

REASONS IN TERMS OF SECTION 68(2A) OF THE WESTERN CAPE LIQUOR ACT, 4/2008 AS AMENDED, FOR THE DECISION OF THE LIQUOR LICENSING TRIBUNAL TO GRANT AN APPLICATION ON 9 NOVEMBER 2022

GETRUDE MAUNE

(t/a Nandi's Place)

APPLICANT

APPLICATION FOR AN ON-CONSUMPTION LIQUOR LICENSE IN TERMS OF SECTION 48(1) OF THE WESTERN CAPE LIQUOR ACT (AS AMENDED) (WCLA)

CMATS: 2012/537

1. BACKGROUND

1.1 The Western Cape Liquor Authority (WCLA) received an application for a temporary on-consumption license in terms of Section 48(1) of Act 4/2008 (the Act) lodged on the 27 September 2022.

1.2 The application concerned 'Nandi's Place'. The licensee has an existing licence situated at Erf 16219, 16 Halt Road, Elsie's River which is the subject of a pending removal application in terms of Section 66 of Act 4/2008. The licensee has applied to remove her existing licence to Erf 8368, no 86 Voortrekker road, Goodwood. Pending the outcome of the removal application the licensee has subsequently applied for a temporary licence in terms of section 48(1) at the above-mentioned premises. This application has been granted by the Presiding officer of the Liquor Licensing Tribunal and is the subject of this request for reasons in terms of section 68(2A).

1.3 The matter was placed before the Presiding Officer for consideration on the following dates:

1.3.1 7 November 2022, the application was considered, and the following was noted:

- (i) The proposed licensee is not disqualified to hold a licence in terms of section 35 of the Act.
- (ii) The Application was substantially complete.
- (iii) Numerous objections were received from residents.
- (iv) The report received from the Designated Liquor Officer did not recommend the application.
- (v) The comments received from the municipality did not recommend the application.
- (vi) The Presiding officer postponed the matter and requested the following:
'Admin please, request an inspector to peruse the objections, the replication thereto as well as attend at the premises and provide a report whether the granting of the temp license for the duration and the type of activity is in the public interest, and whether This is an urgent request. Please see if the report could be provided by 12h00 tomorrow.'

1.3.2 9 November 2022

The Presiding officer received the Inspectorate report and upon consideration of the objections against the response received from the licensee and the Inspectorate report, found that the balance of probabilities favoured the granting of the temporary licence to the licensee.

2. OBJECTIONS:

2.1 The LLT received over 20 objections to the granting of the temporary licence. These objections were forwarded to the applicant for replication.

2.2 As the objections were based on similar reasons, the main grounds are summarised as follows:

2.2.1 There were already 63 licensed premises within a 3km radius.

2.2.2 There were previous criminal activities at this address as well as noise complaints.

2.2.3 The existing crimes relating to prostitution and that the area of Goodwood is deteriorating as a whole due to the licensed businesses in the area.

2.3 The applicants' representative responded to the objections and raised the following arguments which are summarised as follows: (see annexures A)

- 2.3.1 The Act does not impose a quota system on the amount of licensed premises that may be granted. To prejudice the applicant would be unfair at this point as the other licenses have been granted.
- 2.3.2 Economic growth and job opportunity are important considering South Africa's current economic crises.
- 2.3.3 The vicinity has a low crime rate according to the statistics and none have been attributed to the abuse of alcohol.
- 2.3.4 The applicant has not even begun to trade, so to penalise the applicant would be highly unfair. The applicant is subjected various conditions in terms of the licence and any transgressions could result in a sanction including revocation.
- 2.3.5 The applicant has every intention to trade in a responsible manner and conduct of other licensed premises in the area cannot be a reason for the applicant not to trade, as this would amount to unfairness. The applicant has been the holder of a licence for many years and has not be the subject of any contravention at the previous premises

3. REPORT FROM THE DESIGNATED LIQUOR OFFICER (DLO)

- 3.1 A report was received from the DLO of Goodwood SAPS (annexure B), who objected to the application merely on the grounds that the applicant has applied for a removal of her licence which is still pending and she cannot apply for a temporary licence.
- 3.2 The DLO also stated that there was no need for this licence as other licenses already existed.
- 3.3 The applicant was requested to replicate to the negative DLO. (annexure C)

4. MUNICIPAL COMMENTS:

- 4.1 The application was not supported by the municipality as they deemed many of the documents in the application as illegible and that complaints were received due to activities from patrons. (annexure D)
- 4.2 The applicant was requested to respond to the negative municipal comments. (annexure E).

5. INSPECTORATE REPORT

5.1 The Presiding Officer requested a further Inspectorate report to assess the section 48(1) application and provide a recommendation. The inspector visited the premises on the 8 November 2021 and made the following comments:

The fears and assumptions made by the objectors can be addressed with the impositions of conditions and that the licensee cannot be held responsible for crime in the area, which falls under the jurisdiction of SAPS. The Inspector also referred to the crime statistics as low for the vicinity.

