the Overstrand Municipal Area to serve the Western Cape / Eastern Cape / Northern Cape Areas.

	<p><u>Overstrand Office</u></p> <p>52 Seaview Drive, Betty's Bay Cell: 072 184 9621 Email: amundpaul@gmail.com amund@vodamail.co.za</p>	<p><u>Pretoria Office</u></p> <p>61 Woodlands Avenue, Pecanwood Cell: 083 226 1316 Email: pieter@platinumtownplanners.co.za dehaas@telkomsa.net</p>
---	--	---

From: amund@vodamail.co.za <amund@vodamail.co.za>
Sent: Monday, May 13, 2024 10:43 AM
To: 'Loretta Gillion' <loretta@overstrand.gov.za>
Cc: 'Theresa Els' <tels@overstrand.gov.za>
Subject: RE: ACKNOWLEDGEMENT - Erf 434 Pringle Bay (4497/2023)

Hallo Loretta;

You well?

13 May 2024

Referring to the email below, please be advised that the "Objection" is formally withdrawn.

The intention wasn't to object to the Application / fence per se, but just to comment that the height must be 2.6m and not "approximately" as advertised. Please keep this in mind when taking a decision on the Application.


Trust this will suffice.

Regards / Groetnis

Amund

Amund Beneke Pr. PLN (A/680/1992) // MSAACPP // MPRE 1137487
M. Comm (Business Management // B. Art et Scien (Town-planning)
Director: Platinum Town and Regional Planners CC
Director: Platinum Town Properties (PTY) Ltd
Director: Platinum Town Project Management (PTY) Ltd

Exciting news: We have a new Office in the Overstrand Municipal Area to serve the Western Cape / Eastern Cape / Northern Cape Areas.

	<p>Overstrand Office</p> <p>52 Seaview Drive, Betty's Bay Cell: 072 184 9621 Email: amundpaul@gmail.com amund@vodamail.co.za</p>	<p>Pretoria Office</p> <p>61 Woodlands Avenue, Pecanwood Cell: 083 226 1316 Email: pieter@platinumtownplanners.co.za dehaas@telkomsa.net</p>

From: Loretta Gillion <loretta@overstrand.gov.za>
Sent: Tuesday, April 30, 2024 11:36 AM
To: amund@vodamail.co.za
Cc: Theresa Els <tels@overstrand.gov.za>
Subject: ACKNOWLEDGEMENT - Erf 434 Pringle Bay (4497/2023)

Dear Mr A Beneke
(52 Seaview Drive, Betty's Bay – Erf 3120)

ACKNOWLEDGEMENT

ERF 434, 15 PEAK ROAD, PRINGLE BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF DE TERBLANCHE & SE HOMAN

1. Receipt is hereby acknowledged of your comment (received via Ward Councillor Els) regarding the above dated 8 April 2024.
2. Your objection will be forwarded to the applicant for comment, and a further communication will be addressed to you in due course.
3. Please regard this email as your **formal notification** of acknowledgement.



TOWN & REGIONAL PLANNERS
STADS-EN STREEKSBEPLANNERS

6 Magnolia St / Str
PO Box / Posbus 296
HERMANUS
7200
Tel: (028) 313 1673
Fax / Faks: (028) 312 1351
Email:
planactive@hermanus.co.za
za
Website:
www.planactive.co.za

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
08 MAY 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP. n. Ahearne
(H. ud Stoep)

Our reference: PA23044
Your reference: 434KPRB
Application ID: 4497/2023

8 May 2024

THE MUNICIPAL MANAGER
OVERSTRAND MUNICIPALITY
P.O. BOX 20
HERMANUS
7200

FOR ATTENTION: MRS. H. VAN DER STOEP

Sir

FILE NO.	CF 434
	Pringle Bay
SCAN NO.	07
COLLABORATOR NO.	2043926

PROPOSED APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: ERF 434 PRINGLE BAY

- D.E. TERBLANCHE & S.E. HOMAN

Reference is made to your email dated 25 April 2024 with three comments / objections attached thereto.

