

# ERF 1647 KENTON-ON-SEA

LAND USE PLANNING APPLICATION

21 December 2017



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# 1. Departure from Scheme Conditions

Application is hereby made to the Ndlambe Municipality to Depart from the Kenton-on-Sea Town Planning Scheme By-Laws – August 1982 to enable a guesthouse to be developed on Erf 1647.

# 2. Development Proposal

The land owner wishes to develop a guesthouse on the site.

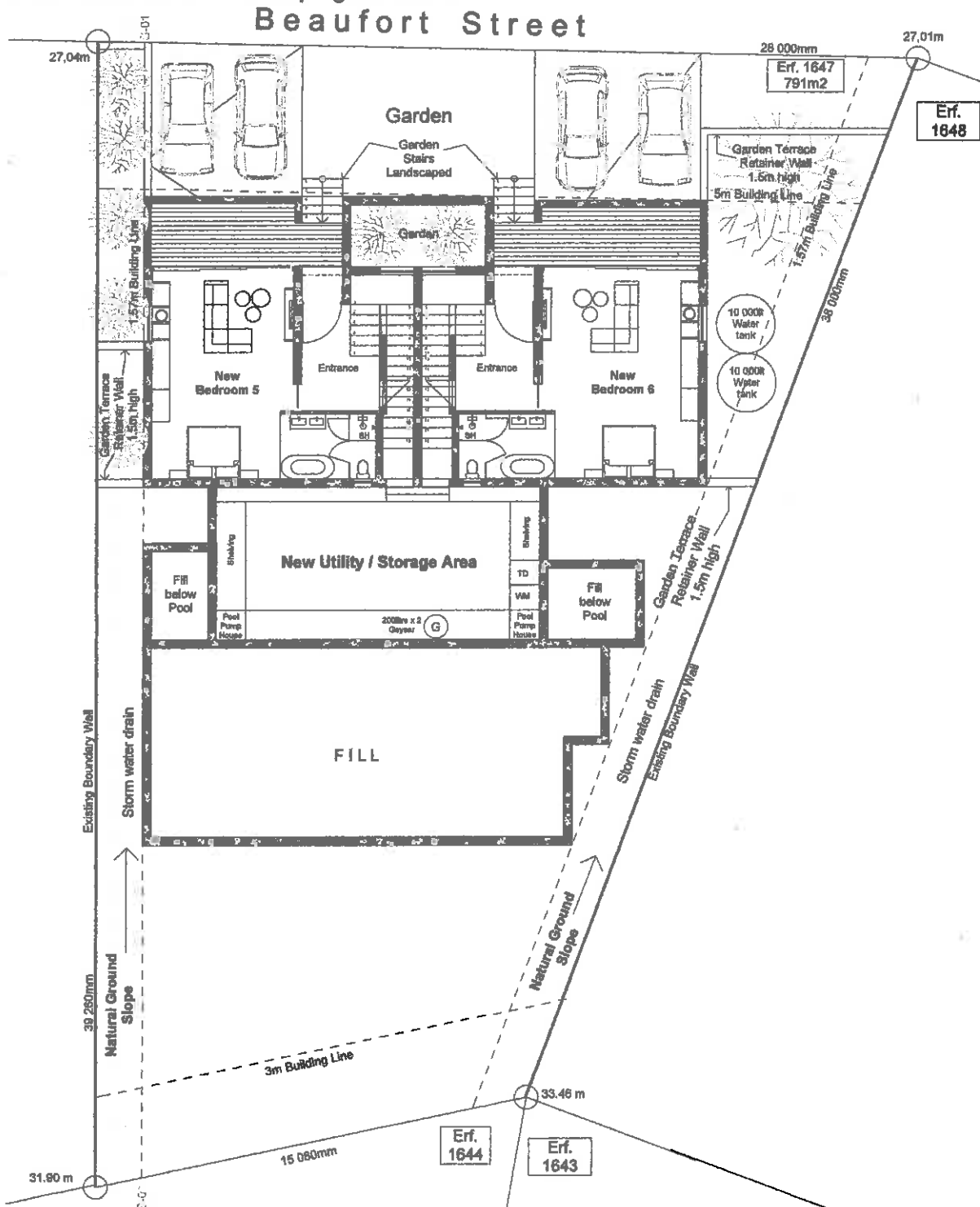


Figure 1 Ground floor plan (Pollos Purdon Architectural Practice)