6. REASONS FOR THE CONDITIONAL GRANTING OF THE LICENCE

6.1 The Presiding Officers has weighed all the representations received and makes the following comments in respect of the objections:


- 3.3.1 Many objections were received by the residents of the area in which the proposed licensed premises were to operate. These objections were closely examined by the Presiding Officer and cognisance was taken of the submissions. The applicant was requested to respond to these objections and has addressed the fears or issues raised by the objectors. The fears of the objectors are valid in the society that we live in, however they do fall within the realm of speculation with the cause of social ills being placed at the door of the applicant who had not begun to trade yet. The LLT sits with the duty to balance the rights of the residents of the area to safety and security against the rights of the applicant to trade and contribute to the economy. When it is possible, a compromise between the interest is sought by the addition of restrictive conditions to the licence holder.
- 3.3.2 The objections also seem to regard the nature of the proposed licensed premises as a seedy, problematic tavern or liquor store that would cater to any sort of person. The proposed premises submitted by the applicant is that of a small pub. The premises is small and will have limited capacity. It will be access-controlled by security and no under-18s are permitted on the licensed premises.
- 3.3.3 The existing problems experienced in the area fall within the jurisdiction of the municipality and law enforcement and cannot be adjudicated upon by the LLT. However, to mitigate any harm that could potentially be experienced a condition that no loud music to be played. No liquor would be allowed for sale for off-consumption purposes and no under 18s will be allowed on the licensed premises. Any breach of conditions could result in the suspension or revocation of the licence.

3.3.4 The temporary licence only permits the licensee to trade on the following dates:

- 10-13 November 2022
- 17-20 November 2022
- 24-27 November 2022
- 01-04 December 2022
- 8-11 December 2022
- 15-18 December 2022
- 22-25 December 2022.

4 CONCLUSION

The LLT has the duty to assess applications and must decide whether or not to grant the licence on a balance of probabilities. Cognisance has been taken of the objections lodged, however the limiting of trading days, restriction of access and requirement of security and the view of the Inspector have weighed the balance in the favour of the applicant. It must be noted that the DLO of Elsie's River where the licence was previously situated had not mentioned any negative aspects, If that had been the case, the temporary licence would not have been granted. The community is not without recourse and various tools can be found in the Act to assist the community should the applicant contravene any of the Regulations in the Act or the conditions of the licence as issued by the LLT.



NEDEEN ISAACS
DEPUTY PRESIDING OFFICER
LIQUOR LICENSING TRIBUNAL
11/11/2022

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ATTORNEYS
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Vlaeberg
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7 November 2022

Your Ref:
Our Ref: 22075/TS

RE: GALLERY CLUB - LIQUOR LICENSE APPLICATION IN TERMS OF SECTION 48(1) OF THE ACT, 4 OF 2008

" GALLERY CLUB" : 86 VOORTREKKER ROAD, GOODWOOD

Application reference number: T22090033

Dear Sir / Madam

We confirm having received an objection by community members dated 25 October 2022.

Notably, most (if not all) of the objections seem to copy one another with the main points of objection being:-

1. That there are already 63 liquor licenses within a 3km stretch;
2. Drug related "busts" in the area, prostitution and other crime related activities;
3. Previous illegal and/or unlawful activities on the premises; and
4. A primary and high school within 600m of the proposed premises.

We have instructions to respond thereto as set out herein below.

AD POINT 1 ABOVE:-

The fact there are numerous other liquor licenses in Goodwood, is not a bar to the granting of the Applicant's application in terms of the law. The Act makes no provision for such limitations on this specific ground of objection.

The Applicant cannot be prejudiced at this point, when the law has allowed 63 other premises to conduct their business. It follows that where an Applicant (and application) complies with the provisions of the Act and are good in law, there is no justification for the refusal of a license- especially not on this ground alone.

As per the DLO's report dated 2 November 2022, there are only three other similar premises situated near the proposed premises. There are numerous locations in our province as a whole with far more premises than that- and not necessarily because it serves the interest of the inhabitants of that area necessarily. Furthermore, of the alleged 63 premises, only 34 of those are for on-consumption, of which only 17 are situated on Voortrekker Road. That means only 26% of the liquor licenses in the area are for business of a similar nature (i.e. on consumption liquor licenses situated on Voortrekker Road).

Kenneth John Bredenkamp (B Com LLB) - Cellular 083-4921075
Assisted by Tanya Swanepoel & Jonathan Cloete

Economic growth and employment opportunity is of vital importance in South Africa's current economic dispensation. A brand new establishment will attract more visitors to the area, alternatively simply (and most likely) attract consumers or customers from the other premises which are already operating in the area. It will ensure that there is a better balance between demand and supply and will effectively address issues of overcrowding and policing, and generally promote healthy competition for an existing client/customer base.