The comments \ objections were received from:

- *A Beneke (forwarded via Ward Councillor T Els)*
- *Mr AW Vorster on behalf of the Pringle Bay Ratepayers Association (PBRA)*
- *AW. & M Vorster on behalf of the Bermag Familietrust*

Herewith the summary of the comments / objections and our response:

1. *A. Beneke mentions that parking must be provided on site as per the development guidelines. The developer has already built the illegal parking bays and is forcing the*

Divine Inspiration Trading 329 (Pty) Ltd. trading as Plan Active
Reg. No. 2006/030921/07
Vat. No. 4770250340

John Mc Lachlan: Ndip (Town Planning) Tech Witwatersrand; MSAPI Nr.10908; SACPLAN Tch.Pln B/8250/2014
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)
Meriké Lern: B. Art et Scien Cum Laude (Town Planning) UNW; SACPLAN Pr.Pln A/158/2009

Overstrand Municipality to accept the situation with a penalty payment and thereby creating a precedent.

We are requesting the determination of an Administrative Penalty and seeking to buy out the necessary area where the illegal parking bays are located. The process for the buyout is outlined in paragraph 17.1.2 (c) of the Overstrand Municipality Land Use Scheme, 2020.

This paragraph stipulates that the responsible party must pay the municipality an amount equivalent to the value of the required parking spaces as dictated by the zoning regulations, along with the associated construction costs. This payment is necessary in cases where providing parking is prohibited by other legislation or specific site constraints. Alternatively, the party may contribute to an approved Municipal parking fund or project aimed at addressing parking needs.

The parking bays in question were constructed in a manner consistent with the configuration, design, and paving elements of surrounding properties within the CBD area of Pringle Bay, thus establishing a precedent. It should also be noted that the situation of the parking bays in its current position is aesthetically more pleasing than the previous scenario where the parking bays were situated flush with the building.

- 2. The PBRA indicates that 2 issues are to be addressed, namely the buy out of the area of the required parking bays and the illegal structures being the formal parking bays. The PBRA also points out that there is no Pringle Bay Business Area Parking Master Plan and such a plan should be considered by the Overstrand Municipality.***

According to the PBRA, addressing the buyout of the area required for parking bays can be handled through paragraph 17.1.2 (c) of the Overstrand Municipality Land Use Scheme, 2020, which states:

"c) Pay the Municipality the amount equal to the value of the parking required by zoning regulations, along with construction costs, in cases where parking provision is prohibited by other legislation or site-specific constraints. Alternatively, contribute to an approved Municipal parking fund or project."

The PBRA acknowledges the presence of illegal structures, namely the formal parking bays, and considers various legal opinions regarding their demolition. However, it concludes that demolition is not a viable alternative.

Instead, the PBRA suggests the development of a Pringle Bay Business Area Parking Master Plan to ensure fair allocation of parking for both current and future developers and landowners.

Furthermore, the PBRA urges the Municipality to carefully determine the amount payable for the buyout according to paragraph 17.1.2 (c) of the Overstrand Municipality Land Use Scheme, 2020, and to consider an Administrative Penalty alongside it, suggesting that either option could suffice, but not necessarily both.

3. The Bergmag Familietrust supports the motivation regarding the Intent, Need and Desirability of the provided parking bays as well as the change in use of the residential component on the first floor to be converted into shopping space.

They are also in agreement that the application has no negative impact on the Kogelberg Biosphere Reserve and that there will be no change in their safety en security if the application is approved. The Bergmag Familietrust has no objection to the favourable consideration of the application if all laws and by-laws are adhered to.

We agree with the support provided by the Bergmag Family Trust as mentioned above.

We trust that you find the above comments in order and that you will be in a position to finalize the application.

