



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

A G E N D A

DATE:	2 NOVEMBER 2023 (OCTOBER 2023 CYCLE)
VENUE:	TOWN PLANNING COMMITTEE ROOM
TIME:	10:00

OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT
Civic Centre
HERMANUS
7200

26 October 2023

TO : THE MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

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

NOTICE IS HEREBY GIVEN that the **Municipal Planning Tribunal (MPT)** will go into session on **Thursday, 2 November 2023 at 10:00** in the **Town Planning Committee Room**, to consider the attached agenda.

H JANSER (MS)
CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL

Distribution:

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

**MUNICIPAL PLANNING TRIBUNAL
(MPT)**

**2 November 2023
(October 2023 Cycle)**

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1. OPENING

2. APPLICATIONS FOR LEAVE OF ABSENCE

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4. ITEM FOR CONSIDERATION

4.1 ERF 1642, 4 GOUSBLOM STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION, CONSENT USE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS ME PLANNERS ON BEHALF OF RM VILJOEN

Report attached

4.2 ERF 7182, 39 MARINE DRIVE, HERMANUS, WESTCLIFF, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REZONING AND DEPARTURE: MESSRS WRAP PROJECT OFFICE ON BEHALF OF SUNNY SEAS PROPERTIES PTY (LTD)

Report attached

4.3 ERF 108, 6 PRIESTLEYA ROAD, ROOI ELS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION, DEPARTURE & A DETERMINATION OF AN ADMINISTRATIVE PENALTY: FVS TOWN AND REGIONAL PLANNERS ON BEHALF OF J & I ORD

Report attached

4.4 ERF 11171, 19 FISH EAGLE STREET, HEMEL & AARDE ESTATE, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR SUBDIVISION AND DEPARTURE: WRAP PROJECT OFFICE ON BEHALF OF PTN HARPER

Report attached

4.5 ERF 3921, 128 SECOND AVENUE, KLEINMOND, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION, DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: FVS TOWN & REGIONAL PLANNERS ON BEHALF OF HEICH BELEGGINGSTRUST

Report attached

4.1

**ERF 1642, 4 GOUSBLOM STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION, CONSENT
USE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS ME
PLANNERS ON BEHALF OF RM VILJOEN**

1642 GPB

SW van der Merwe

11 October 2023

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application, in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), has been received on 26 January 2021 from Messrs ME Planners on behalf of RM Viljoen, the owner of Erf 1642, Pearly Beach for the following:

- ❖ **Removal of restrictive title deed condition** in terms of Section 16(2)(f) of the By-Law for the removal of title deed condition C.3(a) contained in Title Deed T49042/2018 to accommodate a second dwelling unit;

The restrictive title deed condition reads as follows:

“Hierdie erf mag alleenlik gebruik word vir die oprigting daarop van een woning of ander geboue vir die doeleindes wat die Administrateur van tyd tot tyd, na oorleg met die Dorpskommissie en die plaaslike owerheid, goedkeur, met dien verstande dat, indien die erf in die gebied van ‘n dorpsaanlegskema ingesluit is, die plaaslike owerheid enige ander gebou wat deur die skema toegelaat word, kan toelaat onderworpe aan die voorwaardes en beperkings wat in die Skema bepaal word;”

- ❖ **Determination of an administrative penalty** in terms of Section 16(2)(q) of the above-mentioned By-Law to enable conversion of two existing ground floor units into a second dwelling.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report in support of the proposal is attached as Annexure B and the Site Development Plan is attached as Annexure C. The Title Deed T49042/2018 is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

Erf 1642, Pearly Beach is zoned Residential Zone 1: Single Residential and measures 770m² in extent. The property is developed with a dwelling house and an outbuilding on lower ground comprising a double garage, storeroom and servant’s quarter. The current owner converted the outbuilding into two dwelling units that are being rented out for tourism accommodation purposes, known as Sandy Feet. The two units contain kitchens and constitute a second and third dwelling unit in contravention with the zoning scheme and title deed.

The application for removal of restrictive title conditions and determination of an administrative penalty will enable the conversion of the two unauthorised dwelling units into a second dwelling unit as indicated on the proposed building plan.

Originally the application was submitted under the former repealed Integrated Zoning Scheme, with tourism accommodation a consent use. An amended application was submitted during April 2021, under the Overstrand Land Use Scheme, 2020 that now permits self-catering as a primary right. The applicant did not omit the consent use application which is no longer required. Since the 2020 Land Use Scheme provides for self-catering as a primary right and no longer a consent use, only the applications for removal of restrictions and determination of an administrative penalty will be considered.

4. SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation could be summarised as follows:

- ❖ Property is zoned Residential Zone 1: Single Residential.
- ❖ The applicant purchased the property during 2018 with the house and outbuildings in the current position.
- ❖ Building plans for the dwelling dated 1989 indicated a house (ground floor) and outbuildings (lower ground).
- ❖ The applicant intends to legalise the unauthorised building work and building plans will be submitted for approval dealing with the planned additions and conversions.
- ❖ The proposed second dwelling will be utilised for tourism accommodation (self-catering accommodation).
- ❖ On-site parking provision with access from Gousblom Street is available for three vehicles.
- ❖ Area is characterised by predominantly residential uses.
- ❖ The proposed self-catering unit is merely an extension thereof and in line with the character of the area.
- ❖ The proposal will not have a significant traffic impact.
- ❖ Municipal services available and not affected by the proposal.
- ❖ The proposed consent use is regulated in terms of the zoning scheme.
- ❖ The proposal is consistent with the PSDF and SDF and OMGMS.
- ❖ Consistency with the planning principles is motivated as follows:
 - Spatial justice:* Proposal will not further perpetuate past spatial development imbalances as the proposal tourism accommodation open for all.
 - Spatial sustainability:* The development takes place on an existing erf and will not impact on agricultural land, environmental sensitive or bio-diversity rich areas.
 - Spatial Efficiency:* The proposal will permit optimal efficient use of the existing property.
 - Spatial Resilience:* The proposal is spatially resilient and will not differ from the existing use of the erf.
 - Good Administration:* Application will be processed in accordance with the By-law allowing public participation in the eventual decision-making process.

❖ Administrative penalty

Nature, duration, gravity and extend of contravention: The applicant motivates that it does not impose on the privacy of surrounding property owners or to impact the built environment. Building plans were approved in the 1980's. The owner bought the property as is with a primary right to utilise the dwelling for guest rooms. The applicant will make structural changes to convert the dwelling units into a second dwelling unit.

The conduct of the person allegedly involved in the contravention: The applicant submitted as built plans that proofs there is no contravention involved. The owner currently does not allow paying guest but only extended family.

Report by quantity surveyor in matters of unauthorised building / construction: Report not submitted.

Whether the unlawful conduct was stopped: The building work has been completed for some time, whilst the applicant stopped taking bookings.

Whether the person allegedly involved in the contravention has previously contravened this By-law or a previous planning law: The owner has not previously contravened the By-law.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local Newspaper	Yes	06 August 20221	10 September 2021
Gazette	Yes	06 August 2021	10 September 2021
Notices (<i>possibly affected property owners</i>)	Yes	05 August 2021	10 September 2021
Notices (<i>persons mentioned in title deed</i>)	Yes	05 August 2021	10 September 2021
Internal Departments	Yes	06 August 2021	10 September 2021
Ward councillor	Yes	06 August 2021	10 September 2021
Total comments	Four (4) letters of objection.		
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?			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA?			Yes
In case of application for removal, amendment or suspension of restrictive title conditions if notices in accordance with Section 35(3)(d) of the By-Law on Municipal Land Use Planning was served on all persons mentioned in the title deed for whose benefit the restriction applies?			Yes

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

Name	Date received	Summary of comments
Fire Services	30/08/2021	Attached as Annexure G.
Health	10/09/2021	Applicant to apply for a health certificate under the Municipal Health By-Law to operate as an accommodation establishment.
Environmental Section	10/09/2021	No objection.
Services Report	08/10/2021	Attached as Annexure H.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Objections were received from Ms E Barnard, the owner of Erf 1668, Pearly Beach, Ms J Rabe the owner of Erf 1643, Pearly Beach and the Pearly Beach Conservancy. One late objection was received from Mr A de Beer, owner of Erf 1669, Pearly Beach. The objections are attached as Annexure E and the applicant's response as Annexure F.

For clarity it must be noted that the advertisement and registered notices includes a consent use application for tourism accommodation (self-catering). The applicant submitted an amended application and did not omit the consent use application. Since tourism accommodation is no longer a consent use under Residential Zone 1 and self-catering is permitted as a primary right, only the application for removal of restrictive title conditions and determination of an administrative penalty will be considered and will also form the basis for the evaluation of the objections.

The main grounds of objection are summarised as follows:

Objection 1

Objections were received regarding the number of outside lights on the property. It is proposed that conditions be imposed to control the number and brightness of outside lighting.

Response from applicant

The objectors' states that crime is on the rise requiring some lights to be kept on during night-time. The objectors could take the matter up with the owner who will consider movement sensors for some lights.

Response from town planning

The lighting issue is a civil matter to be resolved between the applicant and objectors and have no relation to the application. The proposed condition suggested by the objector is not reasonably connected to the application and cannot be entertained.

Objection 2

According to the objectors' facts there are three flats and a wendy house on the property being utilised for tourist accommodation.

Response from applicant

The applicant states that the Building Control Department will have to consider the above. The wendy house has not been used for tourism accommodation purposes.

Response from town planning

Sandy Feet Accommodation consists of two dwelling units in contravention with the zoning of the property. As per the applicant's motivation and response to the objections, the proposal entails the conversion of the lower ground floor units into a second dwelling unit (self-catering) in accordance with the provisions of the Land Use Scheme, thereby legalising the unauthorised development currently on the property. The desirability of the proposal will be discussed in the evaluation below.

There is no proof that the wendy house is utilised for tourism accommodation purposes. During a site inspection only, storage was observed.

Objection 3

Septic tank is not large enough to accommodate extra visitors and should be investigated before the application is approved.

Response from applicant

The municipal service department will consider the building plans upon submission.

Response from town planning

Building plans will be submitted and circulated to the relevant internal departments for comment pertaining to capacity and upgrades required, if any.

Objection 4

Overlooking and impact on privacy due to placement of windows, location of deck etc.

Response from applicant

The yard of the neighbouring property is much lower, thus wherever anyone stands on the property will result in overlooking. The proposed deck will have the same effect.

Response from town planning

The deck is permitted as a primary right and will not encroach any development parameters in terms of the Land Use Scheme. The deck is therefore not part of the application to be considered.

The application property due to its elevated position overlooks much of the rear of Erf 1668 and 1669 (objectors' property). The neighbouring dwellings are situated close to the rear boundary that forms the lateral boundary of the application property. Main outside areas on the objectors' property is situated predominantly towards the front. There is also mature screening on the boundaries of the objectors' properties evident that will serve to limit the impact. Thus, the proposal is not considered to have a significant impact upon the adjoining property in terms of overlooking or loss of privacy.

Objection 5

Inadequate parking and access for the number of guests.

Response from applicant

The proposed building plan and parking layout proves the statement incorrect.