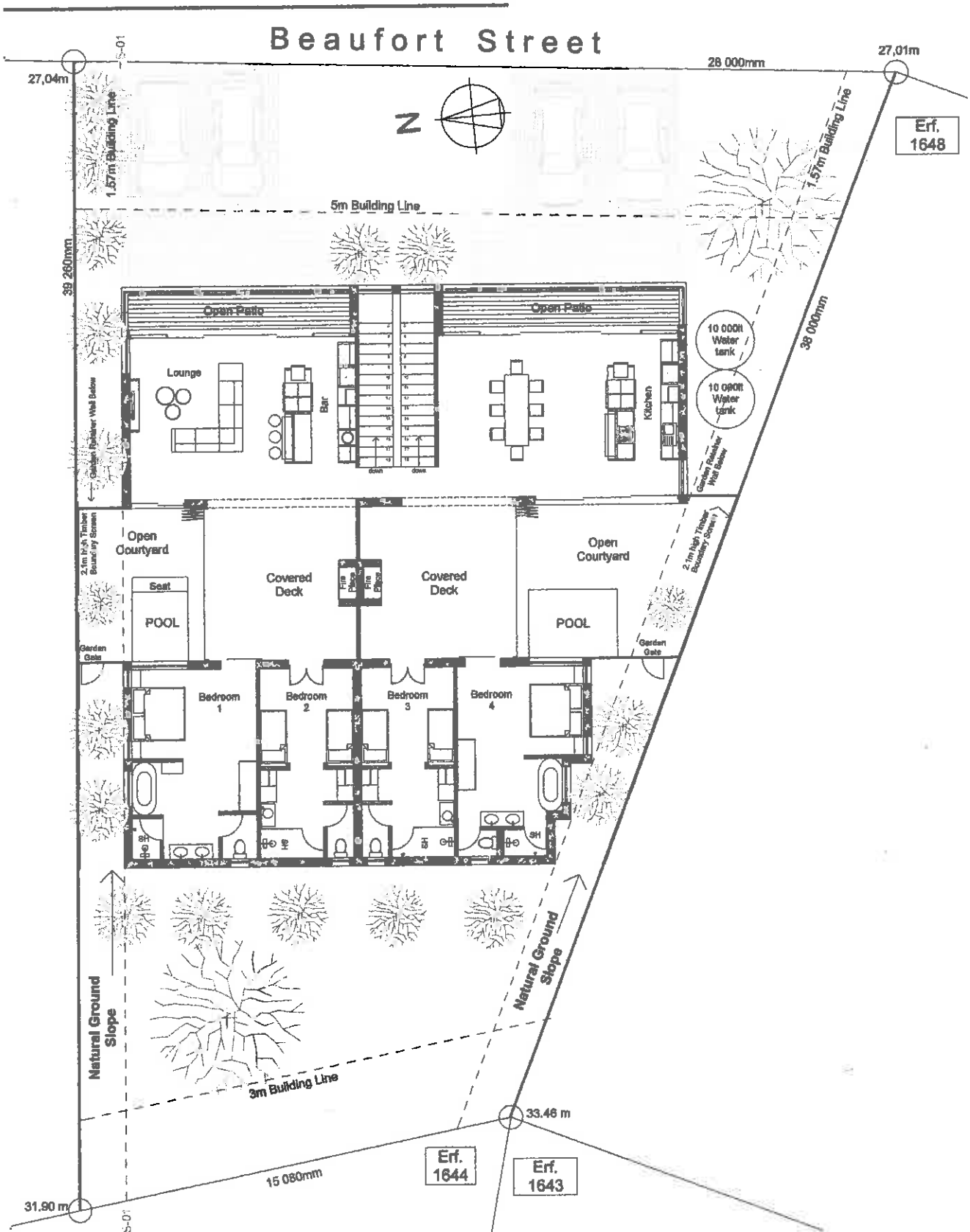


Figure 2 First Floor Plan (Pollos Purdon Architectural Practice)

