



1233

REPORT TO MUNICIPAL PLANNING TRIBUNAL

CASE ID	70383688				
CASE OFFICER	L van Blerk				
CASE OFFICER PHONE NO	021 444 1042				
DISTRICT	Northern				
REPORT DATE	24/01/2018				
INTERVIEW REQUESTED	APPLICANT	YES		NO	√
	OBJECTOR(S)				√

ITEM NO MPTNE32/02/18

APPLICATION FOR ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL) IN RESPECT OF ERF 6884, BRACKENFELL

1 EXECUTIVE SUMMARY

Property description	Erf 6884, Brackenfell
Property address	23 Vergenoeg Street
Site extent	731.20m ²
Current zoning	Single Residential
Current land use	Residential and Place of Instruction
Overlay zone applicable	None

Submission date	24/08/2018
Subject to PHRA / SAHRA	None
Any unauthorised land use / building work?	Place of Instruction.
Has owner applied for the determination of an administrative penalty	Yes
Has the City Manager applied to the MPT for an order that a person who is contravening the MPBL must pay an administrative penalty in an amount determined by the MPT	No
Has the City issued a demolition directive i.t.o section 128 of the MPBL? if yes, an administrative penalty may not be applied for.	No
Has the City served a notice on the owner or	No

other person in respect of the unlawful land use or building work which required the owner or other person to apply for the determination of an administrative penalty?	1 2 3 4
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------

2 DECISION AUTHORITY

For decision by the Municipal Planning Tribunal

3 BACKGROUND / SITE HISTORY

None

4 SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation of the proposed is attached as **Annexure C** and may be summarised as follows:

- The day-care originated in 2016 with 6 Children.
- They were of the opinion that they were able to operate with the increased amount of children during the application proses.
- The number of children increased to 16 and employed 6 persons.
- Application for Council's Consent to permit a Place of Instruction was submitted in August 2017.
- It was never the intension to operate illegally.
- The required alterations came at a great cost.
- Salaries and provision of food places a strain on cash flow.

5 ASSESSMENT OF APPLICATION

- 5.1 In terms of section 129(7)(a) of the By-Law, an administrative penalty for a land use contravention may not be more than 100% of the municipal valuation of the area that is used unlawfully.

Administrative Penalty: Calculation

- 5.1.1 Unauthorised land use

$$\frac{\text{Total Municipal Value of property (1650000)}}{\text{Total area of property (731.20m}^2)} \times \text{Total Unlawful Area (68m}^2) = \text{R153446}$$

1% of total value	2% of total value	3% of total value	4% of total value	5% of total value
R1534.50	R3068	R4603.42	R6137.92	R7672.42

5.2 The following factors need to be considered when determining an appropriate administrative penalty, as contemplated by section 129(8) of the By-Law:

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

The property was initially used as a home child care facility with 6 children as is permitted in the Development Management Scheme within the Single Residential 1 zone.

During 2017 the demand increased and subsequently the number of children at the facility increased.

The facility has therefore operated without land use approval for approximately 1 year. A formal application was submitted to obtain the land use rights in August 2017.

The extent of the use is limited to 3 rooms with a substantial residential component.

b) **The conduct of the person involved in the contravention**

The applicant made the administrative penalty application as soon as they were informed of the requirement.

It is evident that the owner of the property tried to obtain the correct land use approvals.

c) **Whether the unlawful conduct was stopped**

At the time of writing the report the owner has not ceased with the unauthorized use.

d) **Whether a person involved in the contravention has previously contravened by this By-Law or any other planning law**

As far as can be ascertained, the owner of the property has not previously contravened this By-Law or any other planning law.

5.2 It is recommended that a 1% (R1 534.50) penalty be charged.

6 REASONS FOR DECISION

Reasons for the recommended decision may be summarised as follows:

- 6.1 Although a land use application has been submitted to rectify the unlawful use, the owner/tenant has not stopped the unauthorised use.
- 6.2 The current owner complied timeously with the requirements for a submission of an Administrative Penalty application.
- 6.3 As far as can be ascertained, the owner of the property has not previously, other than this, contravened this By-Law or any other planning law.