Response from town planning

The proposal is to convert the unauthorized units into a second dwelling, requiring a third on-site parking bay which has been provided. The proposal provides for three on-site parking bays that comply with the Land Use Scheme. The proposal is also supported by the Engineering Services Department.

Objection 6

The surrounding area is quite with neighbours keeping noise to the minimum after 10pm in the evening. Paying guest will have an adverse impact on vested rights of adjoining properties as noise / disturbance from transient guests is more likely.

Response from applicant

The applicant states that any guest in Pearly Beach can have an impact.

Response from town planning

Self-catering is a primary right in terms of the Land Use Scheme and is not prohibited in terms of the title deed. Erf 1642 is the primary residence of the property owner, that will serve to ensure the behaviour of guests do not negatively affect vested rights of adjoining property owners. Should noise and disturbance occur after hours SAPS can be contacted.

Objection 7

The applicant is not co-operative as far as the general neighbourhood is concerned.

Response from applicant

The statement does not carry any weight.

Response from town planning

The objection is not relevant to the application under consideration.

Objection 8

The number of guests to be limited to 6 people.

Response from applicant

The building cannot accommodate more people than what it is designed for.

Response from town planning

The proposed second dwelling consist of 2 bedrooms and not likely to be occupied by more than 6 guests.

Objection 9

The motivation report contains several inaccuracies, namely:

- The current owner made changes to the property and constructed a nutec outbuilding without approval. It is untrue that the owner bought the property with the existing buildings as is.
- The statement that owner does not allow paid guests at the moment is untrue.
- The statement that the creation of the second dwelling does not involve unauthorised building work is untrue.
- The motivation refers to the self-catering unit being linked to the main house with a covered walkway which is not true.
- The proposal is motivated to be consistent with the unique local built form, character and heritage. Pearly Beach is a conservation area promoting a Black Skye Policy where excessive outside lighting is in direct contradiction of the area character, causing a disturbance to neighbours, neighbours, animal nightlife.

Response from applicant

The applicant did not provide a response.

Response from town planning

Cognisance is taken of the inaccuracies referred to. The applicant is responsible for unauthorized building work comprising two dwelling units. It is clear that the objectors did not understand the intent of the application, namely the conversion of the unauthorised dwelling units to create a second dwelling unit for self-catering purposes. The conversion will occur in accordance with approved building plans should the application be supported.

Statements that Pearly Beach is a conservation area where a Black Skye Policy applies needs further consideration. This statement is not true. Pearly Beach is an established town classified as an urban area in terms of the Bioregional Spatial Planning Categories. It is not a core conservation area or a buffer zone. Further, the Black Skye Policy being referred to has no formal status and cannot be enforced; therefore, the objection based on excessive outside lighting has no bearing on the outcome of the application.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

Refer to paragraph 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS

Refer to 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.

Spatial Justice

The application will not contribute to spatial development imbalances being situated within the established residential area of Pearly Beach. The proposal will open opportunities to all.

Spatial sustainability

The proposal is situated within the urban edge and will not impact upon environmental sensitive land, biodiversity rich areas or agricultural land.

Efficiency

The proposal will ensure the optimal use of space on the property thereby optimising existing resources, infrastructure and sustainable development and continues the existing suburban development typology.

Spatial resilience

The proposal is not in conflict with the applicable spatial planning policies that adheres to the principle of spatial sustainability.

Good administration

The application followed the required planning procedures to ensure that land use activity is in line with Municipal By-Laws and a public participation process had been followed.

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

Same as Point 10.2 above.

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

The application is consistent with the SDF.

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

N/A

10.6 Impact on Municipal engineering services

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

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The Overstrand Land Use Scheme permits a second dwelling and self-catering as a primary right.

10.9 Additional Planning Motivation for Removal of Restrictive Condition

The application for removal of restrictive title conditions relates to the removal of the one dwelling unit restriction contained in clause C.3(a) of Title Deed T49042/2018.

The title deed condition originally intended to protect the residential character of the area where municipal management of zoning and development parameters were not as clear and defined as it is now. The unauthorised conversion of the lower ground floor from an outbuilding into dwelling units necessitates the proposed removal of restrictive title deed condition to establish a second dwelling unit. The title deed does not contain a prohibition on the use of the property for self-catering purposes.

The financial or other value of the rights:

No person or entity will be affected financially by the removal of the restrictive condition. The applicant will benefit as it will allow conversion of the unauthorised dwelling units into a second dwelling units in accordance with the Land Use Scheme and National Building Regulations.

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

There is no personal benefit to the holder of the rights.

The personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended:

The property owner will benefit as removal will allow them to legally create a second dwelling unit that align with the development parameters in terms of the Overstrand Land Use Scheme.

The social benefit of the restrictive condition remaining in place in its existing form and the social benefit of the removal, suspension or amendment of the restrictive condition:

The restrictive conditions do not have a social benefit.

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

The application only entails removal of the one dwelling unit restriction from the title deed.

Given the abovementioned evaluation, the opinion is held that if the restriction is removed as proposed, it will allow the property owner to accommodate the conversion of the unauthorised development into a second dwelling, in line with the provisions of the 2020 Land Use Scheme.

Given the above the opinion is further held that the proposal is sufficiently evaluated in terms of Section 39 (5) of LUPA, 2014 (Act 3 of 2014).

11. THE DESIRABILITY OF THE PROPOSAL

The Overstrand Land Use Scheme, 2020 provides for a second dwelling and self-catering as a primary right.

The property owner converted an existing outbuilding on lower ground level into two unauthorised dwelling units. The dwelling units had been rented out since 2020 for self-catering purposes.

The application for removal of restrictive title deed conditions and determination of an administrative penalty will enable the applicant to convert the unauthorized dwelling units on lower ground floor into a second dwelling unit (self-catering) thereby bring the development and use in line with the Land Use Scheme.

Application for removal of restrictive title deed condition

The title deed contains a one dwelling unit restriction proposed for removal in terms of the application. The title deed does not prohibit self-catering since the use in terms of the title deed is not limited to residential purposes only.

The proposal is in line with the Overstrand Land Use Scheme that permits a second dwelling and self-catering as a primary right, which has the buy in from the community at large. Further, second dwelling units had been approved in the area and is not considered to detract from the character of the area or vested rights, since the development parameters in terms of the Overstrand Land Use Scheme will be applicable.

The proposed second dwelling units measures 100,4m² in line with the Land Use Scheme. The double garage provides parking for the main dwelling, whilst a third on-site parking bay is available with access of Gousblom Street. Parking complies with the requirements of the Land Use Scheme and is supported by the Engineering Services Department.

Having had regard to the evaluation above, the opinion is held that the proposal will not unacceptably impact upon vested rights and is desirable.

Determination of an administrative penalty

In terms of the By-Law the applicant must provide the following in terms of Section 90(3) of the By-Law, namely:

(a) *nature, duration, gravity, and extent of the contravention*

The applicant motivates that the property owner bought the property as is with the primary right for guest rooms. The applicant will make structural alterations to convert the dwelling units into a second dwelling.

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

The submission of as built plans demonstrates there is no contravention involved.

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

A report by QS has not been submitted.

(d) *Whether the unlawful conduct has stopped*

The applicant stopped taking bookings and submitted as built plans to rectify the unauthorised building work.

(e) *Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.*

The owner has not previously contravened the By-Law.

Having had regard to the applicant's motivation cognisance should be taken of the following:

- ❖ The property owner bought the property during 2018. In contradiction with the statement of the applicant, the owner converted the outbuilding without the necessary approval into two dwelling units during 2019 that is being used for tourism accommodation purposes, thereby contravening the By-Law.
- ❖ The contraventions were discovered following receipt of an objection from a neighbour after construction of a nutec outbuilding without approval. The statement that the owner bought the property with the buildings as is is incorrect and misleading.
- ❖ Contrary to the statement from the applicant the submission of as built plans demonstrates acknowledgement of the contraventions in terms of the Land Use Scheme and Building Regulations.

- ❖ The applicant's motivation that the contravention stopped as the owner stopped taking bookings is not true. Research on several booking sites (i.e. LekkeSlaap and Booking.com) to name a few, shows guest reviews during 2021, 2022 and 2023 demonstrating that the unauthorised dwelling units are currently being utilised for self-catering purposes contravening the By-law and National Building Regulations.

Having had regard to the provisions of the By-Law, an administrative penalty could be imposed of not more than 100% of the construction cost and in case of unauthorized land use not more than 100% of the municipal valuation.

The proposed second dwelling does not encroach the development parameters in terms of the land use scheme. Given the fact that the zoning scheme permit a second dwelling and self-catering as a primary right, together with the fact that the title deed does not prohibit self-catering, the unauthorised land use mainly comprises internal alterations to an existing building the administrative penalty will be based on the unauthorised land use.

The unauthorised land use consisting of two dwelling units are being used for self-catering purposes, contrary to the land use scheme dating back to 2019. The land value of the property according to the municipal valuation is R367 000. This equates to land value of R476,62/m². The area of the unauthorized dwelling units amounts to 100,4m². Therefore, an administrative penalty of 10% of the land value per year of the unauthorised use is recommended as the owner is responsible for the contravention, calculated as follows:

$$R476,62/m^2 \times 100,4m^2 \times 10\% \times 4 = R19\ 141,06 \text{ (excluding VAT)}$$

Conclusion

The application for removal of restrictive title conditions to legalise the unauthorised land use is considered desirable, subject to the payment of an administrative penalty as per the evaluation above.

12. RECOMMENDATION

1. that the objections be noted;
2. that the application, applicable to Erf 1642, Pearly Beach, in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the removal of restrictive title deed condition C.3(a) as contained in Title Deed No: 49042/2018, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application for the determination of an administrative penalty in terms of Section 16(2)(q) of the By-Law for the use, **not be exempted** from the payment of an administrative penalty in terms of Section 90(4) of the By-Law;
4. that the approvals in paragraphs 1. and 2. above be subject to the following conditions:

- (a) that the approvals are for the development as indicated on Site submitted with the application, attached as Annexure C;
 - (b) that an administrative penalty of R19 141,06 (excluding VAT) be payable within **sixty (60)** days of the decision;
 - (c) that building plans be submitted to the Building Department within **thirty (30) days** of the decision date and that all comments from the Building- and Fire Departments be complied with at that stage;
 - (d) that the applicant within **ninety (90) days** of the final decision convert the unauthorised dwelling units into a second dwelling unit.;
 - (e) that all the conditions of Fire- and Engineering Services (attached as Annexure G and H), be complied with;
 - (f) that all other applicable development parameters as prescribed in the relevant Land Use Scheme be complied with;
 - (g) that this approval does not absolve the landowners from compliance with any other relevant legislation, and
5. that the applicant and objectors be notified of their appeal right in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 regarding the above decisions.

13. REASONS FOR RECOMMENDATION

- ❖ The application has followed due process.
- ❖ The application is in line with policy documents.
- ❖ The removal of the title deed restriction is approved due to the land use scheme regulations making provision for such an application.
- ❖ Character of the area will not be negatively impacted upon.
- ❖ Vested rights of adjoining properties will not be affected.
- ❖ Consistent with planning principles in terms of LUPA and SPLUMA.