Yours faithfully



J. Mc Lachlan

PLAN ACTIVE

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR DEPARTURE & DETERMINATION OF
ADMINISTRATIVE PENALTY, ERF 434, PRINGLE BAY (4497/2023)**

Electricity	:	Eskom Area
Water	:	Refer to conditions
Sewer	:	Refer to conditions
Stormwater	:	Refer to conditions
Roads and traffic	:	Refer to conditions

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage;
3. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Area Manager: Kleinmond for written approval;
4. that any additional and / or extended vehicle entrances will be for the owner's account;
5. that no reservation of on-street parking be allowed.
6. that stormwater discharged from higher lying properties and generated in the catchment area of the property be allowed to drain freely through the property;
7. that stormwater reticulation and connection(s) to the municipal system be provided at the owners cost, if required.

Dennis Hendriks

DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES

12/06/2024

DATE

VALUATION REPORT – ROAD RESERVE – ADJACENT ERF 434 PRINGLE BAY

VALUATION REPORT

ROAD RESERVE – ADJACENT ERF 434
PRINGLE BAY



HCB Property Valuations

35 Long Street

Moorreesburg

7310

Tel: 022 433 2035

Email: admin@hcb.co.za

VALUATION REPORT – ROAD RESERVE – ADJACENT ERF 434 PRINGLE BAY**LIMITATIONS AND RESTRICTIONS**

This valuation report has been made with the following general assumptions:

1. No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
2. The property is valued free and clear of any or all liens or encumbrances unless otherwise stated.
3. Responsible ownership and competent property management are assumed.
4. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
5. All engineering information is assumed to be correct. The plans and illustrative material in this report are included only to assist the reader in visualizing the property.
6. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
7. It is assumed that there is full compliance with all applicable state and local environmental regulations and laws unless non-compliance is stated, defined and considered in the valuation report.
8. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless non-compliance is stated, defined and considered in the valuation report.
9. It is assumed that all required licenses, certificates of occupancy, consents or other legislative or administrative authority from any local or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.
10. It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described and that there is no encroachment or trespassing unless noted in this report.



Signature

VALUATION REPORT – ROAD RESERVE – ADJACENT ERF 434 PRINGLE BAY**LIMITATIONS AND RESTRICTIONS**

This valuation report has been made with the following general limiting conditions.

1. The apportionment, if any, of the total valuation figure in this report between land and improvements applies only under the stated client instructions and is hypothetical. The separate allocations for land and buildings must not be used in conjunction with any other valuation and are invalid if so used.
2. Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the valuer, and in any event only with proper written qualification and only in its entirety.
3. The valuer herein by reason of this valuation is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question unless arrangements have been previously made.
4. Neither all nor part of the contents of this report (especially conclusions as the value, the identity of the valuer, or the firm with which the valuer is connected) shall be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent and approval of the valuer.
5. Neither the whole nor any part of this valuation report or certificate or any reference thereto may be included in any published document, circular or statement, or published in any way without the valuer's written approval of the form and context in which it may appear. The publication shall deem to include references in company accounts and/or director's reports or any other company statement or circular.
6. The valuation is prepared on the basis that full disclosure of all information and facts which may affect the valuation, has been made to the valuer and no liability or responsibility will be accepted whatsoever for the valuation unless such full disclosure has been made.
7. This valuation is solely for the use of the party to whom it is addressed in accordance with the instructions. Reliance on it by any third party cannot be regarded as reasonable and no responsibility to any third party is or will be accepted for the whole or any part of the valuation.
8. The valuer has no personal interest in the property.
9. In the unlikely event of the client incurring any losses due to negligence of the valuers, valuers in training and assistants, the aggregate amount of the damages recoverable against the valuer shall not exceed the fee for providing the service.