AD POINTS 2 & 3 ABOVE:-

The police officer in Elsie's River was asked whether they ever experienced any problems with the Applicant, and/or whether any of the conditions of the existing license were ever contravened, and was informed that there were none. This is further confirmed in the current DLO reports as well.

Furthermore, the Applicant has been in possession of a liquor license since 2012 and operated her business under the aforementioned license for 6 years- without any contraventions and/or complaints. She only stopped trading and closed her business in 2018 due to the gang-related activity in the area and felt it was unsafe for her and her patrons to continue. The license however, is still valid and has been lawfully renewed every year so that she may seek and find (as she now has) a safer environment to conduct her business.

It follows, that if there were contraventions of her license conditions, surely she would not have been able to automatically renew her license as aforesaid for the past 10 years- it goes without saying the WCLA would have been under a legal obligation to revoke her license if this was not the case, and they have certainly not.

The DLO report also confirms that over a period of 6 months, only 20 cases of crime related activity (robberies, assaults and sexual offences) were reported in the area. However, and notably, the report does not specify whether any of these crimes were actually alcohol related incidents, and therefore cannot be attributed to alcohol consumption per se.

Crime related activities in the area cannot be accredited to the Applicant who is trying to open a new business. Likewise, the Applicant cannot be held liable or responsible for previous owner/tenant's actions and conduct.

To penalise an Applicant for other persons' conduct and actions would be irregular and unjustified. The Applicant takes note of the community's concerns around crime related activities in the area, as well as the previous activities on the premises.

However, those cannot be attributed to the Applicant and her business. It stand to be argued, and the Applicant submits and understands, that should there be proper policing, her license can and will be revoked for any legal transgressions (though, with her track record, that is highly unlikely).

We are uncertain as to how this could possibly be a point of objection based on the mere simple fact that the Applicant has not even commenced trading on the premises. Any noise and/or other activities complained of by the immediate residents certainly could not have been made against the applicant- save for the building and renovation work that have been carried out to make the premises suitable for its intended use (which of course would have in and of itself been noisy).

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To anticipate that there will be complaints is premature and unfounded. Should the licensee be granted a temporary liquor license and then receive complaints, same can and will be dealt with accordingly at that stage (such measures are provided for in the relevant legislation as well)- though it is highly doubtful this will be the case.

Furthermore, there are numerous other similar businesses in the area and on Voortrekker Road in general- who are allowed to operate and conduct their business until early hours of the morning. It is unclear why the Applicant should be prejudiced when she has not even been given the opportunity to prove otherwise. A mere objection based on the notices in and of itself cannot be a bar to the Applicant's application when all other requirements are lawfully met.

An effective management of her business, as she had done for many years, will therefore ensure there are no such illegal activities happening on, in or around her premises- failing which her license can be suspended or revoked. Simply put, one cannot "put the cart before the horse".

Lastly, it cannot be argued that the Applicant's business would contribute to the crimes already happening and complained of.

AD POINT 4 ABOVE:-

The community's objection on this ground is noted. However, the operating hours of the proposed premises can be limited to trading hours when pupils have long returned home and schools have closed.

Furthermore, these schools are situated opposite the main (and busy) road that is Voortrekker Road. There are not any chances of them being affected by this business' operation. The schools themselves will also not be impacted or affected whatsoever due to their geographical location.

For the above reasons, we urge you to consider the Applicant's submissions herein above to the objections received by the community.

Yours faithfully

Tanya Swanepoel
KJ Bredenkamp Attorneys

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Suid-Afrikaanse Polisie  *South African Police Service*
Amapolisa Omzantsi Afrika

Posbus / P.O. Box 12321

Verw/Ref	: <u>29/5</u>	OFFICE OF THE DESIGNATED POLICE OFFICIAL
Navrae/Enq	: Warrant Officer Jacobs/.Taljaard	GOODWOOD 7460
Tel	: (021) 5924430	2022-10-11
Faks	: (021) 5924479	

WESTERN CAPE LIQUOR AUTHORITY
PRIVATE BAG X6
SANLAMHOF
BELLVILLE
7532

**APPLICATION FOR A TEMPORARY LIQUOR LICENCE IN TERMS
OF SECTION 48 (1) OF THE LIQUOR ACT, ACT 4/2008:**

APPLICANT: Gertrude Maune

ADDRESS: Erf 8368, 86 Voortrekker Road, Goodwood.