14. ANNEXURES

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

SIGNATURES**AUTHOR:**

Name:

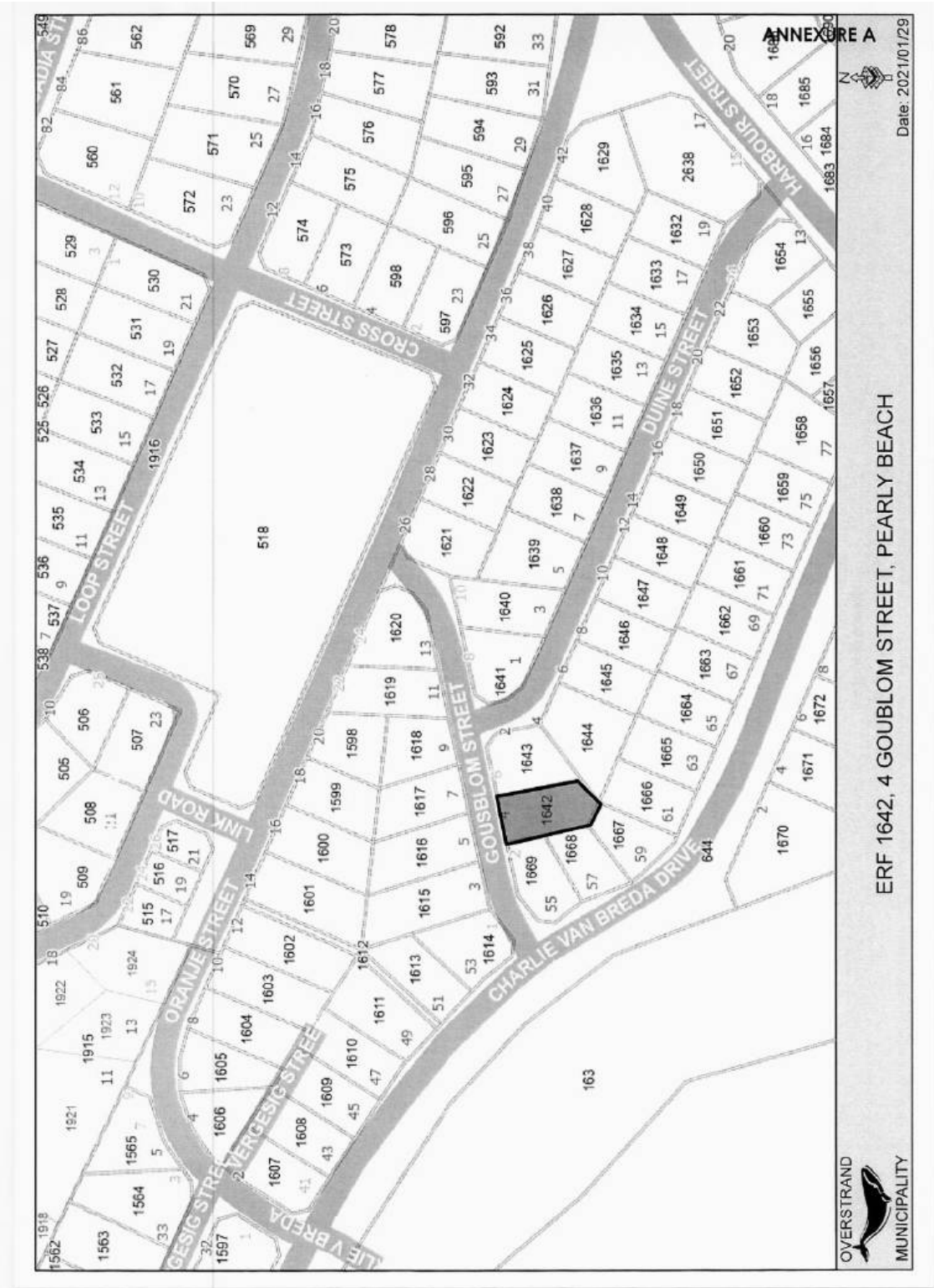
SW VAN DER MERWE

Signature:

SACPLAN Reg No:

A/1850/2014

Date:



AMENDED MEMORANDUM

APPLICATIONS FOR: REMOVAL OF RESTRICTIVE CONDITIONS: CONSENT USE AND AN APPLICATION FOR AN ADMINISTRATIVE PENALTY: ERF 1642: GOUSBLOM STREET: PEARLY BEACH: OVERSTRAND MUNICIPALITY: DIVISION CALEDON: PROVINCE OF WESTERN CAPE

1. INTRODUCTION:

This introduction serves as a short summary of the application before the necessary proposals and motivations are presented.

- 1.1 Applicant: ME Planners Town and Regional Planner
P.O.Box 552
Hermanus
7200
- 1.2 Power of Attorney: Power of Attorney has been rendered to ME Planners Town and Regional Planner to lodge the applications for the Removal of Restrictive Conditions in terms of Section 16 (2) (f), Departures in terms of Section 16(2) (b) as well as a Determination of an Administrative Penalty in terms of Section 16(2) (q); and read with Section 20 of the Overstrand Municipality: Amendment By-Law on Municipal Land Use Planning, 2020.
- 1.3 Property: Erf 1642 Pearly Beach (hereafter referred to as "the site of application" or "the property")
- 1.4 Street address: 4 Gousblom Street, Pearly Beach.
- 1.5 Locality: Erf 1642 Pearly Beach is situated on the southern side of Gousblom Street, abutting Erven 1667, 1668 and 1669 on the western side, Erf 1644 on the southern side and Erf 1643 on the eastern side.



2. OVERVIEW OF APPLICATIONS

- 2.1 **Application for Removal of Restrictive Conditions** in terms of Section 16 (2) (f) of the Overstrand Municipality By-Law on Municipal Land Use Planning (forth with called 'the By-Law').

The restrictive condition is C3 (a) of the Title Deed, which reads as follows:

"Hierdie erf mag alleenlik gebruik word vir die oprigting daarop van een woning of ander geboue vir die doeleindes wat die Administrateur van tyd tot tyd, na oorleg met die Dorpskommissie en die Plaaslike owerheid, goedkeur, met dien verstande dat, Indien die erf in die gebied van 'n dorpsaanlegskema ingesluit is, die plaaslike owerheid enige ander gebou wat deur die skema toegelaat word, kan toelaat.

- 2.2 **Application for Consent Use in terms of 16 (2) (o)** of the Overstrand Municipality By-Law on Municipal Land Use Planning (forth with called 'the By-Law'). The consent use applied for, is for the use of "tourist accommodation" read together with the Overstrand Municipality Zoning Scheme (June 2013)

- 2.3 **Application for Administrative Penalty** in terms of Section 16(2) (q) of the Overstrand Municipality read together with Section 90 of the Bylaw Municipal Land Use Planning (November 2020).

It is stated in Section 90 (1) of the said Bylaw that the applicant may rectify any contravention on a property by applying to the Municipality to pay an Administrative Penalty. In this case, no formal application is made for the payment of such an administrative penalty.

The reasons are dealt with by discussing them in accordance with Section 90 (3) of the same Bylaw.

- 2.3.1 Section 90 (3) (a) refers to the nature, duration, gravity and extent of the contravention. In order to address this, it is important to motivate that the owner does not to violate any regulation.

- (i) The nature of the development on the erf does not impose on the privacy of any of the surrounding owners and has no negative effect on the surrounding built environment.
- (ii) The previous building plan was approved in the nineteen eighties already, and the registered owner bought the property with the existing buildings as is.
- (iii) Because of the zoning of erf 1642 Pearly Beach, namely "Residential Zone 1: Single Residential (SR1), in terms of the Overstrand

Municipality Zoning Scheme (June 2013), the owner had a primary right to utilise the dwelling for guest rooms.

- (iv) Due to the fact that the dynamics of the family changed, the registered owner decided to do structural changes to the building in order to create a 'second dwelling', hence the reason for these applications, as well as the submission of the proposed 'as built' plans.

2.3.2 Section 90 (3) (b): The application and the submission of the 'as built' plans, proves that the owner is not involved in any contravention. At the moment the owner allows only her immediate family and her children and extended family members to come over and sleep in the second dwelling. The owner does not allow any paid guests at the moment and although "Sandy Feet Self-catering Accommodation" is advertised on the web, she is taking down numbers of potential clients so that when she can open, she can invite them to book.

2.3.3 Section 90 (3) (c) (d) and (e): The creation of the second dwelling involves no unauthorised building/construction work. This application for a 'second dwelling' is a primary right in terms of the "Residential Zone 1: Single Residential (SR1) in terms of SCHEDULE 2: OVERSTRAND MUNICIPALITY LAND USE SCHEME, 2020. There is no sign of any unlawful conduct, and the registered owner has never contravened this By-Law or any previous planning law.

3. GENERAL INFORMATION

3.1 Title Deed and Property Description

In terms of the Title Deed, No. T 000049042/2018, the property is described as Erf 1642 Pearly Beach, situate in the Overstrand Municipality, Division Bredasdorp, Province of the Western Cape, and is 770 (seven hundred and seventy) square metres in size.

The property is registered in the name of Renee Mary Viljoen

Identity Number 620211 0009 087

Unmarried

Her Heirs, Executors, Administrators or Assigns in full and free property.

3.2 Bond/s

The property is encumbered by bond no. B 000023354/2018 (Standard Bank – Bondholder’s consent was obtained)

3.3 Current Zoning Status

Erf 1642 Pearly Beach, (41 Third Avenue) is zoned as Residential Zone 1: Single Residential (SR1); thus for residential purposes only.

3.4 Existing Development on the Property

(Refer to the attached building plans.)

3.4.1 The property was purchased, with the house and outbuilding at their current locations on the property. The original plans had been drawn up in April 1989 and the house and outbuilding constructed accordingly.

The planned new developments are shown as new planned additions and conversions on the building plans which will be submitted for approval

3.4.2 It is the sole intention of the landowner to legalize the proposed changes and conversions. “As built” and proposed building plans of all structures will be submitted to the Municipality for approval.

3.4.3 This application is made as it is the intention of the applicant to utilise the second dwelling for the business of “tourist accommodation (self-catering accommodation) on Erf 1642, Pearly Beach.

4. ZONING OF THE ERF:

In terms of the Overstrand Municipality Zoning Scheme Regulations (June 2013) the erf is zoned Residential Zone 1: Single Residential (SR1) with the following use restrictions applicable to it:

- (a) Primary uses are: day care centre, dwelling house, guest rooms, home occupation, and second dwelling unit.
- (b) Consent uses: crèche, green house, guest house, house shop, institution, place of instruction, place of worship, residential building, tourist accommodation.

5. DEFINITIONS OF INTEREST:

- 5.1 “second dwelling unit” means a dwelling unit which may, in terms of this land use scheme, be erected on a land unit where a dwelling house is permitted, and such second dwelling unit may be a separate structure or may be contained in the same structure as the dwelling house,.... *subject to certain provisions as set out in Schedule 2: Overstrand Municipality Land Use Scheme, 2020.*

- 5.2 "self-catering accommodation" means sole occupancy unit(s) for transient guests, consisting of one or more rooms and self-contained public areas, e.g. kitchen, dining area and lounge;

It is therefore the intention of the registered owner to utilize the second dwelling as accommodation for guests on a temporary basis. Pearly Beach, being only 185 km from Cape Town, and 25 km from Gansbaai, is predominantly holiday accommodation. The densification proposals as set out by the OGMS, will contribute to the enhancement of the nodal points as envisaged by SPLUMA.