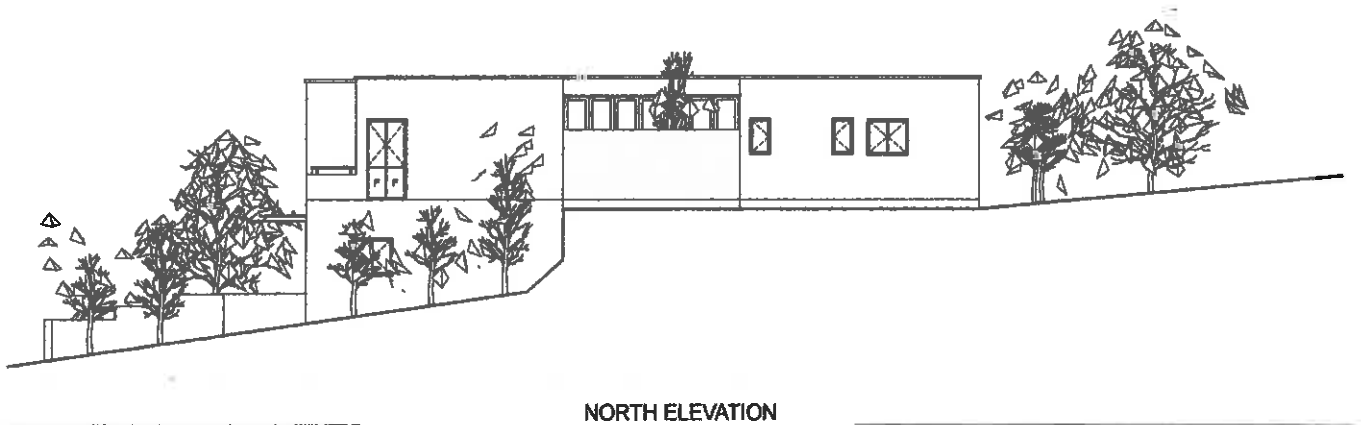
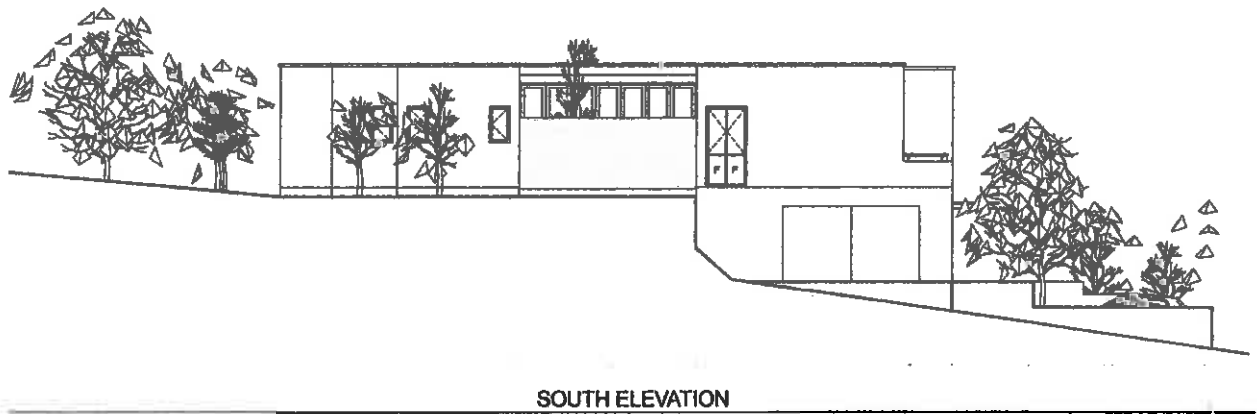
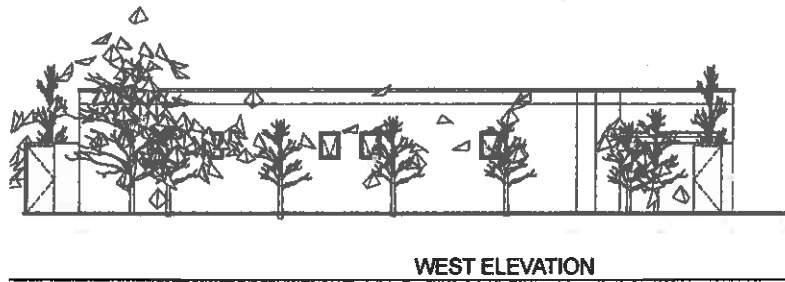


Figure 3: Elevations (Pollos Purdon Architectural Practice)

## 2.1 Site Analysis Subject Property / Land Parcels

The subject property is to be known as Erf 1647 Kenton-on-Sea, situated in the Ndlambe Municipality, Division of Bathurst, Province of the Eastern Cape. It is 791m<sup>2</sup>.