7 **RECOMMENDATION**

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In view of the above, it is recommended that:

- a) That an administrative penalty in the amount of R1500 be determined in terms of section 129 of the City of Cape Town Municipal Planning By-Law, 2015 in respect portion 1 of Erf 113, Cape Farms

ANNEXURES

- Annexure A District Context and Locality Plan
- Annexure B Site map / building plan
- Annexure C Applicant's motivation / representations




Section Head

Name: Sean van Rensburg

Tel no: 021 444 1044

Date: 26/1/2018



District Manager

Susan Matthysen

021 444 1061

26/01/2018

Annexure A

District Context and Locality Plan

PLANNING AND BUILDING DEVELOPMENT MANAGEMENT
LOCALITY MAP

1238

ANNEXURE :



Overview

Erf 6884

District: NORTHERN

Allotment: BRACKENFELL (S)

Suburb: PROTEA HEIGHTS

Ward: 8

Sub Council: Subcouncil 2



1:643

Notices Served



Support Received



Petition Signatory



Objections Received



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Date: 25 January 2018

File Reference:



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

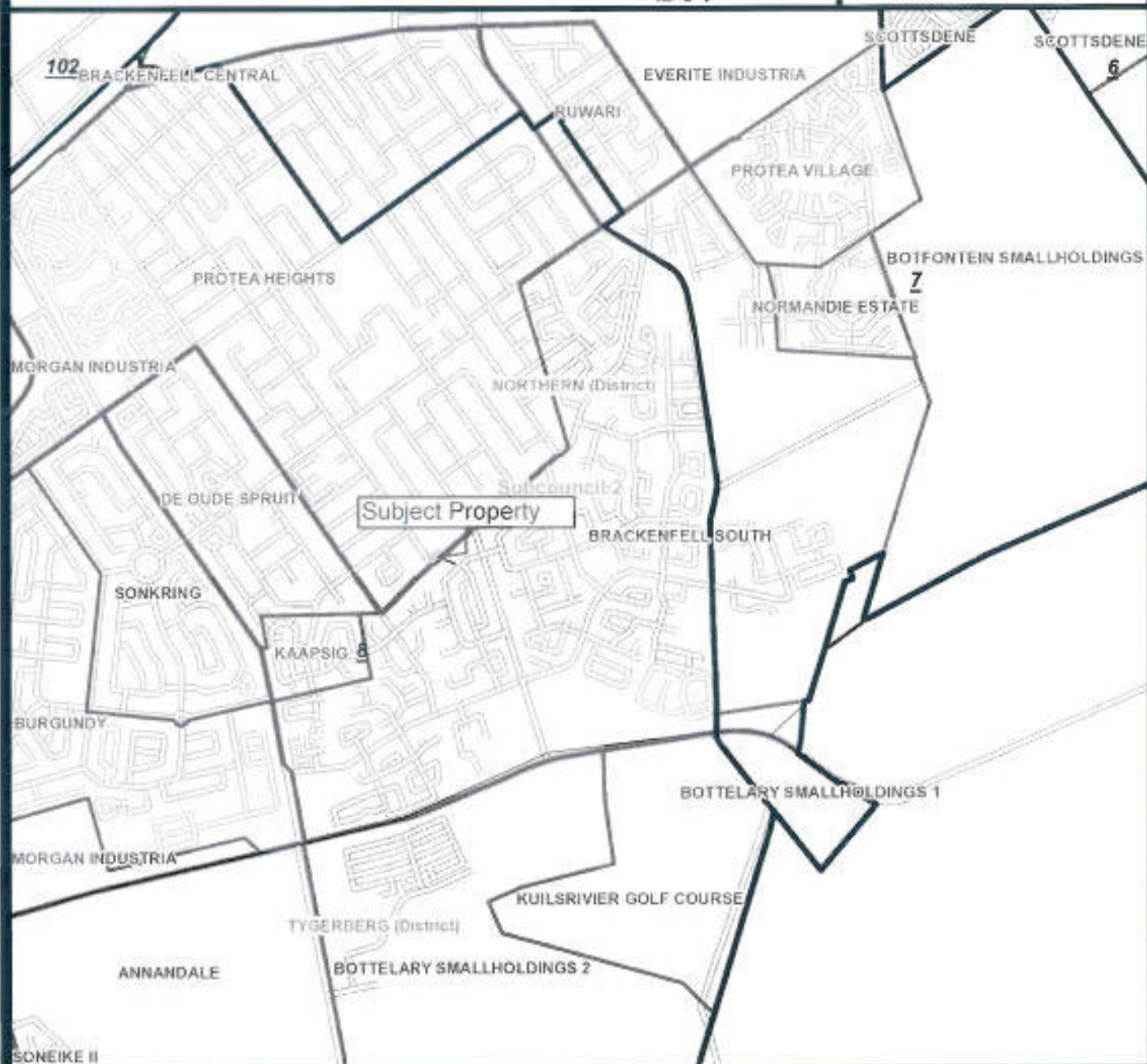
Making progress possible. Together



PLANNING AND BUILDING DEVELOPMENT MANAGEMENT
LOCALITY MAP

1239

ANNEXURE :



Overview

Erf: 6884

Allotment: BRACKENFELL (S)

Ward: 8

District: NORTHERN

Suburb: PROTEA HEIGHTS

Sub Council: Subcouncil 2



1:20 582

Notices Served



Support Received



Petition Signatory



Objections Received



Generated by:

Date: 25 January 2018

File Reference:



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Working together, prospering together

Annexure B

Site development / Layout plan

1. The client is responsible for obtaining all necessary permits from the relevant authorities.