6. PROPOSED DEVELOPMENT:

- 6.1 As already mentioned the application is being submitted for the purpose to obtain the necessary approval to put the applicant in a position to effect the proposed development of tourist facilities.
- 6.2 Application for Consent Use is done in terms of 16 (2) (o) of the Overstrand Municipality By-Law on Municipal Land Use Planning (forth with called 'the By-Law'). The consent use applied for, is for the use of "tourist accommodation"
- 6.3 The development will consist mainly of the establishment and provision of facilities for tourist accommodation and the usual ancillary uses – through the conversion of a section of the house to form a self-catering establishment (second dwelling) attached to the main house by a covered walkway, which includes its own kitchen – and therefore comply with the definition of a tourist accommodation.
- 6.4 The second dwelling unit will consist of two bedrooms with their own and the section kitchen.
- 6.5 The above-mentioned aspect will have an influence on the parking requirements, which will be for at least 4 vehicles. (2 for each of the two dwellings)

7. DEVELOPMENT PARAMETERS:

The following Development Parameters are applicable:

- 7.1 Coverage: 50%
With an erf size of 770m², the development has coverage of 30%
- 7.2 Building lines:
As specified in Schedule 2: Overstrand Municipality Land Use Scheme, 2020.
- 7.3 Parking and Access:
In accordance with Chapter 17.1 of Schedule 2: Overstrand Municipality Land Use Scheme, 2020.

The present access to the property is from Gousblom Street and will provide safe access to and exit from the proposed development.

The Site Development Plan is updated in order to accommodate the required parking requirements. (Mentioned in paragraph 6.5)

8. NEED AND DESIRABILITY:

When considering the need for a second dwelling unit, for Erf No. 1642, Pearly Beach, it is evident that the need and desirability should both fall within the broad parameters and principles set out and necessary for orderly planning. To this end the following facts are given as far as this statement is concerned:

8.1 ORDERLY PLANNING:

Orderly planning centres on the following four considerations that should be taken into account:

- The existing as well as the future character of the area;
- Traffic generation and access;
- The impact on services; as well as
- The standards and conditions that apply to such an application.

8.1.1 Character of Area:

The area, in which the site is located, is characterized by predominantly residential uses. The proposed self-catering accommodation-development will merely be an extension of and/or similar to the existing character of the area.

In view of the long existing position of the primary dwelling unit and its outbuildings the proposed development is not regarded as being undesirable and will not have any detrimental impact on the rights of surrounding property owners nor the existing built environment in future.

8.1.2 Traffic:

The low level of traffic generated by this planned kind of development will have no significant effect on the existing and surrounding street network and the traffic flow patterns around the site will not be affected at all.

Because of the foregoing, no traffic impact assessment or environmental impact assessment is necessary with this application.

8.1.3 Services:

The site is fully serviced as it is located in an existing township with the result that all municipal services are available, which is an indication that a tourist accommodation facility will have no significant effect on the existing water and sewerage systems.

8.1.4 Standards and additional conditions:

In this regard it is also necessary to take into account the Policies and Studies relevant to this application.

9. RELEVANT POLICIES AND STUDIES:

9.1 Coastal Zone Policy for the Western Cape

The aim of the Policy is to give guidance regarding the sustainable development and management of the Western Cape coastline with specific reference to the creation of environments for investment opportunities, which would lead to economic development and consequent sustainability of the economic growth of its coastal towns.

According to the Policy the area falls within its specific Spatial Planning Category, in that tourist related enterprises within coastal towns must be encouraged.

It is therefore a given that the proposed development is consistent with the principles of the Policy.

9.2 The Heritage Survey, 2009

The objective of the heritage survey was to identify properties within Hermanus that has historical significance and that should therefore be protected.

The subject property has not been listed as a building with great historical significance and is not older than 60 years.

In the light of the foregoing it is not considered necessary to apply for Heritage approval to make the proposed changes to the building.

9.3 Overstrand Municipality Zoning Scheme

Land uses in the area and on the site of application are being regulated and controlled by the revised Overstrand Municipality Zoning Scheme to be known as Schedule 2: Overstrand Municipality Land Use Scheme, 2020.

The said Town Planning Scheme together with the proposals in the Provincial Spatial Development Framework 2014 (PSDF), the Overstrand Spatial Development Framework (2006) SDF, 2006, and the Overstrand Municipality: Growth Management Strategy, 2010, makes provision for consent uses such as applied for in this application.

9.4 PSDF

The purpose of the PSDF is to give expression to the national and provincial development agendas for land development and serves as a basis for coordinating, integrating and aligning national and provincial programmes. It also aims to

communicate the spatial development intentions of the government to the private sector.

The following aims underpin the PSDF, together with explanations of how the proposed development will be in line therewith.

"Capitalise and preserve unique local built form and natural typologies, character and heritage."

The application will not disturb the local built form as it aims to only change the present use of the property from use by one or two families to "tourist accommodation" with minor additions to the existing building.

"Promote urban rather than suburban model: avoid further fragmentation of townships."

The proposed development will not lead to a fragmentation of the area.

"Focus on creating connections to economic and social opportunity to promote spatial and socio-economic integration."

The proposed development is an excellent example of the promotion of spatial and socio-economic integration.

"Cluster all social facilities and complementary activities."

As a business concerns with a basic social background this development will be an addition to the nearby variety of business activities.

9.5 SDF

The objective of the SDF is to formulate strategic policy guidelines and proposals which are spatially based, through which the needs, changes and growth in the area can be managed to the benefit of the inhabitants and the environment of the Overstrand Municipality.

The following objectives are used to test whether the proposed development will be in line with the aims of the SDF

"To provide an environmentally and economically sustainable bulk service infrastructure and road transport network."

The proposed development is already connected to all services and no extra services will be required.

"To ensure that on-going pressure and its spatial implications are managed in a sustainable manner that protects the unique character of the existing cultural landscapes and the place-specific character and form of the existing settlement pattern."

The proposal will not change anything in the existing cultural landscape and the character and form of the existing settlement pattern.

"Restrict development within the carrying capacity limitation of the natural resources."

The proposal will not change anything in the carrying capacity limitation of the natural resources.

"To improve the aesthetic quality of the built environment."

The proposed minor additions to the building can only lead to the improvement of the aesthetic quality of the built environment.

9.6 GROWTH MANAGEMENT STRATEGY

The purpose of the GMS is to improve the Overstrand Municipality's overall environmental sustainability by enhancing the quality and efficiency of the built environment.

The following core objectives of the strategy will be used to test the suitability of the proposed development.

"Ensure optimal land use planning and the efficient use of infrastructure, services, facilities and land."

The proposal seeks to make optimal use of the erf and will result in more efficient use of the infrastructure.

"Contribute to place making and the development of attractive and safe urban environments."

The proposed development will definitely contribute to place making and a more attractive property.

"Ensure that the scale and character (in terms of bulk, height and architectural styling) of the higher density areas are appropriate to the immediate context."

The proposed ground storey development will not be extended with the result that the coverage will basically stay the same as at present.

10. PLANNING PRINCIPLES

The application has also been analysed for consistency with the planning principles prescribed by the Spatial Planning and Land Use Management Act, 2013 (SPLUMA) and also the Western Cape Land Use Planning Act, 2014 (LUPA) and the following conclusions were made:

(a) Spatial Justice which refers to the need for redressing the past apartheid spatial development imbalances and aim for equity in the provision of access opportunities, facilities, services and land.

Possible results of the development

The proposed consent use will not in any way contribute to the perpetuation of past apartheid spatial development imbalances as the development of the tourist accommodation will open up the provision of all of the above to all persons in the Republic of South Africa.

(b) Spatial Sustainability which refers to the fact that a spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.

Possible results of the development

The proposed development will take place within the urban edge and will therefore have no impact on agricultural land, environmentally sensitive areas and biodiversity rich areas. The application can thus be deemed to be spatially sustainable.

(c) Efficiency which refers to the manner in which settlements themselves are designed to function in such a way that there will be a minimum need to travel long distances to access services, facilities and opportunities.

Possible results of the development

The proposed development is not intended as a new settlement development and caters specifically for long-distance travellers for whom all facilities will be available on site.

(d) Spatial Resilience which, in the context of land use planning, refers to spatial plans, policies and land use management systems which should enable communities to be able to resist, absorb and accommodate any economic and environmental shocks which might occur in a timely and efficient manner.

Possible results of the development

The proposed development will not lead to any economical and/or environmental shocks as the business to be conducted will not differ basically from the existing use on the erf.

(e) Good Administration which, in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure that a joint planning approach is pursued

Possible results of the development

Consultative practices are being followed in this application as it is done in consultation with the Planning Department of the Municipality who will also advertise the application in such a manner as to enable the Government and the general public to participate in the eventual decision-making process.

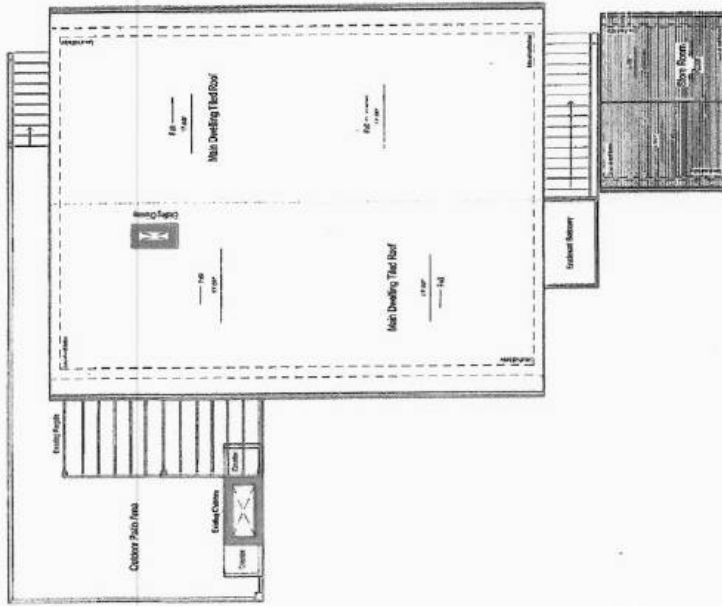
11. SUMMARY AND CONCLUSION

- 11.1 The proposed development, apart from monetary reasons, is an attempt by the client to bring about a development that will add value to the area. Tourism is an important growth driver in South Africa.
- 11.2 There is also a definite need for tourist accommodation together with ancillary uses, in this area of the Overstrand. In this regard it can be stated that the demand and economic viability of any development determines the need for it. Local economic conditions, the presence of the sea and mountains and other attractions plus the unprecedented growth in the tourism market make the proposed development viable and favourable on the site of application.
- 11.3 Finally, the application adheres to the criteria of the Overstrand Municipality Zoning Scheme of June 2013, updated and revised Schedule 2: Overstrand Municipality Land Use Scheme, 2020. The proposed developments will contribute positively to the economy and character of the area in which it is situated as well as the Overstrand as a whole.