## 2.2 Locality

The subject property is located in Beaufort Street in the town of Kenton-on-Sea.



Figure 4 Locality Plan

## 2.3 Archaeology & Heritage Resources

No known features of archaeological or historic significance are present on the subject property. Should any such features be identified during the application or development process permission will be obtained from SAHRA for the proposed alteration / improvement thereof.

## 2.4 Existing Zoning

In accordance with the Erf Register and associated Zoning Scheme Maps maintained by the Ndlambe Municipality, Erf 1647 Kenton-on-Sea is currently zoned Single Residential (Kenton-on-Sea Town Planning Scheme).

## 2.6 Existing Land Use

The property has been developed with a large double storey dwelling house. Refer to the pictures below.



View of existing structure 1



View of Existing Structure 2

## 2.7 Surrounding Land Usage

The subject property is surrounded by single residential development to the north, south and east and by various business uses to the West and south.

### 2.7.1 Land Uses to the West and South



Photo 1 View of parking and business to the west. (Google Earth , 2015)



Photo 2 Parking and Businesses to the west (Google Earth , 2015)



## 2.7.2 Land Use to the North



Photo 3 View of parking and church (Google Earth , 2015)



Photo 4 View of Church Entrance (Google Earth , 2015)

### 2.7.3 Land Uses to the South



Photo 5 Single residential to the south (Google Earth , 2015)



Photo 6 Single residential to the south (Google Earth , 2015)

## 2.8 Surrounding Zonings

The site is surrounded by Single Residential zoning to the north, south and east and Business zoning to the West.