Signature

VALUATION REPORT – ROAD RESERVE – ADJACENT ERF 434 PRINGLE BAY

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VALUATION REPORT – ROAD RESERVE – ADJACENT ERF 434 PRINGLE BAY
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VALUATION REPORT – ROAD RESERVE – ADJACENT ERF 434 PRINGLE BAY
--

1. INTRODUCTION

I, Coenraad Botha, registered as a Professional Valuer in terms of the Property Valuers Profession Act 47 of 2000, do hereby certify that I have identified the subject properties referred to in this report and have obtained all the necessary information to determine the market value thereof.

➤ See Annexure 1 for Valuer Certificates

1.1 Instruction

An instruction was received from Mrs Loretta Gillion of Overstrand Municipality to attend to the valuation of a portion of road reserve adjacent to erf 434, Pringle Bay. The purpose of the valuation is to determine the open market valuation of the Subject Portion as on 1 April 2025.

➤ See Annexure 2 for Instruction

1.2 Date of Valuation

The date of valuation as instructed by the client is 1 April 2025.

1.3 Date of Inspection

A Desktop Valuation was done.

2. TITLE DEED DESCRIPTION

➤ No title deed was found, as the subject property is a portion of road reserve. The CSG Diagram of Pringle Bay describes the town as follows:
Comprising 522 even numbered 1 to 522, 3 reserves for future subdivision numbered 523 to 525, 1 public park numbered 526, streets, roads, a way and lanes, being portion 12 of the farm Hangklip situate in the division of Caledon.

2.1 Title Deed

Not available.

2.2 Description

The portion can be described as “a Portion of Road Reserve, adjacent to Erf 434, Pringle Bay”.

2.3 Owner

The road reserve is Municipal Land.

2.4 Extent

The full extent of the subject property for valuation purposes as measured on aerial photography is 115m².

2.5 Purchase Price

Not relevant to this report, as it is a portion of road reserve.

VALUATION REPORT – ROAD RESERVE – ADJACENT ERF 434 PRINGLE BAY
--

2.6 Surveyor General Information

HCB could not find any discrepancies regarding the ground layout with the Surveyor General Information.

2.7 Title Deed Conditions

No Title Deed Available.

3. LOCAL, PROVINCIAL AND CENTRAL GOVERNMENT INFORMATION**3.1 Local Authority**

This property falls under the jurisdiction of the Overstrand Municipality, situated in the Western Cape.

3.2 Zoning

Transport Zone 2: Road Reserve – as received on instruction from Overstrand Municipality.

Use Zone Table**11.2 TRANSPORT ZONE 2: ROAD AND PARKING (TR2 A & B)****Use of the property**

11.2.1 The following use restrictions apply to property in this zone:

(a) TR2 A Primary uses are: private parking, private road, **[public road, public parking:]**

[(a) (b) TR2 B Primary uses are: public road and, public parking;

[(b) (c) Consent uses are: informal trading, **[rooftop base station]** transmission **[tower]** apparatus (subject to the provisions of Chapter 16.10), any other uses determine by **[Council]** the municipality provided that:

3.3 Municipal Valuation

Not applicable to this valuation.

VALUATION REPORT – ROAD RESERVE – ADJACENT ERF 434 PRINGLE BAY
--

4. PHYSICAL DESCRIPTION

4.1 Location

Subject property is located in a primarily established residential area in Pringle Bay, on Crescent Street, adjacent to erf 434.

➤ See Annexure 4 for Locality Plan

4.2 Infrastructure

Definition: The infrastructure and services available to a property include essential utilities like water, electricity, sewage, internet, roads, public transport, and amenities such as schools, healthcare, and shopping facilities.

It was noted that all infrastructure is available to the surrounding erven.

4.3 Land

Subject property is flat and ground conditions are good, as it is currently being used as 9 parking bays for adjacent erf 434 usage, therefore our findings that the topography will not affect market value.

4.4 Improvements

The Subject Property is Vacant and used as parking by the owner of Erf 434, Pringle Bay.