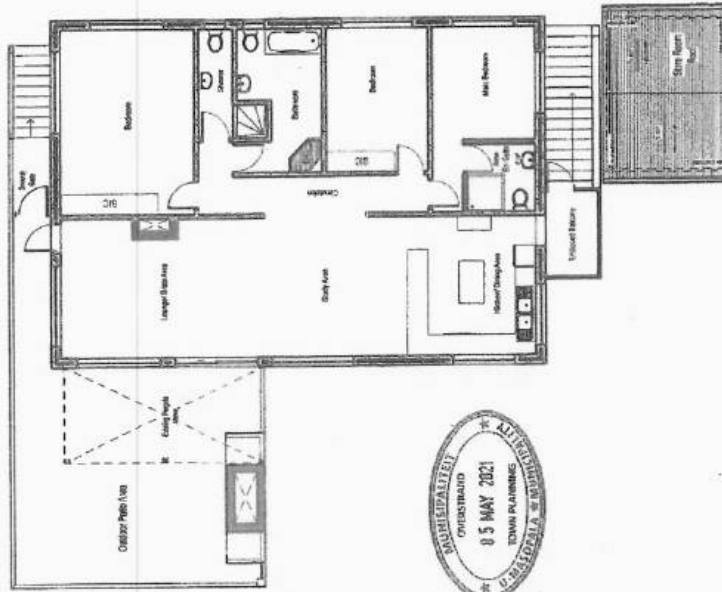
12. RECOMMENDATION

It is recommended that the application as set out above be considered favourably and approved.

June 2021



Roof Plan Layout
1 : 100



Upper Ground Floor Layout
1 : 100



No.	Date	Description	Revision	Schwartz
PROJECT				
Upper Ground Floor & Roof Plan Layout (Eri 1842 - Peary Saah - Mr & Mrs Vijayan)				
SPEC. DESCRIPTION				
Proposed Upper Ground & Roof Plan Layout				
SCALE	1 : 100	DATE	05/05/2021	
DATE	05/05/2021	NO.	1842/19	
PROJECT	20210504 16 20 19	REVISED		
CLIENT INFORMATION				
Gentle Architects & Interiors - Chennai				
No. 42, Anna Salai, Chennai - 600 002				
Tel: 044-2642 2222				
Fax: 044-2642 2222				
Web: www.gentlearchitects.com				

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 5. THE ARCHITECTS AND ENGINEERS SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE DATA PROVIDED BY THE CLIENT OR ANY OTHER SOURCE.
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 9. THE ARCHITECTS AND ENGINEERS SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE DATA PROVIDED BY THE CLIENT OR ANY OTHER SOURCE.
 10. THE ARCHITECTS AND ENGINEERS SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE DATA PROVIDED BY THE CLIENT OR ANY OTHER SOURCE.

LEGEND
 New Brickwork
 New Timberwork
 New Steel
 New Foundation/Concrete
 New Soil pipe
 New Waste Pipe
 New Stormwater Line

SCHEDULE OF RIGHTS
 ERF Number: 1642
 Stand Area: 770.00m²
 Ground Floor Area: 171.00m²
 Upper G/F Floor Area: 218.50m²
 TOTAL NEW AREA: 238.80m²
 COVERAGE: 20.71%

PROJECT
 Upper Ground Floor & Roof Plan Layout
 (Erf 1642 - Punthi Seach - Mr & Mrs Viljoen)

DESCRIPTION
 Proposed Site Plan & Ground Floor Layout

SCALE
 As Indicated

DRAWING NO.
 RV/00/00

DATE
 2023/01/20

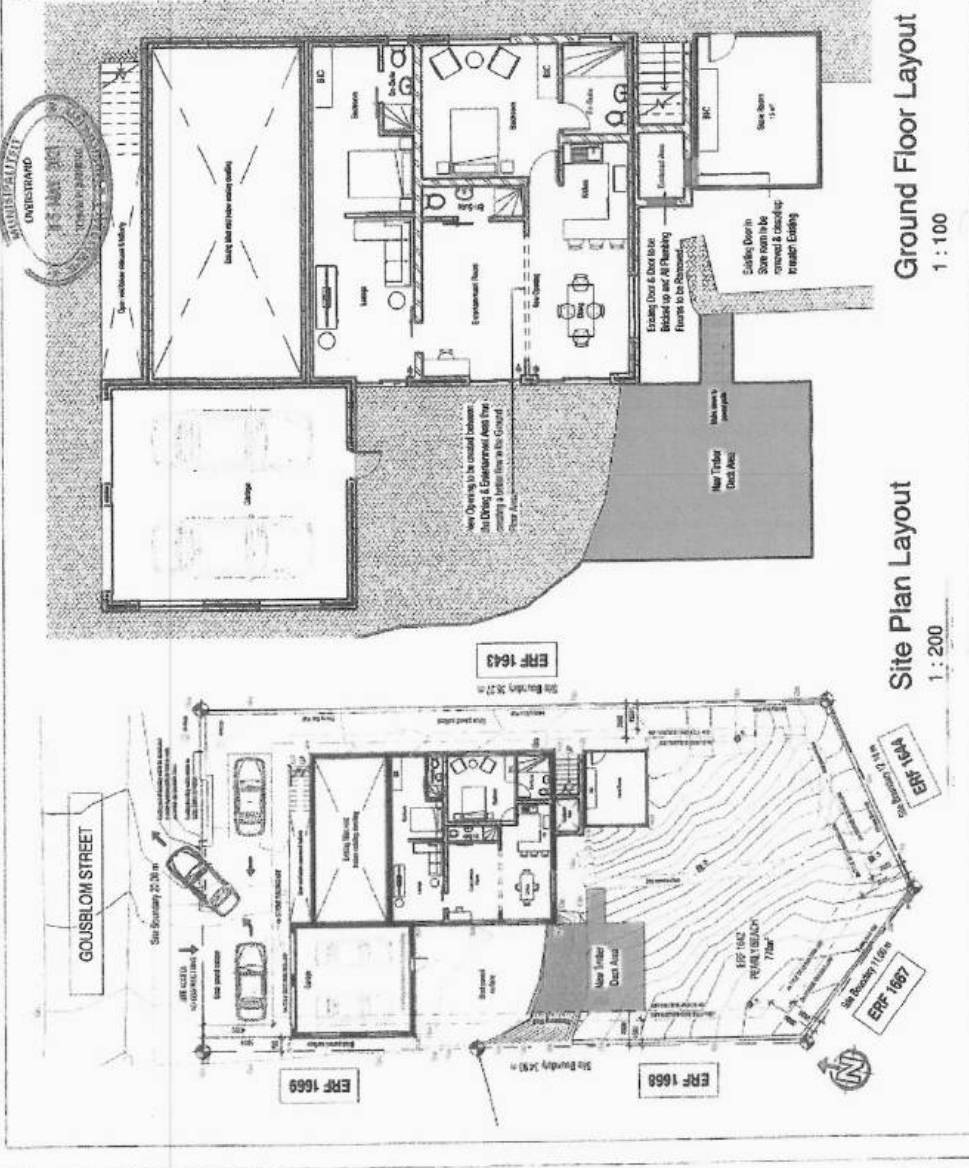
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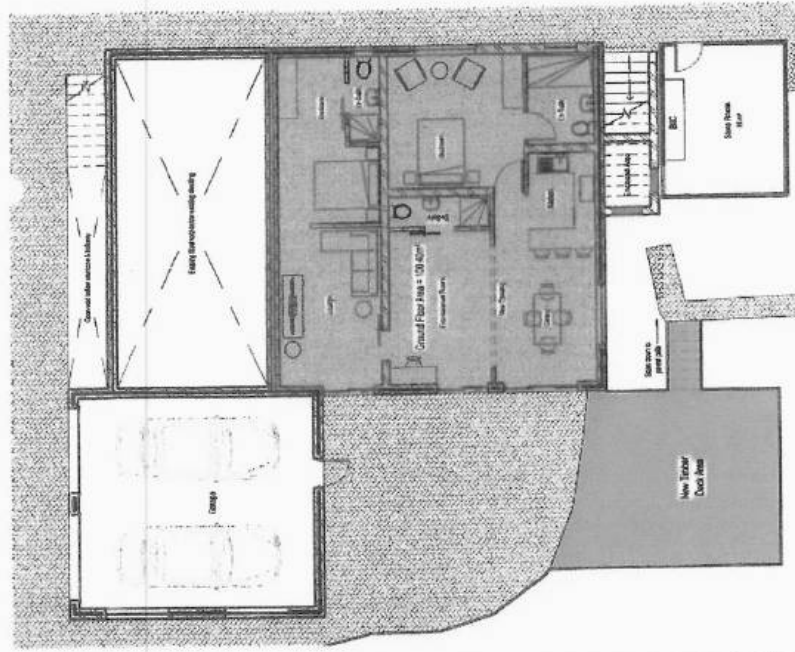
REVISIONS

CHECKED BY
 JG

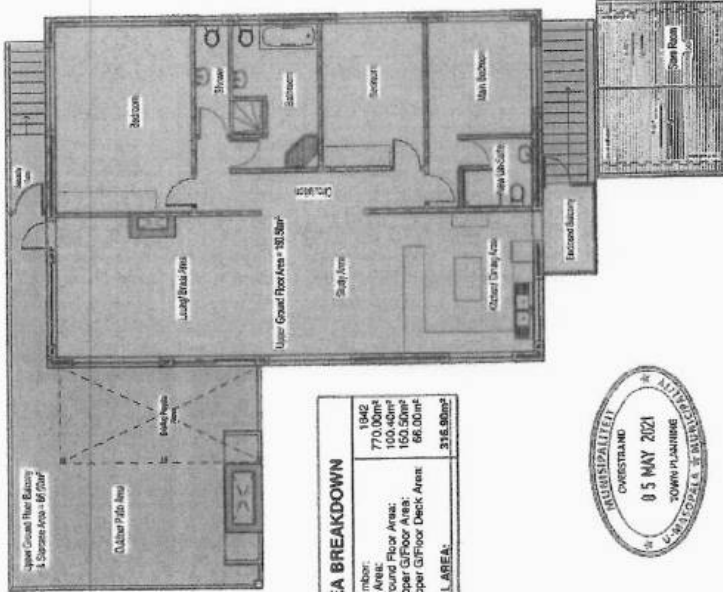
DATE
 2021/04/14 15:00:51

CLIENT
 Gerritkie Argitektuur & Binnelike Ruimte
 Johan Gerrieke
 P.O. Box 1000, Cape Town, 8001
 Tel/Fax: 021 448 3333 / 021 448 3333
 Cell: 082 999 9999





Ground Floor Layout - Area Breakdown
1 : 100



Upper Ground Floor Layout - Area Breakdown
1 : 100

AREA BREAKDOWN	
Eri Number:	1042
Stand Area:	770.00m ²
Ex. Ground Floor Area:	160.50m ²
Ex. Upper GF Floor Area:	66.00m ²
Ex. Upper GF Floor Deck Area:	66.00m ²
TOTAL AREA:	315.90m²



No.	Date	Description	Prepared Schedule	PROJECT	SUBJECT	SERIES/REVISION:					
						NO.	DATE	DESCRIPTION	BY		
						1	05/05/2021	05 MAY 2021	05/05/2021	05/05/2021	05/05/2021
SUBJECT: Upper Ground Floor & Roof Plan Layout (Eri 1042 - Feisty Beach - Mr & Mrs Viljoen)						SERIES/REVISION: Ground & Upper Ground Floor Area Breakdown					
PROJECT: 1042						CLIENT: Mr & Mrs Viljoen					
ARCHITECT: GARDNER ARCHITECTS PTY LTD						ARCHITECT: GARDNER ARCHITECTS PTY LTD					
ADDRESS: 1042						ADDRESS: 1042					
CONTACT: 021 551 1111						CONTACT: 021 551 1111					
WEBSITE: www.gardnerarchitects.co.za						WEBSITE: www.gardnerarchitects.co.za					

117

Cluver Markotter Inc
Cluver Markotter Building
Mill Street
Stellenbosch
7600

Prepared by me

CONVEYANCER
AREND LEOPOLD DE WAAL

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 1 850 000.00	R. 1098.00
Reason for exemption	Category Exemption	Exemption i t o. Sec/Reg. Act/Proc.