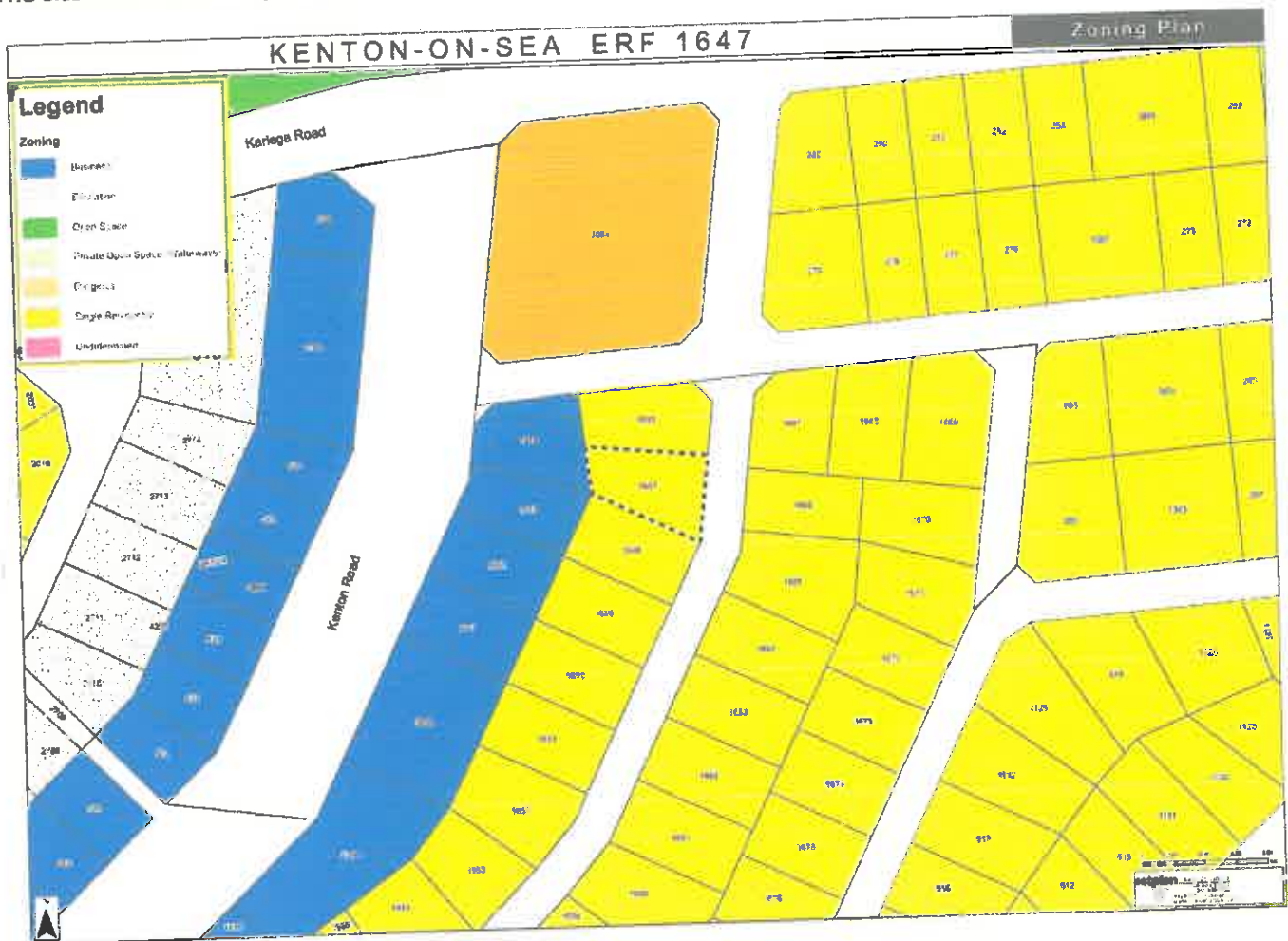


Figure 5 Surrounding Zoning

## 3. Desirability

### 3.1 Planning By-Law

The Spatial Planning and Land Use Management By-laws: Ndlambe Municipality, promulgated in the Provincial Gazette on 4 March 2016 No. 3613 requires that the motivation contemplated in section 85(2)(d) must contain at least the following information:

- An indication of the persons, communities and institutions likely to be affected by the amendment and the likely impact on them;
- the interest of the applicant in bringing the application;
- a discussion on the content of the scheme prior to the proposed amendment and the need for the amendment;
- a discussion on the proposed amendment;
- the expected impact on the current, adopted municipal spatial development framework and integrated development plan;
- the possible impact of the amendment on the environment and probable mitigating elements;
- an indication whether an application must be made for an environmental authorization in terms of the National Environmental Management Act, 1998;

These matters are all addressed in the paragraphs to follow.

### 3.2 Removal of Restriction Act (Act 84 of 1967)

Based on the information available at the time of the preparation of this application no restrictions were noted, which would negatively affect the assessment of this proposal or the intended development.

### 3.3 Development Principles and Norms & Standards as contemplated in Chapter 2 of SPLUMA;

The general principles set out in Chapter 2 of the SPLUMA apply to all of state organs and other authorities responsible for the implementation of legislation regulating the use and development of land, and guide -

- (a) The preparation, adoption and implementation of any spatial development framework, policy or by laws concerning spatial planning and the development or use of land;
- (b) The compilation, implementation and administration of any land use scheme or other regulatory mechanism for the management of the use of land;
- (c) The sustainable use and development of land
- (d) The consideration by competent authority of any application that impacts or may impact upon the use and development of land and
- (e) The performance of any function in terms of this Act or any other law regulating spatial planning and land use management.

As the above highlighted instances of land development activities will be affected during the consideration of this application the relevant Chapter 2 Development Principles are addressed below:

#### 1.1.1 Spatial Justice

In the broadest sense, spatial (in)justice refers to an intentional and focused emphasis on the spatial or geographical aspects of justice and injustice. As a starting point, this involves the fair and equitable distribution in space of socially valued resources and the opportunities to use them.

"The city and spatial justice": Sophile Didier, Frédéric Dufaux, Spatial justice 01 September 2009

<b>SPLUMA Chapter 2 Development Principles</b>	<b>Compliance Statement</b>
<b>Spatial Justice</b>	
Past spatial and other development imbalances must be redressed through improved access to and use of land	Not applicable to this proposal
Spatial development frameworks and policies at all spheres of government must address the inclusion of persons and areas that were previously excluded, with an emphasis on informal settlements, former homeland areas and areas characterized by widespread poverty and deprivation	Not applicable to this proposal
Spatial planning mechanisms, including land use schemes, must incorporate provisions that enable redress in access to land by disadvantaged areas, informal settlements and former homeland areas	Not applicable to this proposal
Land use management systems must include all areas of a municipality and specifically include provisions that are flexible and appropriate for the management of disadvantaged areas, informal settlements and former homeland areas	Not applicable to this proposal
Land development procedures must include provisions that accommodate access to secure tenure and the incremental upgrading of informal areas	Not applicable to this proposal

a Municipal Planning tribunal considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property is affected by the outcome of the application	The proposal will not negatively affect the values of surrounding properties.
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### 1.1.2 Spatial Sustainability

Sustainable development implies that products designed for today's needs should not harm people and nature anywhere and should not limit the well-being of people and nature later.