 2. The client is responsible for providing all necessary information and documentation to the architect.
 3. The client is responsible for providing all necessary funding for the project.

CONCISE SPECIFICATION

- 1. **GENERAL**
- 2. **CONSTRUCTION**
- 3. **FINISHES**
- 4. **MECHANICAL**
- 5. **ELECTRICAL**
- 6. **PLUMBING**
- 7. **PAINTS**
- 8. **GLASS**
- 9. **ROOFING**
- 10. **LANDSCAPE**
- 11. **ACCESSIBILITY**
- 12. **ENVIRONMENTAL**
- 13. **ENERGY EFFICIENCY**
- 14. **SAFETY**
- 15. **OTHER**

REVISIONS

NO.	DATE	DESCRIPTION
1	10/10/2023	ISSUED FOR PERMIT
2	10/15/2023	REVISIONS TO PERMIT
3	10/20/2023	REVISIONS TO PERMIT
4	10/25/2023	REVISIONS TO PERMIT
5	11/01/2023	REVISIONS TO PERMIT
6	11/05/2023	REVISIONS TO PERMIT
7	11/10/2023	REVISIONS TO PERMIT
8	11/15/2023	REVISIONS TO PERMIT
9	11/20/2023	REVISIONS TO PERMIT
10	11/25/2023	REVISIONS TO PERMIT
11	12/01/2023	REVISIONS TO PERMIT
12	12/05/2023	REVISIONS TO PERMIT
13	12/10/2023	REVISIONS TO PERMIT
14	12/15/2023	REVISIONS TO PERMIT
15	12/20/2023	REVISIONS TO PERMIT
16	12/25/2023	REVISIONS TO PERMIT
17	01/01/2024	REVISIONS TO PERMIT
18	01/05/2024	REVISIONS TO PERMIT
19	01/10/2024	REVISIONS TO PERMIT
20	01/15/2024	REVISIONS TO PERMIT
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23	02/01/2024	REVISIONS TO PERMIT
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87	12/20/2024	REVISIONS TO PERMIT
88	12/25/2024	REVISIONS TO PERMIT
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90	01/05/2025	REVISIONS TO PERMIT
91	01/10/2025	REVISIONS TO PERMIT
92	01/15/2025	REVISIONS TO PERMIT
93	01/20/2025	REVISIONS TO PERMIT
94	01/25/2025	REVISIONS TO PERMIT
95	02/01/2025	REVISIONS TO PERMIT
96	02/05/2025	REVISIONS TO PERMIT
97	02/10/2025	REVISIONS TO PERMIT
98	02/15/2025	REVISIONS TO PERMIT
99	02/20/2025	REVISIONS TO PERMIT
100	02/25/2025	REVISIONS TO PERMIT