VERBIND MORTGAGED	
VIR FOR R. 1 351 000.00	
B 000023354 / 2018	
24 OCT 2018	REGISTRAR/REGISTRAR

T 000049042 / 2018

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

ANTON LUTHER POSTHUMUS

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

The Trustees for the time being of MARIANNA PUDDU TRUST
Registration Number IT221/1993

which said Power of Attorney was signed at STELLENBOSCH on 27 August 2018

DATA / VERIFY
25 OCT 2018
MONTYAMA

DATA / CAPTURE
2 OCT 2018
VUYELWA AMANI

And the appearer declared that his/her said principal had, on 13 August 2018, truly and legally sold by Private Treaty, and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

RENEE MARY VILJOEN
Identity Number 620211 0009 087
Unmarried

her Heirs, Executors, Administrators or Assigns, in full and free property

**ERF 1642 PEARLY BEACH, situate in the OVERSTRAND Municipality,
 Division BREDASDORP, Province of the WESTERN CAPE**

IN EXTENT 770 (SEVEN HUNDRED AND SEVENTY) Square metres

FIRST TRANSFERRED by Deed of Transfer Number T 18997/1982 with Diagram SG No. 8131 relating thereto and held by Deed of Transfer Number T72/2014

- A. SUBJECT TO** the conditions as referred to in Deed of Transfer Number T72/2014.
- B. SUBJECT TO** the following conditions imposed by the Administrator of the Province of the Cape of Good Hope in terms of the provisions of Ordinance Number 33 of 1934 upon the approval of Pearly Beach Township Number 2 and contained in aforesaid Certificate of Registered Title Number T24605/1972:-
1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under the Provincial Administration Notice No. 401 dated 17th October 1935 and in the memorandum which accompanied the said regulations.
 2. The owner of this erf shall without compensation be obliged to allow electricity and water mains and the sewage and drainage including stormwater of any other erf or erven within or without this subdivision to be conveyed across this erf if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.
 3. The owner of this erf shall be obliged without compensation to receive the material or permit excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.
- C. SUBJECT TO** the following conditions contained in Deed of Transfer Number T18997/1982, imposed by the Administrator of the Province of the Cape of Good Hope in terms of the provisions of Ordinance Number 33 of 1934 upon the approval of Pearly Beach Township Number 2:-



h

1. Ingeval 'n dorpaanlegskema of enige gedeelte daarvan op hierdie erf van toepassing is of daarop van toepassing gemaak word, sal enige bepaling daarvan wat meer beperkend is as enige voorwaardes van eiendomsreg wat op hierdie erf van toepassing is voorkeur geniet. Enige bepaling van hierdie voorwaardes moet nie opgevat word al sou dit die bepaling van artikel 146 van Ordonnansie Nr. 15 van 1952, soos gewysig, vervang nie;
2. Geen gebou op hierdie erf mag gebruik word of van gebruik verander word vir 'n ander doel as wat volgens hierdie voorwaardes toegelaat word nie;
3. (a) Hierdie erf mag alleenlik gebruik word vir die oprigting daarop van een woning of ander geboue vir die doeleindes wat die Administrateur van tyd tot tyd, na oorleg met die Dorpskommissie en die plaaslike owerheid, goedkeur, met dien verstande dat, indien die erf in die gebied van 'n dorpsaanlegskema ingesluit is, die plaaslike owerheid enige ander gebou wat deur die skema toegelaat word, kan toelaat onderworpe aan die voorwaardes en beperkings wat in die Skema bepaal word;
- (b) Geen gebou of struktuur of enige gedeelte daarvan, behalwe grensmure en heinings, mag behalwe met die toestemming van die Administrateur nader as 5 meters van die straatlyn wat 'n grens van hierdie erf uitmaak, asook nie binne 3 meters van die agtergrens of 1,5 meters van die sygrens geneem aan enige aangrensende erf opgerig word nie, met dien verstande dat met die toestemming van die plaaslike owerheid;
 - (i) 'n buitegebou wat uitsluitend vir die stalling van motorvoertuie gebruik word en hoogstens 3 meter hoog is, gemeet van die vloer van die buitegebou tot by die muurplaat daarvan, binne sodanige sy- en agterruimtes opgerig mag word, en enige ander buitegebou van dieselfde hoogte binne die agterruimte en syruimte opgerig mag word vir 'n afstand van 12 meters gemeet van die agtergrens van die erf, met dien verstande dat in geval van 'n hoek erf die afstand van 12 meters gemeet moet word van die punt wat die verste is van die strate wat die erf begrens;
 - (ii) 'n buitegebou ingevolge subparagraaf (i) slegs nader aan 'n sygrens of agtergrens van 'n perseel as die afstand hierbo voorgeskryf, opgerig mag word indien geen venster of deure in enige muur, wat op sodanige grens front, aangebring word nie;
- (c) By die konsolidasie van hierdie erf of enige gedeelte daarvan met enige aangrensende erf wat onderworpe is aan dieselfde voorwaardes as die wat hierin uiteengesit word, is hierdie voorwaardes op die gekonsolideerde eiendom van toepassing asof dit een erf is;
- (d) Ingeval hierdie erf onderverdeel word, is elke onderverdeelde gedeelte, uitgesonderd 'n gedeelte afgesny vir pad- of dergelike doeleindes, onderworpe aan die voorwaardes hierin uiteengesit asof dit die oorspronklike erf is;



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

**The Trustees for the time being of MARIANNA PUDDU TRUST
Registration Number T221/1993**

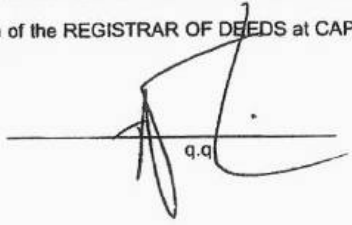
heretofore had to the premises, did in consequence also acknowledge them to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

RENEE MARY VILJOEN, Unmarried

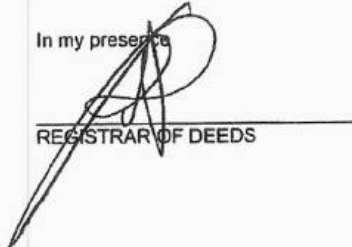
her Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R1 850 000,00 (ONE MILLION EIGHT HUNDRED AND FIFTY THOUSAND RAND).

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

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 24 OCT 2018


q.q

In my presence


REGISTRAR OF DEEDS



17 August 2021

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

alida@overstrand.gov.za

Dear Sir / Madam

**ERF 1642, 4 GOUSBLOM STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA:
REMOVAL OF RESTRICTIVE TITLE DEED CONDITION, CONSENT USE AND DETERMINATION
OF AN ADMINISTRATIVE PENALTY: MESSRS ME PLANNERS ON BEHALF OF RM VILJOEN**

With regards to Municipal Notice No. 101/2021 that was published in the Gansberg News of 6 August 2021, the Pearly Beach Conservancy would like to submit the following comments with regard to the application for Erf 1642, 4 Gousblom Street, Pearly Beach:

We have received various objections regarding to the number of outside lights on the particular erf. The Conservancy supports the guidelines of the International Dark Sky Association and would like to propose that a condition regarding the number and brightness of outside lighting on the erf be made part of the approval conditions to stipulate that outside lights must not negatively affect the visual character of the village, nor spill over the perimeter of the erf. Outside lighting can shine downwards and have motion sensors rather than stay on all night.

According to our facts there are at present 3 outside flats and 1 wendy house on the erf that are being used for tourist accommodation. To our knowledge no improvements have been made to the original septic tank and we want to lodge a concern regarding the septic tank and soak away drain. It will be appreciated if these facts can be investigated before the application is approved.

Yours faithfully

ELRINA VERSFELD
SECRETARY, PEARLY BEACH CONSERVANCY

Pearly Beach Bewarea/Conservancy
Posbus/PO Box 60, Pearly Beach, 7221
Cell 084 350 4107
elrinaversfeld@gmail.com
Registered Conservancy with Cape Nature and registered Non-profit Organization - number
080-366-NPO

19 AUG 2021

TP. N. / Noord
(S. van Nieuw)

FILE NO:	Er 1642
	Pearly Beach
SCAN NO:	GPB1642
COLLABORATOR NO:	1513377



FILE NO:	GF 1512	2/13
	Pearly Beach	
SCAN NO:	18	
COLLABORATOR NO:	1580977	

COMMENTS ON APPLICATION BY OWNER OF ERF1642 GOUSBLOM STREET PEARLY BEACH
REGARDING REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURES

Comments by: Judi Rabe

Address: Erf 1643, 2 Duine Street, Pearly Beach

Contact Details: 061 464 5912

judiraba2@gmail.com

Interest in application: Direct neighbor of applicant on the eastern side - Owner of Erf 1643

TR N. Mhlati
(S. ud Mhlati)