<b>Spatial Sustainability</b>	
Promote land development that is within the fiscal, institutional and administrative means of the Republic	There is no negative impact on the fiscal, institutional and administrative means of the Republic
Ensure that special consideration is given to the protection of prime and unique agricultural land	No prime and unique agricultural land will be negatively affected.
Uphold consistency of land use measures in accordance with environmental management instruments	No NEMA applications are required
Promote and stimulate the effective and equitable functioning of land markets	No applicable to this proposal
Consider all current and future costs to all parties for the provision of infrastructure and social services in land developments	The project will make more effective use of the existing available infrastructure. There will be no additional demand for infrastructure or social services as a result of the approval of the application.
Promote land development in locations that are sustainable and limit urban sprawl	The development falls within the urban growth boundary and will therefore not contribute to urban sprawl.
Result in communities that are viable	The development will contribute to the local economy of the area, by enabling additional employment.

### 1.1.3 Constitutional transformation imperatives and the related duties of the state:

The Constitution states that within its financial and administrative capacity the **objects of local government** are-

- (a) to provide democratic and accountable government for local communities;
- (b) to ensure the provision of services to communities in a sustainable manner;
- (c) to promote social and economic development
- (d) to promote a safe and healthy environment; and
- (e) to encourage the involvement of communities and community organisations in the matters of local government.

In addition, the Constitution states that as municipality's **developmental duties** are to:

- (a) structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community; and
- (b) participate in national and provincial development programmes.

Although this development proposal does not enable the municipality to directly meet transformational imperatives it does enable the Municipality to exercise its developmental duties and to meet the object of creating economic development opportunities.

### 3.4 The state and impact of engineering services, social infrastructure and open space

#### 1.1.4 Engineering Services

The proposed development will be utilising the existing Municipal services provided to the site. Any additional services required will conform to the relevant municipal specifications in this regard.

#### 1.1.5 Open Space Requirements

There is no impact on current Open Space and no additional Open Space is required in terms of the zoning scheme regulations.

### 3.5 Consistency with the Spatial Development Framework Plan(s)

#### 3.5.1 Ndlambe SDF

The Spatial Development Framework (SDF) as part of the Integrated Development Plan (IDP) is given legal status in terms of the Municipal Systems Act (Act 32 of 2000) and the Municipal Planning and Performance Management Regulations as published on 24 August 2001. An extract from the