5. MARKET ANALYSIS

The definition "Market Value" as laid down by the International Valuation Standards Committee is: *"The estimated amount for which an asset should exchange, on the date of valuation, between a willing buyer and a willing seller, in an arms-length transaction, after proper marketing, wherein the parties had each acted knowledgeably, prudently and without compulsion."*

6. METHOD OF VALUATION

The Comparable Method of valuation is the most suitable method to apply to establish the market value of the subject property. In applying the Comparable Method, it is necessary to investigate the sales of similar types of properties that have been sold.

The below information (see 7.2) is compared to the subject property, which involves judgments as to the degree of similarity regarding value factors such as location, shape of erf and use to which the subject property can be put.

VALUATION REPORT – ROAD RESERVE – ADJACENT ERF 434 PRINGLE BAY
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7. ESTABLISHMENT OF COMPARABLES

7.1 Highest and Best use

Definition: *“The most probable use of a property which is physically possible, appropriately justified, legally permissible, financially feasible and which result in the highest value of the property being valued”*. Therefore, it could be argued that the highest and best use of a property is, which is physically possible, appropriately justified, legal permissible, financially feasible and which result in the best value of the property to be valued.

I believe due to the locality & current usage that parking usage would achieve highest and best use.

7.2 Comparable Properties

The following sales were noted and used to arrive at an Open Market Valuation of the Subject Property on 1 April 2025.

Erf	Area	Extent	Date	Sale Price
424	Pringle Bay	417m ²	28/11/2024	R670 000-00
380	Pringle Bay	417m ²	04/08/2023	R900 000-00
444	Pringle Bay	1 663m ²	22/01/2024	R1 400 000-00

7.3 Conclusion

A range of R840-00 to R2160-00 per square meter for vacant land in Pringle Bay is noted from the sales. Although the range is large, I believe the lowest possible rate can be used for valuation purposes in this report.

Due to the current use and that this is road reserve converted to parking as well as the conditions that will be set, it is my opinion to use 10% of the sale rate, in this case rounded at R80-00/m².

Typically, these tracts of land, according to our research, do change hands often but, almost always, at an intrinsic value, which has got no market related norm attached to its value.

VALUATION REPORT – ROAD RESERVE – ADJACENT ERF 434 PRINGLE BAY
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8 CERTIFYING OF VALUE

I hereby certify that I have identified the subject property and obtained all the necessary information to determine the market value thereof.

Accordingly, I hereby certify that in my opinion, to the best of my knowledge, skill and expertise, the value of the subject property on 1 April 2025 to be R80-00/m² (eighty rand per square meter) VAT EXCLUDED.



Hendrik Coenraad Botha
Professional Valuer
Registration Number: 5601

17 April 2025
Date of Signature

VALUATION REPORT – ROAD RESERVE – ADJACENT ERF 434 PRINGLE BAY
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9 CAVEATS

This valuation has been prepared on the assumption that full disclosure of all relevant information and factors that may impact the valuation has been provided. We accept no liability or responsibility for the valuation in instances where such full disclosure has not been made.

9.1 Valuation Standard

This valuation has been conducted in accordance with the guidelines set forth by the South African Institute of Valuers for valuation reports.

9.2 Statutory Notices and Unlawful Use

In cases where Title Deeds have not been reviewed, we have assumed that the property and its value are unaffected by any statutory notices or conditions of Title. Additionally, we assume that neither the property, its condition, its current use, nor its intended use is or will be unlawful.

9.3 Confidentiality

This valuation report has been prepared exclusively for Overstrand Municipality for the specific purpose stated herein. It may be shared with your professional advisors assisting in this matter. However, we accept no responsibility to any third party who may rely on this valuation.

9.4 non-Publication

No part of this report, nor any reference to it, may be included in any published document, circular, or statement, nor disclosed publicly in any form, without our prior written consent regarding the form and context in which it will appear.