I would like to make the following comments on the application

- 1) Point 2.3.1 (i) Large number of outside lights and placement of bedroom windows impose directly onto the privacy of my house. Applicant instructs neighbors to keep quiet so as not to disturb her paying guests, while it is a residential area where activities such as mowing of lawns and dogs barking are normal. Placement of "so called" storeroom is a sore eye.
- 2) Point 2.3.1.(ii - iv) The current owner did not buy the property with the existing building plans as is. Changes were made and bathrooms added shortly after the property was bought with the specific intention of renting it out as separate selfcatering flats. "Nutec Store room" was erected on top of Sewerage Drain and another bathroom added despite owner being made aware of the fact that it is against building regulations and that a Septic Tank must be built when bathrooms are added. Nutec structure was erected with the purpose of another dwelling for people to stay in and not as a so called storeroom.
- 3) Point 2.3.2 "The owner does not allow any paid guests at the moment....." This is totally untrue, paid guests are still staying at the premises.
- 4) Point 2.3.3 Statement that "the creation of the second dwelling involves no unauthorized building/construction work" is not true as per detail above - unauthorized changes was made by the current owner.
- 5) Point 3.4.1 Outbuilding was erected after the property was purchased by the current owner and structural changes made without following building regulations or obtaining the necessary approvals before making the changes.
- 6) Point 6.3 "... self-catering establishment (second dwelling) attached to the main house by a covered walkway..." There is currently no covered walkway and it is also not indicated on the the proposed building plans.
- 7) Point 7.3 Parking and Access - There is not enough space for parking - Guests drive over pavement and damage gardens despite small fence being erected to try and prevent it.
- 8) Point 8.1.1 Character of Area - changes that was already made to the dwelling and outbuilding erected as well as excessive outside lighting and paying guests already had a detrimental impact on the rights of surrounding property owners.
- 9) Point 8.1.3 Services - Bathrooms were added without building a Septic Tank. Guests will put more strain on existing soakaway drain and there is no access to the drain if needed, with the "store room" being erected over the manholes. More sewerage will flow into ground water.
- 10) Point 9 - Relevant Policies and Studies "...proposed development will Capitalise and preserve unique local built form and natural typologies, character and heritage." Pearly Beach is a conservation area promoting a "Black Skye Policy". Excessive outside lights are in

08 SEP 2021
TR

direct contradiction to the character of the area and is causing a severe disturbance to not only direct neighbors but also to other owners in the surrounding streets and has an impact on animal nightlife. Outside lights should be limited, fixed to the inside of outer walls and shine downwards. Outside building is not adding to the aesthetical quality of the built environment. The proposed additional deck also brings a lot of questions regarding disturbance caused by guests and impacting on the privacy of neighbors

Summary

The application document consists of misstatements and is not stating the true facts of the matter. The owner is also not very cooperative, for example despite friendly requests by a couple of surrounding homeowners regarding outside lighting causing disturbance, she was not willing to address it. The owner also tries to prescribe to neighbors when and what activities they are allowed to do so as to not disturb her paying guests without taking into consideration that it is a residential area and that her selfcatering business must fit into the existing character of the area and not the other way around.

Although I am not totally against the granting of the consent use of the second dwelling for tourist accommodation, I do have serious doubts about future situations that might develop taking into account issues that are already existing, the fact that the owner is not very cooperative and not open and honest about all the facts. This can cause serious issues in the future therefore I am opposing the grant of consent use of the so called second dwelling for tourist accommodation

Kind Regards



Judi Rabe
08/09/2021

TP - N. Theart
(S. ud N. N. N.)



To: **Overstrand Municipality**
16 Paterson Street
Hermanus
7200
Email address: alida@overstrand.gov.za
Attention: The Municipal Manager

From: **Mrs Esther Barnard**
17 Intermezzo Street
Legato Retirement Village
Ibis Street
Sonstraal Heights
Durbanville
7550
Email address: wbarnard@oldmutualalternatives.com
Attention: Esther Barnard

FILE NO:	27 1642
	Pearly Beach
SCAN NO:	GFB 1642
COLLABORATOR NO:	1582666

10 September 2021

Dear Sir/Madam

MUNICIPAL NOTICE 101/2021 (ERF 1642 PEARLY BEACH VARIOUS APPLICATIONS): COMMENTS IN TERMS OF SECTION 52 OF THE 2020 BY-LAW

1. I refer you to Municipal Notice No. 101/2021, and to the Amended Memorandum dated June 2021 (the **Application**) relating to various applications in respect of erf 1642 Pearly Beach (4 Gousblom street) (the **Subject Property**).
2. In this letter, I refer to the **2020 By-Law** (meaning the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020), the **2020 Land Use Scheme** (meaning the Overstrand Municipality Land Use Scheme, 2020), and the **2013 Zoning Scheme** (meaning the Overstrand Municipality Zoning Scheme, 2013).
3. I am the registered owner of erf 1668 Pearly Beach (57 Charlie van Breda drive) which abuts the Subject Property on the eastern side.
4. **Application in terms of Section 16(2)(f) of the 2020 By-Law for the removal of restrictive title deed condition C3(a)**
- 4.1 I do not object to the removal of the restrictive title deed condition provided that the applicant:

1

12 SEP 2021
TP

- 4.1.1 agrees not to construct the proposed new timber deck (see paragraphs 4.4.1 and 4.4.3 below); and
- 4.1.2 agrees to limit the number of guests to a maximum of six (see paragraph 4.4.2 below); and
- 4.1.3 gives me assurances in respect of measures that will be in place to protect me from nuisance (see paragraph 4.4.2 below).
- 4.2 My property, and, as I understand it, all other Single Residential (SR1) properties in Pearty Beach, are subject to the same (or similar) restrictive title deed conditions, the purpose of which is to preserve the SR1 character in the area.
- 4.3 'Second dwelling unit' is a primary use under both the 2013 Zoning Scheme and the 2020 Land Use Scheme. However, restrictive title deed conditions prevail over use rights (see 16.9.2 of both the 2013 Zoning Scheme and the 2020 Land Use Scheme).
- 4.4 In deciding this application, section 35 of the 2020 By-Law requires you to consider, among others, my rights and personal benefits if the restrictive title deed condition is retained, against the personal benefits to the applicant if the restrictive title deed condition is removed.

As I understand the Application, removal of the restrictive title deed condition will allow the applicant to create a 'second dwelling unit' (as defined in the 2013 Zoning Scheme and in the 2020 Land Use Scheme) which will be used for tourist accommodation or self-catering (as to the difference between these two uses, see paragraph 5.1 below) (the **Sandy Feet business**, or **Sandy Feet**). I have serious concerns regarding the impact this will have on my right to privacy, my right not to be subjected to nuisance and my right to realise the unencumbered value my property.

4.4.1 Privacy

The Subject Property slopes significantly and my property is at the bottom of the slope.

At the time when the Subject Property was built up, my late husband and I agreed to the encroachment of the common boundary in the north eastern corner of my property to enable the building of a retaining structure, the top of which now forms Sandy Feet's stoep (marked 'bricked paved surface' on the Site Plan Layout included in the Application). The stoep is at the level of my dwelling house's roof top and overlooks the eastern side (my backyard) and the northern side of my

property – see attached to this letter as Annexure 4.4.1A, a photograph taken from the stoep, which I copied from www.loveground.com (one of many websites that advertise Sandy Feet Self-catering Accommodation). The red arrow in the left corner of Annexure 4.4.1A marks the site of my backdoor.

To the best of my recollection, the applicant has been running the Sandy Feet business from the Subject Property since December 2019. This has had a detrimental impact on privacy on my property which I have come to accept because guest activity is localised to the stoep, which is partly obscured from view (at least from mine down below) by fynbos growth. The proposal to construct a new timber deck area (see Site Plan and Ground Floor Layouts included in the Application) is not, however, acceptable to me as it would leave me with no privacy at all on the eastern and northern sides of my property.

Judging by the Site Plan and Ground Floor Layouts, the proposed new deck will be extending Sandy Feet's current stoep parallel along my property's eastern border, stopping just short of my backdoor. Sandy Feet's guests will have unobstructed, broadside views of the northern side of my property, my backyard, my backdoor and the kitchen, bathroom, toilet and bedroom windows on the eastern side of my dwelling house. I attach two photographs which I have edited (rather crudely) to show a side view of the proposed deck from my property; Annexure 4.4.1B (view from the north eastern corner of my property) and Annexure 4.4.1C (view from backdoor facing north east to Sandy Feet's stoep).

I appreciate that I would not have a leg to stand on if the applicant proposed to construct an otherwise (building regulations) compliant deck as a feature to the applicant's main dwelling house. I would not, however, be as concerned about my privacy as I am now because the deck would be used infrequently given that the applicant, and the applicant's family cook and eat in the applicant's main dwelling house, and use the roof of the outbuilding (garage) as a deck for braaing and lounging. However, the reality here is that the Sandy Feet business interposes another family (or more) between my dwelling house and the applicant's main dwelling house, and so the deck, being a feature of the proposed new second dwelling unit, will see heavy traffic from the guests – lounging, eating, and I assume also braaing.

4.4.2

Nuisance

The Sandy Feet business inevitably brought noise with it. I have had no reason to complain about noise nuisance but it is not clear to me from the Application if and

how the proposed second dwelling unit will change the number of guests that can be accommodated. The www.travelground.com website currently advertises Sandy Feet as offering two apartments and says that each apartment sleeps two. I have not, however, checked with the site to see if perhaps two more may be squeezed into each apartment (sofa beds perhaps). I am also concerned that the Application in paragraph 6.5 refers to parking required for two vehicles for the second dwelling unit. This suggests to me that the intention may be to accommodate two families in the second dwelling unit and this could easily add up to between 8 and 10 guests. I propose therefore that a maximum occupancy of six be agreed.

I do not know if it is related to (for the benefit of) the Sandy Feet business, or perhaps just for safety concerns but at night, the Subject Property's garden area is constantly brightly lit by a number of perched garden lights. The light spills onto my property and inside my home. I have not complained about this to the applicant, but it is annoying. A reasonable compromise may be to either shield the lights, or add a motion sensor so that they are activated only when needed.

I ask that the applicant inform me of the measures that will be in place to protect me from nuisance.

4.4.3 Property value

I have not involved an estate agent or professional property valuer because it is self-evident that neighbouring a tourist accommodation/self-catering business in a sleepy coastal village like Pearly Beach negatively affects the value of my property. It is also self-evident that this will be compounded if the proposed new timber deck is constructed, hence my request for the applicant to agree not to do so.

5. Application in terms of Section 16(2)(o) of the By-Law for consent use

5.1 It is not clear to me what consent use is being applied for, or if a consent use is in fact required.

The application throughout refers to the 2020 By-Law and the 2020 Land Use Scheme but in paragraph 2.2 the application is for 'tourist accommodation' consent use which is an SR1 consent use under the 2013 Zoning Scheme but not under the 2020 Land Use Scheme. Paragraph 3.4.3 of the Application then refers to the second dwelling to be used for the business of 'tourist accommodation (self-catering

accommodation)'. Self-catering is neither a primary nor a consent use in the 2013 Zoning Scheme but it is a primary use in the 2020 Land Use Scheme.

Please clarify what the proposed use of the second dwelling unit is. It is important for me to know because each use is subject to specific use requirements (e.g. 16.10.21 of the 2020 Land Use Scheme in relation to 'self-catering') which are intended, among others, to protect the interests of adjoining property owners like me.

5.2 Tourist accommodation (consent use under the 2013 Zoning Scheme)

The 2013 Zoning Scheme includes a guest house in the definition of tourist accommodation but does not contain any specific requirements in respect of either guest house or tourist accommodation. 'Tourist accommodation' is however defined as requiring the use to comply with 'any other relevant legislation'.

Please advise what legislation is relevant in respect of 'tourist accommodation' use.

5.3 Self-catering (primary use under the 2020 Land Use Scheme)

Self-catering use is subject to 16.10.21 of the 2020 Land Use Scheme, which limits the use to single family occupation, restricts self-catering to the main dwelling or the second dwelling unit (if there is one), prohibits activities constituting a source of nuisance, and allows the Municipality to impose additional conditions in order to minimise any potential public nuisance.