MUNICIPAL

HDK architecture

1241

PROF. A. TERATIENS
 TO BE BUILT DWELLING FOR
 MRS & MRS VAN ZYL ON ERF 6884
 NO 23 VERGENOEG STREET BRACKENELL

ROOF, SITE & GROUND PLAN

DATE: 17/08/2023

SCALE: 1:100

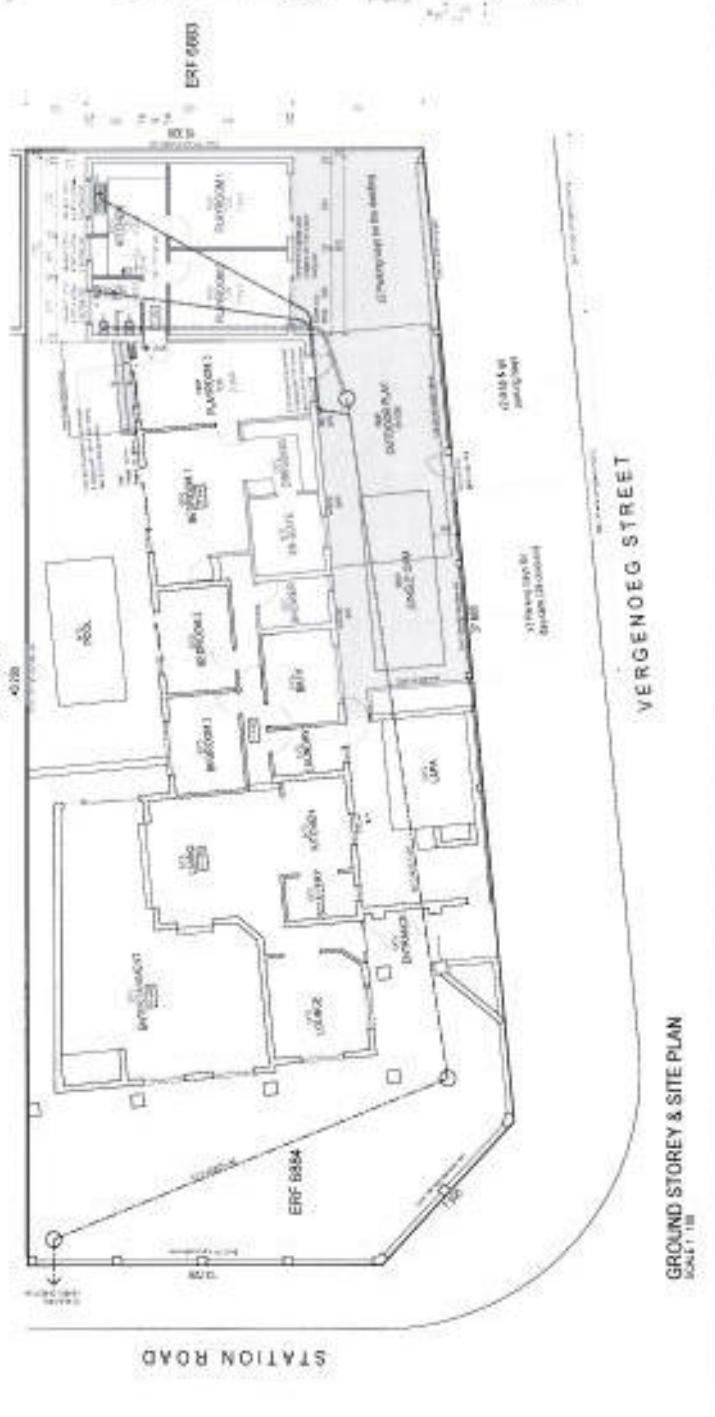
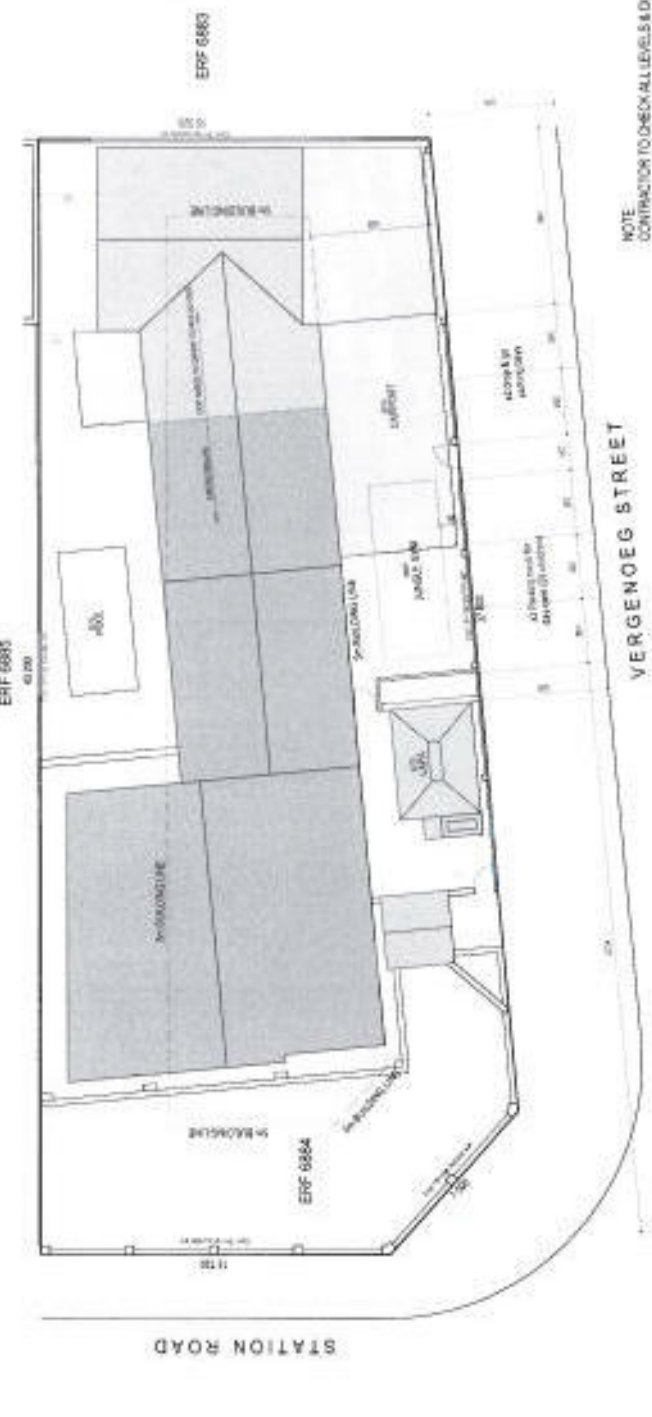
DATE: 19/08/2023

SCALE: 1:200

AREA	SPRINKLER
THE SITE	
1. ROOF	100%
2. 1ST FLOOR	100%
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100. 99TH FLOOR	100%
101. 100TH FLOOR	100%

NATURAL LIGHTING & VENTILATION FOR PROPOSED DAY-CARE

Parameter 1176: 100% (100%)
 Parameter 1178: 100% (100%)
 Parameter 1179: 100% (100%)
 Parameter 1177: 100% (100%)
 Parameter 1175: 100% (100%)



Annexure C

Applicant's Motivation

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23 Vergenoegstraat
Protea Hoogte
Brackenfell
7560

Vir wie dit mag aangaan.