VALUATION REPORT – ROAD RESERVE – ADJACENT ERF 434 PRINGLE BAY

10 ANNEXURES

10.1

Annexure 1 – Valuer Certificates



**SOUTH AFRICAN COUNCIL FOR THE
PROPERTY VALUERS
PROFESSION**

This is to certify that

HENDRIK COENRAAD BOTHA

is registered as

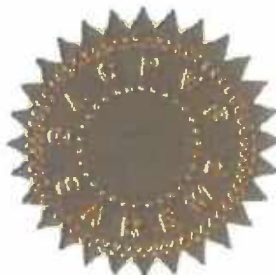
Professional Valuer

In terms of section 20(2)(a) of the
Property Valuers Profession Act, 2000

DATE OF REGISTRATION AS: Professional Valuer: 28 January 2020

DATE OF ISSUE: 28 July 2024

PERIOD OF VALIDITY: 1 July 2024 - 30 June 2029





JF Cloete
President

REGISTRATION No: 5601



ND Naidoo
Registrar

VALUATION REPORT – ROAD RESERVE – ADJACENT ERF 434 PRINGLE BAY**10.2 Annexure 2 – Instruction**

From: Loretta Gillion <loretta@overstrand.gov.za>
Sent: Wednesday, 19 February 2025 14:02
To: Helen Louwrens <helen@hcbval.co.za>; Coenraad Botha <coenraad@hcb.co.za>
Cc: Hanneen van der Stoep <hvdstoep@overstrand.gov.za>
Subject: Valuation Request - Erf 434 Pringle Bay - road reserve

Dear HCB Valuations and Services

An application was received on 6 October 2023 from Plan Active Town & Regional Planners on behalf of DE Terblanche & SE Homan on Erf 434, Pringle Bay for a departure in terms of Section 16(2)(b), read with Section 17.1.2.(c) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the provision of alternative and additional parking bays within the road reserve in order to deviate from the requirement to accommodate parking on site i.e. nine (9) off-site parking bays.

We herewith request a **quotation** to determine the market value of the section of the road reserve as indicated on the aerial photo / site plan.

Should you need any further details, feel free to contact Ms Hanneen van der Stoep (Senior Town Planner) in this regard.