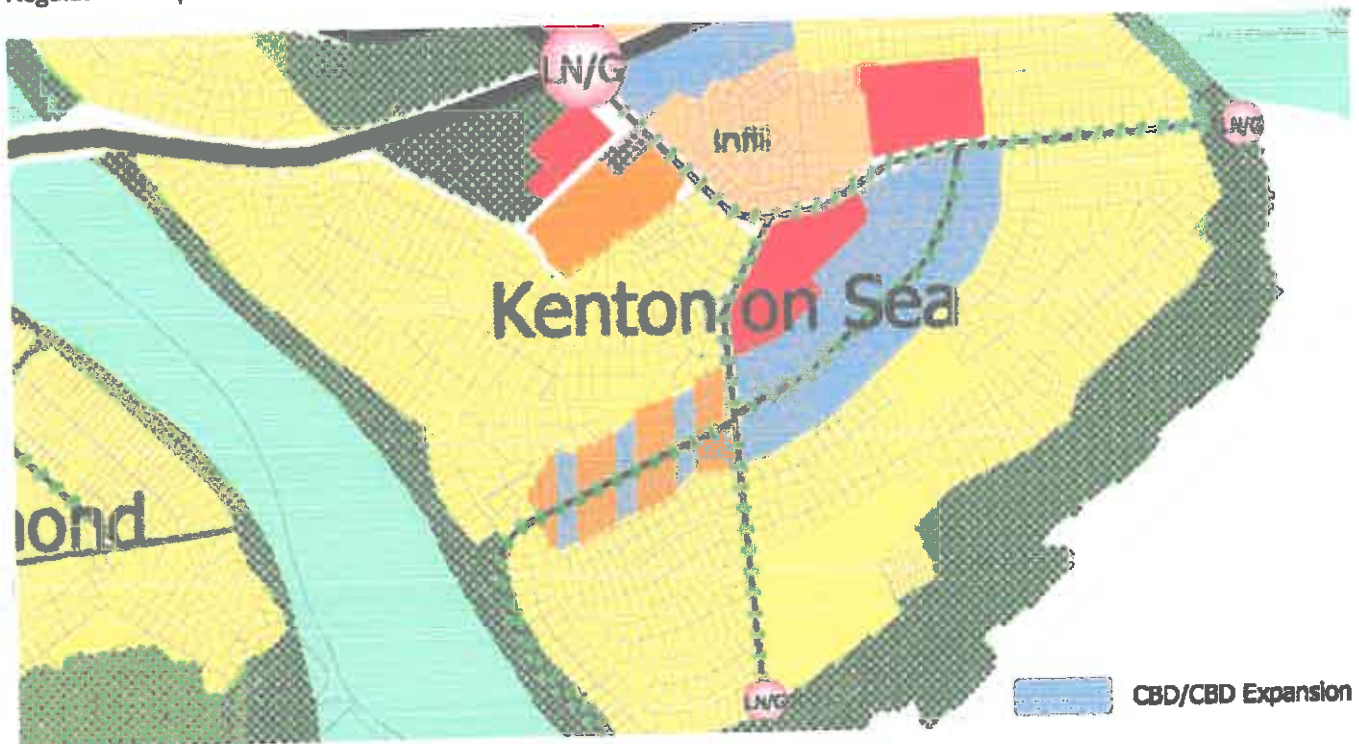


Figure 6: Extract - Kenton on Sea Desired Spatial Form (Ndlambe Municipality, 2012)

All development is required to be aligned with the Spatial Development Framework. In broad terms the area of Kenton-on-Sea within which the Site falls has been designated as for CBD Expansion (Refer to the Blue area on Figure 6: Extract - Kenton on Sea Desired Spatial Form (Ndlambe Municipality, 2012)). The alignment of this proposal with the SDF is set out in the tables below.

SDF Principle	Compliance
<b>20.1 Accessibility</b> Accessibility refers to the construction and improvement of roads and the provision of efficient public transport to allow movement of people between settlement and integration to surrounding towns in the region. Accessibility also involves	Not directly relevant although the development will take place in close proximity to roads which are used for public transport purposes.

creating an enabling movement for non-motorized traffic and pedestrians since a large number of people in the municipality do not own private vehicles.	
<b>20.2 Promote Densification and infill</b>	
The objective of densifying is to create a more compact and efficient settlement and to access to work, services and job opportunities for the residents as people will be located closer to be the urban centre. Densification can be achieved through: mixed use development, reduced erf sizes, alternative housing types and in-situ upgrading of informal areas.	The proposed development will enable the intensification of land uses in an area earmarked for the expansion of the CBD area.
<b>20.3 Environmental Systems Management</b>	
Ndlambe municipality has vast natural resources these include rivers, estuaries, nature reserves/protected area and a coastline with blue flag beaches. The municipality is also situated in one of the Worlds Biodiversity Hotspots. These natural resources are a major tourist attraction and it is essential that they are preserved to ensure sustainability.	The proposed development does not have a negative impact on the natural resources of the settlement.
<b>20.4 Promote Local Economic Development</b>	
Local Economic Development (LED) is crucial in helping to improve the welfare of people and to promote the growth of local industries. Local Economic Development can be promoted through a number of ways such as: urban agriculture on vacant land in town/settlement, commercial agriculture, encourage informal business opportunities in the CBD, provision of SMME Hives and support for small scale business, employment creation through strategic partnerships, enterprise development and skills training, maximise use of local resources and opportunities with comparative advantage for each town/settlement	The development proposal will create short term employment opportunities during the construction phase and will also create new longer term employment opportunities.
<b>20.5 Node and Corridor Development</b>	
National legislation and policy states that all spatial planning has to include corridors and nodes of mixed use development. These activity corridors are characterised by higher residential densities and mixed uses and are viable public transport routes. They are focus areas for urban growth and promote local economic development.	The proposed development falls within an identified development area and is located in close proximity to a primary route within the town.
<b>20.6 Create Sense of Place and Special Places</b>	
Sense of place and special places create identity and legibility for a community or settlement. Natural and built characteristics of towns and settlements can be enhanced to improve legibility. This can be achieved through: gateways and entry points should be defined and also contain nodes, major public places and amenities should be located along and at the intersection of main routes.	This development will assist to create an iconic gateway to the business and commercial development along Kenton Road. It will also create an effective transition from the eastern single residential uses, the religious usage to the north and the higher intensity commercial and business area to the west and south.