Lofkleuters het ontstaan met 6 kinders gedurende 2016. Weens die groot aanvraag in die gemeenskap en die tekort aan skole het Lofkleuters in 2016 met die getal van 6 kinders ontstaan. Ek, Yolanda van Zyl, is 'n gekwalifiseerde onderwyseres en voldoen aan die vermoë om die kinders skoolgereed te maak.

Weens die groeiende behoefte wou ek die besigheid uitbrei en het ek telefonies kontak gemaak met Mnr Johannes van Zyl (Stadsbeplanner) nou afgetree, om te bepaal wat die vereistes sou wees om die skool te registreer. Mnr Johannes van Zyl het na ons gesprek aan my 'n epos gestuur met die nodige aansoekvorms, sien epos aangeheg. Tydens ons gesprek het dit geblyk dat dit bloot 'n formaliteit sou wees. Op daardie stadium het ek ook nie geweet hoeveel kinders ek in totaal sou akkommodeer nie. Ek het probeer voldoen aan al die nodige vereistes deur 'n gedeelte van my huis te omskep teen groot finansiële onkoste.

Tydens my gesprek met Mnr van Zyl het ek verstaan dat ek kon voortgaan met die onderrig van die kinders gesamentlik met die proses van registrasie. Ongeveer 7 maande gelede het die kleuterskool uitgebrei na 16 kinders. In die proses het ek werk geskep vir 6 mense.

My aansoek is reeds geloods gedurende Augustus 2017, en sedertdien het ek gekorrespondeer met verskeie departemente.

Dit was onder geen omstandighede my intensie om onwettig te handel of die prosedures te verontagsaam nie. Ek kon net eenvoudig nie die kinders wat al 'n jaar in my sorg was wegwys nie. Die vertrouingsverhouding is reeds gevestig en die kinders vorder uitstekend met my onderrig.

My uitgawes: Salarisse, kosvoorsiening en munisipale verantwoordelikhede plaas redelik druk op my kontantvloei, maar dit is my passie om dit waarvoor ek opgelei is, uit te leef.

Ek was duidelik nie bewus van al die feite wat met registrasie gepaard gaan voordat ek die skool uitgebrei het nie en daarvoor wil ek nederig omverskoning vra. Ek wil dit dan ook aanbied ter versagting.

Ek wil graag aan wetgewing voldoen en pleit hiermee dat U my behulpsaam kan wees met die afhandeling van my aansoek.



Die-ewe
Yolanda van Zyl



Compose

Archive Move Delete Open All Move

Dagsorg: Erf 6884, Brackenfell (2)

People

Johannes Gideon van Zyl <JohannesGideon.vanZyl@capetown.gov.za>
To: yolandadiedericks@yahoo.com

Yolanda van Zyl / Cell 079 872 2792
Erf 6884, No 23 Vergenoeg Street, Protea Heights, Brackenfell

Goewensdag Me van Zyl

Aangeheg vind u die aanwysings om u dokumentasie elektronies in te dien.

Die pdf vir "Application documents" sal alles waarvoor daar nie name is nie, insluit, m.a.w. aansoekvorm & dagprogram & spyskaart, ens.

Vriendelike groete

J G (Hannes) van Zyl

Planning & Building Development Management
Northern District (Kraaifontein)
City of Cape Town
Municipal Offices, Brighton Road, Kraaifontein 7570
PO Box 25, Kraaifontein 7569
Tel (021) 980-6003
Fax (021) 980-6179
e-mail: johannesgideon.vanzyl@capetown.gov.za
web: www.capetown.gov.za & <http://planning.capetown.gov.za>



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Reply Reply to All Forward More

Yolanda Diedericks <yolandadiedericks@yahoo.com> 6/5/10/16 at 1:26 PM
To: Johannes Gideon van Zyl

Baie dankie.

Johannes Gideon van Zyl

JohannesGideon.vanZyl
+27219800003

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