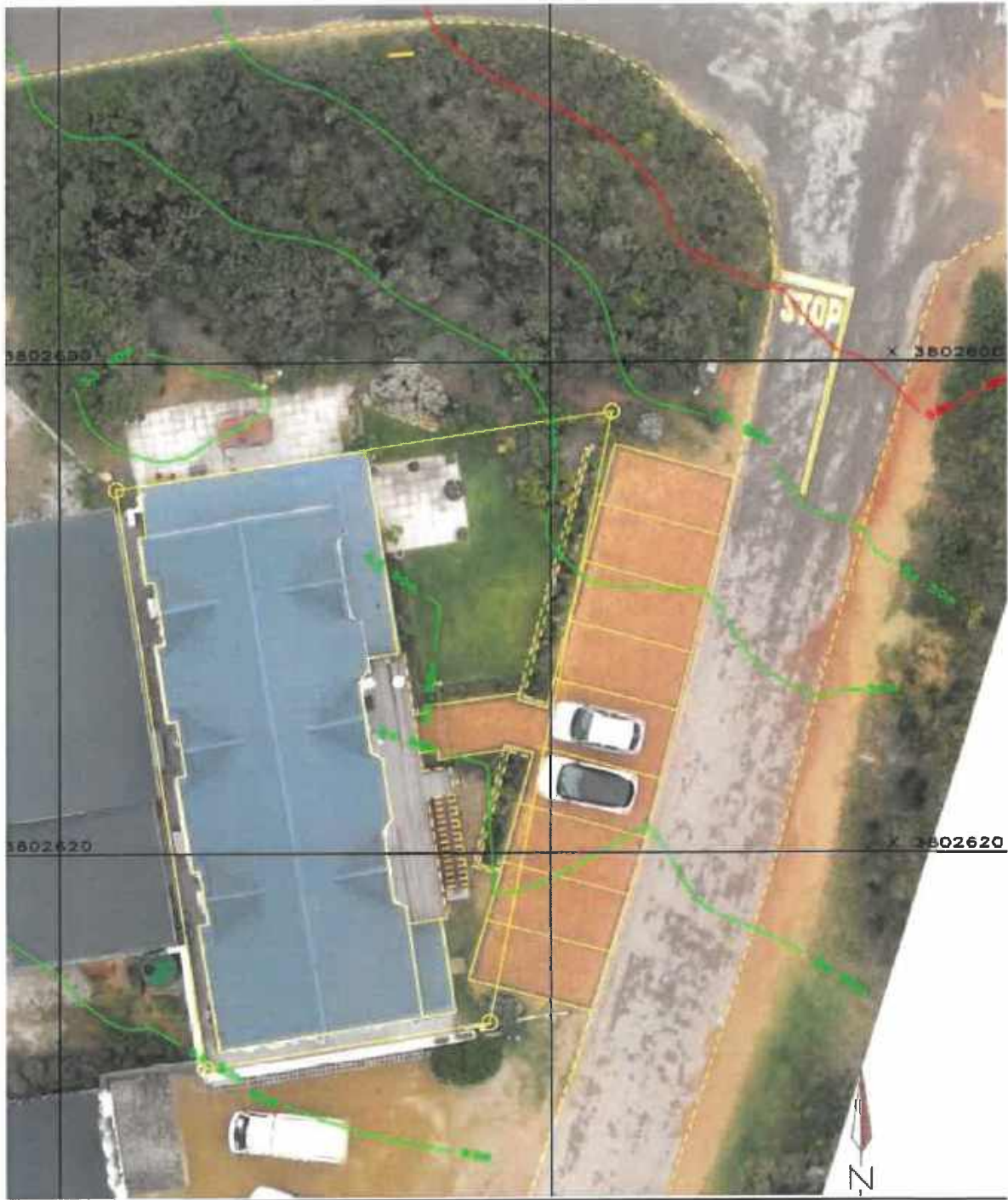
Regards

Loretta Gillion

Administrative Officer: Town & Spatial Planning
Directorate: Planning & Development, Overstrand Municipality, Hermanus
A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20
T: 028 313 8900 | E: loretta@overstrand.gov.za