If the Municipality does impose additional conditions (16.10.21(e)), please let me know what these conditions are.

6. **Application in terms of Section 16(2)(q) of the By-Law for determination of an administrative penalty**

I do not have any comments on this application save to note the following (paragraph numbers refer to those in the Application).

6.1 Paragraph 2.3.1(f)

I do not agree that my privacy is not being imposed on, and the proposed new timber deck will most definitely have a further detrimental impact (see paragraph 4.4.1 above).

6.2 Paragraph 2.3.2


As I understand it, there currently is no 'second dwelling' on the Subject Property and the purpose of the application for the removal of the restrictive title deed condition is to pave the way for a second dwelling unit to be created.

6.3 Paragraph 2.3.3

I agree that 'second dwelling unit' is a primary use but I do not agree that 'application for a 'second dwelling' is a primary right'. As I understand it, land use rights are subject to restrictive title deed conditions (see 16.9.2 of both the 2013 Zoning Scheme and the 2020 Land Use Scheme).

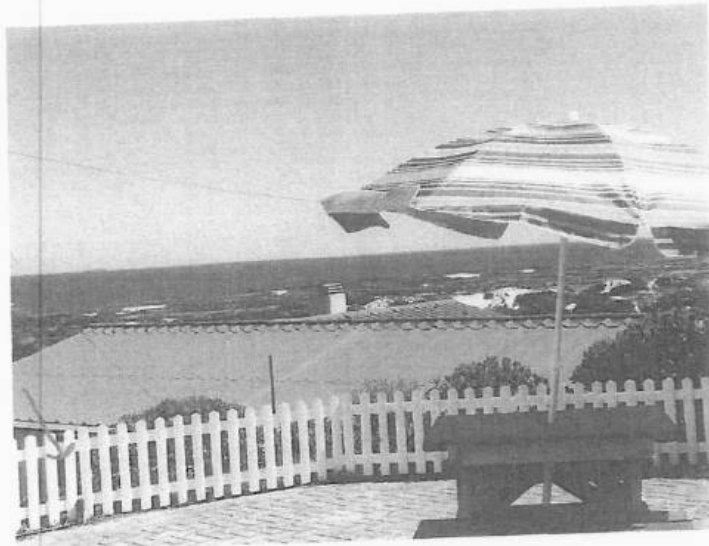
Yours faithfully,

Esther Barnard



ANNEXURE 4.4.1A

PHOTOGRAPH TAKEN FROM SANDY FEET'S STOEP



ANNEXURE 4.4.18

SIDE VIEW OF THE DECK FROM THE NORTH EASTERN CORNER OF MY PROPERTY



ANNEXURE 4.4.1C

VIEW OF THE DECK FROM MY BACKDOOR FACING NORTH EAST TO SANDY FEET'S STOEP



TP: N/Heart
(S. ud n'one)



Abré de Beer
37 John Rumble
Somerset West
7130
Mobile: 0716879486

COMMENTARY ON APPLICATIONS FOR: REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURES: ERF 1642: GOUSBLOM STREET: PEARLY BEACH: OVERSTRAND MUNICIPALITY: DIVISION CALEDON: PROVINCE OF THE WESTERN CAPE

On behalf of the de Beer family residing at 55 Charlie van Breda street (ERF 1669), Pearly Beach, Western Cape, I would like to raise our concerns regarding the application of ERF 1642.

Our house borders ERF 1642 and our main concern is the potential for late night noise during the evenings. Our area and neighbours are very quite in the evenings and most noise is kept to a minimum after 10h00. Since the units on ERF 1642 will be rented out to strangers, there is the potential for rowdy tenants that will disturb the piece and quite currently enjoyed by all the neighbours.

Regards

Abré de Beer

FILE NO:	51 1642
	Pearly Beach
SCAN NO:	
	GPB Abre
COLLABORATOR NO:	
	1582682

11 SEP 2021
N

REPLY TO OBJECTIONS RECEIVED: ERF 1642, PEARLY BEACH

Introduction:

As an introduction the following observations should be noted and taken into account during the consideration of the application and the various objections received.

General Observations:

It is general knowledge that South Africa is for the greatest part an arid country. Only the towns along the coastline are blessed with good rainfall, particularly along the eastern coastline where this particular erf is situated, which leads to weather conditions in favour of holiday destinations. Overstrand Municipality forms part of these destinations.

Because of the foregoing the Municipal Council has, in its latest Town Planning Scheme, made provision for the fact that many visitors, whether passing through or looking for holiday accommodation, can be accommodated by changing its Land Use Scheme, 2020 in such a way as to allow private land owners to have a second dwelling unit with self-catering constructed.

To be able to comment on the comments (objections) received about the application for the removal of restrictive title deed conditions and departures, it is necessary to first of all paint a clear picture of what is meant by the zoning and definitions.

In terms of Schedule 2 of the Overstrand Municipality Land Use Scheme, 2020 the erf is zoned Residential Zone 1: Single Residential (SR1) with the following use restrictions applicable to it:

- (a) **Primary uses are:** crèche, dwelling house, guest rooms, home occupation, second dwelling unit and self-catering.
- (b) **Consent uses:** day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building, and intensive horticulture.

1. DEFINITIONS OF INTEREST:

- 1.1 **"second dwelling unit"** means a dwelling unit which may, in terms of this land use scheme, be erected on a land unit where a dwelling house is permitted, and such second dwelling unit may be a separate structure or may be contained in the same structure as the dwelling house,....*subject to certain provisions as set out in Schedule 2: Overstrand Municipality Land Use Scheme, 2020.*
- 1.2 **"self-catering accommodation"** means sole occupancy unit(s) for transient guests, consisting of one or more rooms and self-contained public areas, e.g. kitchen, dining area and lounge;

It is therefore the intention of the registered owner to utilize the second dwelling as accommodation for guests on a temporary basis. Pearly Beach, being only 185 km from Cape Town, and 25 km from Gansbaai, supplies predominantly holiday accommodation. The densification proposals as set out by the OGMS, will contribute to the enhancement of the nodal points as envisaged by SPLUMA.

2. OBJECTORS:

1. Elrina Versfeld, Secretary, Pearly Beach Conservancy
2. Judi Rabe, Erf 1643, 2 Duine Street
3. Abre de Beer, Erf 1669, 55 Charlie van Breda Street
4. Mrs Esther Barnard, Erf 1668, 57 Charlie van Breda Drive

As quite a number of the objections are basically the same, we shall answer them as if they are the same for all of them.

- i) Outside lights:
- a) The outside lights on the property are seen as to be excessive in number for the erf and the neighbourhood.
 - b) The placing of the lights is such that they are a hindrance for the next-door neighbours and the area in general.
 - c) The lights are left to shine all night.

Reply:

Some of the lights will have to burn the entire night due to the fact that crime in Pearly beach is on the rise. If any problems arise it can be taken up with the owner who will gladly consider changing certain lights to work with movement sensors. This is especially applicable to permanent residents of Pearly Beach.

- ii) Septic tank:
The tank is not large enough to accommodate the extra visitors.

Reply:

This issue will be handled by the Services Departments of Overstrand once the proposed building plans are circulated.

- iii) Buildings and building plans:
The following matters are seen to be problematic:
- a) It seems as if, at present, there are 3 outside flats and a Wendy house on the erf.

- b) The placing of the new bedroom windows is not acceptable as they will be overlooking the neighbour's living area, taking away their privacy.
- c) People are accommodated in the store room.
- d) There seem to be unauthorised building works having been done.
- e) The covered walkway is not shown on the plans.

Reply:

The Building Department of the Municipality will have to take most of these matters into account when the new building plans are presented for consideration.
With reference to the use of the store room for consideration, it can be stated emphatically that it was never used for renting out purposes.

- iv) Parking and access:
There will not be adequate parking space for the expected number of guests.

Reply:

The new building plans, which include the site plan with the proposed parking bays, prove this statement to be not accurate.

- v) New deck:
The new deck should not be allowed as it will overlook the next door neighbour's yard and take away its privacy.

Reply:

The neighbouring yard is so much lower than this one that wherever anybody stands on this erf in the back yard, such person will in any case look down on the neighbour's yard.
The proposed deck will have the same effect as if the place where it is to be erected has been levelled by using cement, concrete or brick paving.

- vi) Paying guests will have a detrimental impact on the rights of the surrounding property owners.

Reply:

Any guest of all erven in Pearly Beach can have a bad impact on the rights of surrounding owners.

vii) Late night noise will result from the allowance of paying guests.

Reply:

The same argument for or against any property in Pearly Beach may cause late night noise.

viii) The applicant is not very co-operative as far as the neighbourhood is concerned.

Reply:

This statement carries no weight as he can make the same statement as far as the neighbourhood is concerned without supplying proof of his statement.

ix) The number of guests to be a maximum of 6 people.

Reply: No comment except to point out that it is impossible to limit the number of visitors to a private stand on any given moment. In any case, no more guests can be accommodated than what the building was designed for.

END OF REPLY
29 September 2021

File reference:	ERF 1642 GPB
Date:	6 August 2021
	MM



INTERNAL MEMORANDUM

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

TO:

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

Applicant	MESSRS ME PLANNERS ON BEHALF OF RM VILJOEN
Property Details	ERF 1642, 4 GOUSBLOM STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA
Application Description	APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY

ATTACHMENTS :

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

YOUR DEPARTMENT'S COMMENTS:

The fire department has no objection to compliance with the provision of SANS-A:2016 10400-T:2020 and the By-Law relating to community fire safety.
 (Guest houses / bed and breakfast accommodation SANS T:2020 Section 4.58)

Signature: <i>E. Solomons</i>	Date:	ASSISTANT CHIEF Enrico Solomons PO Box 20 NEREMANUS 7200 Tel: 028 313 4476 Fax: 028 312 2172 Email: esolomons@overstrand.gov.za
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Please provide your comments (with specific reference to any conditions of approval that should be imposed) in the space provided above or in a separate Memo by not later than the date stipulated above. If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the Mayoral Committee will be informed accordingly.

COMMENTS REQUIRED BY: 10 SEPTEMBER 2021

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED
CONDITIONS, CONSENT USE & DETERMINATION OF AN
ADMINISTRATIVE PENALTY: ERF 1642, PEARLY BEACH**

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

Conditions:

1. that only the existing metered water connection and sewer conservancy tank on Erf 1642 be used to service the erf with regards to water and sewer services.
2. that the sewer conservancy tank must be accessible to the municipal sewer tankers from one of the adjacent public roads with a sewer tank suction point on the erf boundary along Gousblom Street;
3. that only the existing, standard electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the developer's cost;
4. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 140400 – P: 2010: Drainage;
5. that on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Department: Operational Services;
6. that any additional and / or extended vehicle entrances will be for the developer's account;
7. that stormwater be allowed to discharge through Erf 1642, Pearly Beach, unobstructed.

p.p. R. Chosen
DENNIS HENDRIKS
 SENIOR MANAGER: ENGINEERING SERVICES

02/10/2021
 DATE