**Table 1: SDF Planning Principles**

Given the above Spatial Planning Principles the following specific policy guidelines have been adopted for Kenton-on-Sea. These guidelines are visually set out in Figure 7 this developments compliance therewith is addressed in Table 2: SDF Planning Guidelines Compliance. Of particular relevance is the fact that the site falls within the area of Kenton-on-Sea designated as CBD Core.



Figure 7: SDF - CBD Upgrading and Urban Renewal (Ndlambe Municipality, 2012)

SDF Guideline/Policy	Compliance
<p><b>Nodal Policy</b></p> <ul style="list-style-type: none"> <li>Expansion of Kenton on Sea CBD to the south through allowing more business and office development and urban renewal through higher density development</li> <li>Mixed Use Improvement towards the lagoon and sea to include offices, tourists, facilities, public realm improvements</li> </ul>	<p>This development entails the intensification of land within the Kenton-on-Sea CBD and Core. Mixed usage within the CBD will be achieved through the development of a guest house on the site.</p>
<p><b>Corridors and Activity Zones</b></p> <ul style="list-style-type: none"> <li>Upgrade Kenton CBD and east to coastal area</li> </ul>	<p>This development entails the intensification of land within the Kenton-on-Sea CBD and Core. Mixed usage within the CBD will be achieved through the development of a guest house on the site.</p>

Table 2: SDF Planning Guidelines Compliance

In summary this development proposal will assist the Ndlambe Municipality to achieve its goals for the expansion of development within the Kenton-on-Sea CBD.

### 3.6 Environmental impact

Not Applicable



### **3.7 The influence of the proposal on the surrounding area;**

The manner in which the development has been set out i.e. proximity to adjoining neighbours (Compliance with building lines), location of the uses and proposed extent of the uses, will ensure that any negative impact on the directly abutting neighbours and surrounding area will be low. The development can be considered to be generally of a residential nature and will therefore not have any negative effect on the surrounding land uses

### **3.8 The impact of the proposal in terms of heritage conservation;**

There will be no negative impact from a heritage perspective.

### **3.9 The influence of the proposal on the traffic and/or parking of the area;**

#### **3.9.1 Access**

Access will be gained from Beaufort Street.

#### **3.9.2 Parking**

It is proposed to supply 1 parking bay per suite. Four parking bays will be provided on the site.

#### **3.9.3 Traffic**

The minimal increase in traffic can be accommodated on Beaufort Street and Kariega Road. The increase in traffic will be similar to that which would be generated by the development of a main and second dwelling where each can be expected to accommodate 2 vehicles.

### **3.10 The influence of the proposal on surrounding facilities such as schools, open spaces and other community facilities if the application leads to an increase in the residents of the area;**

There will be no increase in the number of residents in the area as no permanent residential component is proposed.

### **3.11 The influence of the proposal on the existing character of the area and the rights of residents with regards to privacy, view, etc.**

The rights of residents re privacy are not affected by the proposal and can be managed on submission of the site development plan if relevant.

The rights to view are not affected

## **4. Conclusion**

The following bullets summarise the desirability of the proposal:

- The proposal will enable development within the Kenton-on-Sea CBD expansion area (SDF Proposals)
- The proposed development complies with the SDF guidelines and proposals
- The proposal will have no negative effect on the surrounding properties or land uses.

With the above in mind and based on the factors considered above it is our opinion that the application for the departure to enable a guesthouse to be developed on Erf 1647 Kenton-on-Sea can therefore be supported.

# Burman ♦ Katz

ATTORNEYS

Notaries & Conveyancers  
*personalised legal service*

**NORTON LAMBRIANOS SA INC**  
**DOCEX 436**  
**JOHANNESBURG**

Our Ref: Daryl Burman/Denise Olivier/MAT46

Your Ref: Jane Bijsters

13 March 2017

**TRANSFER DARYL BURMAN FAMILY TRUST TO ERF 1647 KENTON ON SEA (PTY) LIMITED**  
**ERF 1647 KENTON-ON-SEA**

We confirm that we are attending to the registration of the above transfer and that we will shortly be in a position to submit our documents to Cape Town.

Yours faithfully



**BURMAN KATZ**

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