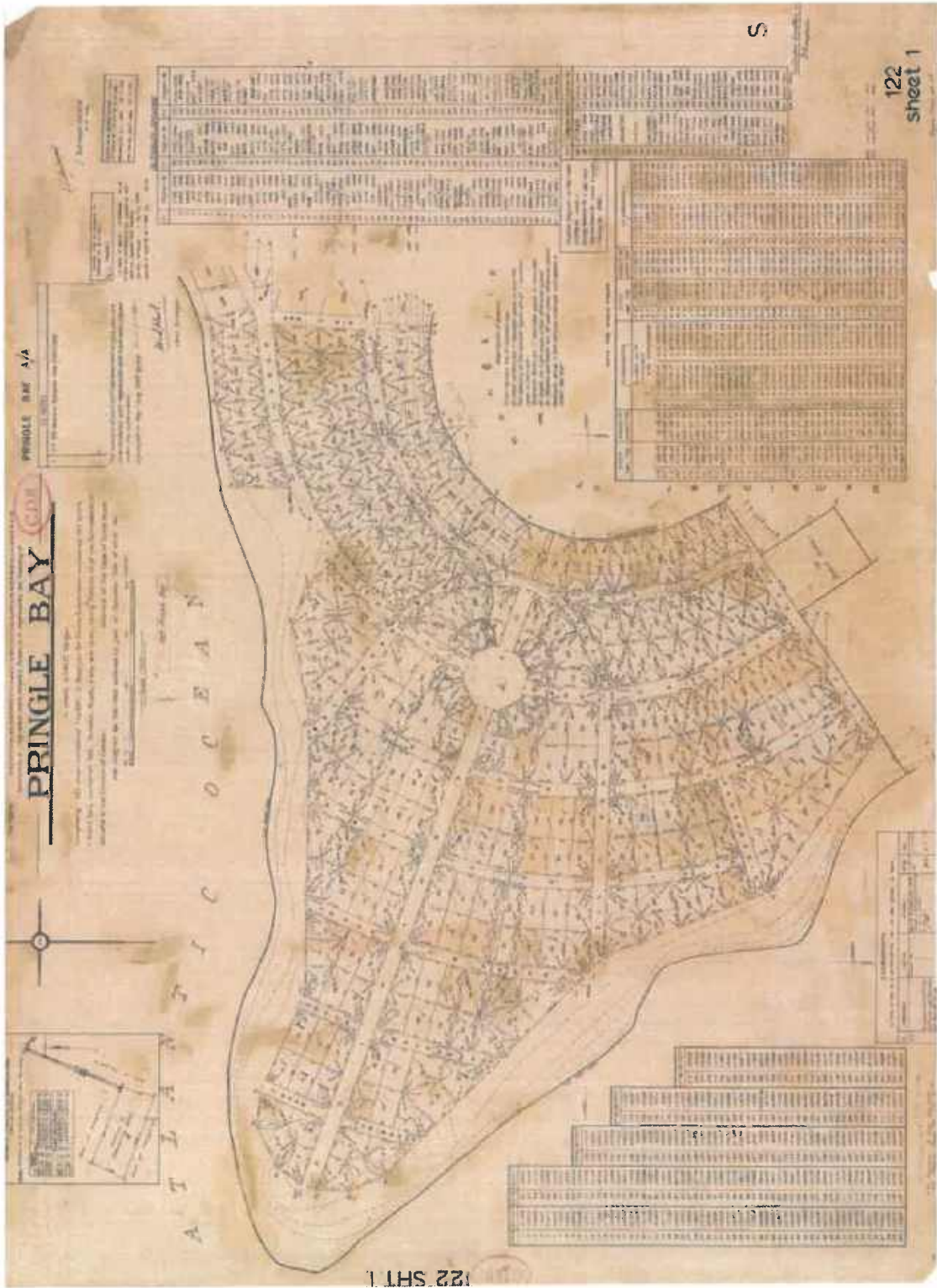
VALUATION REPORT – ROAD RESERVE – ADJACENT ERF 434 PRINGLE BAY

10.3 Annexure 3 – Locality Plan



VALUATION REPORT – ROAD RESERVE – ADJACENT ERF 434 PRINGLE BAY

10.4 Annexure 4 – CSG Diagram of Subject Portion



VALUATION REPORT – ROAD RESERVE – ADJACENT ERF 434 PRINGLE BAY
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10.5 Annexure 5 – Valuation Certificate

HCB

Valuations and Services (Pty) Ltd

HEAD OFFICE

35 Long Street, Moorreesburg, 7310

T: +27(0)22 433 2035 M: +27(0)83 663 2140 E: admin@hcb.co.za

Valuation Certificate

Client:	Overstrand Municipality
Erf Number:	Portion of Road Reserve Adjacent Erf 434
Title Deed Number:	N/A
Area/Town:	Pringle Bay
Owner:	Overstrand Municipality
Erf Extent:	115m ²
Date of Valuation:	1 April 2025
Reference Number:	RR/ADJ/434
Valuation Amount:	R80-00/m² (VAT Excluded)
Zoning:	Transport Zone 2: Road Reserve
Comments:	

Note: this certificate must be read in conjunction with the valuation report.
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Hendrik Coenraad Botha
Professional Valuer
Registration Number 5601