WCP/029975: ON CONSUMPTION LIQUOR LICENCE

NAME UNDER WHICH THE BUSINESS TO BE CONDUCTED: "Gallery Club "

TRADING HOURS: 10:00 – 02:00

Proposed dates as follows: 27-30 October; 03-06 November; 10-13 November; 17-20 November; 24-27 November; 01-04 December; 08-11 December; 16-17 December 2022.

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SECRET

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1. A temporary liquor license is issued to a specific person/instance than mentioned therein. A temporary liquor license issued to a license holder, is issued in respect of the specific liquor license and to the business to which the license relates. Similarly, the said license authorizes the person mentioned therein to sell liquor.

1.1 This office received an application in terms of section 66(2) for the removal of a liquor licence from 16 Halt Rd. Elsie's River to 86 Voortrekker Rd. Goodwood. The premises is currently known as Nandi's Place with WCP/039499 and the applicant being Gertrude Maune.

1.2 It is the view of this office that no immediate need for another liquor establishment exist in the Goodwood Policing district. There are currently nineteen (19) on-consumption liquor premises situated in the Goodwood Voortrekker corridor. The nearest places to 86 Voortrekker Rd. Goodwood is: "Togs Sports Bar" WCP/032625 (37 Voortrekker Rd., Goodwood and "Open Arms Pub" WCP/032746 (91 Voortrekker Rd. Goodwood. This office therefore cannot recommend this application for a temporary liquor licence due to the fact that a pending application in terms of section 66(2) of the Liquor Act, Act 4\2008 for the removal of the licence exist. According to the application in terms of section 66(2) the business will be conducted under the name of "GALLERY CLUB" AT 86 Voortrekker Rd. Goodwood.

1.3 The full DLO report in terms of section 66(2) of the Liquor Act, Act 4\2008 from Elsie's River SAPS has been received by this office.

1.4 The granting of a temporary licence to the applicant will negatively influence the objectivity of the section 66 application.

1.5 The dates that have been applied for is for every weekend until the end of December to operate this business. It is this office submission that section 48(1) does not make provision for a licence holder to operate his/her business on another premises while awaiting the removal of licence application to be finalized.

1.6 According to the section 66 report from the DLO of Elsie's River SAPS no liquor trading has taken place at the premises since 2018. See attached report.

1.7 The applicant applies for liquor trading from 10:00 till 02:00 the following day. According to this office the times for on-consumption liquor trading as set by the City of Cape Town only starts from 11:00 till 02:00 the following day.

WARRANT OFFICER
GOODWOOD SAPS

DESIGNATED LIQUOR OFFICER:
JH JACOBS
2022-10-11

SOUTH AFRICAN POLICE SERVICE
GOODWOOD SAPS
11 OCT 2022
FLASH
SOUTH AFRICAN POLICE SERVICE

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**THE WESTERN CAPE LIQUOR AUTHORITY AND LICENSING TRIBUNAL
(WESTERN CAPE)**

In the matter of:

APPLICANT: GERTRUDE MAUNE

ADDRESS: ERF 8368, 86 VOORTREKKER ROAD, GOODWOOD

WCP/029975: ON CONSUMPTION LIQUOR LICENSE

NAME OF PROPOSED LICENSED BUSINESS: GALLERY CLUB

PROPOSED TRADING HOURS: 10H00 – 02H00

**REPRESENTATIONS IN RESPECT OF OBJECTIONS RECEIVED BY THE DLO IN
RESPECT OF A TEMPORARY LIQUOR LICENSE (GOODWOOD)**

A. INTRODUCTION

A.1. The authority to make representations

1. We confirm that we are the attorneys of record in the abovementioned matter.
2. We are duly instructed and mandated by the Applicant to make these representations and submit same for consideration.

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A.2. The Applicant

3. The Applicant is a self-employed 58 year old female with identity number 640110 1002 08 1 and is ordinarily resident at 12th Avenue, 216 Leo Mews Bolck F, Leonsdale, western Cape.
4. The Applicant has no prior convictions, is of a legally sound mind, is a South African citizen and has no previous complaints pertaining to her licensed business conduct under license number WCP/029975.

B. THE OBJECTIONS

B.1. IMMEDIATE NEED

5. The DLO contends that they are of the view that no immediate need for another liquor establishment in Goodwood exists as there are 19 on-consumption liquor premises situated in the Godwood Voortrekker corridor.

B.2. PENDING SECTION 66(2) APPLICATION

6. The DLO further contends that it cannot support the application for a temporary liquor license due to the fact that the Applicant has lodged a section 66(2) Application for the removal of her current license to the proposed business premises situated in Goodwood, and that the granting of this temporary license would negatively influence the objectivity of the aforementioned Application.

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B.3. SECTION 48(1)

7. It is also the DLO's submission that the Act, 4 of 2008, makes no provision for a license holder to operate their business on another premises while awaiting the finalisation of a removal application.

B.4. TRADING HOURS

8. The DLO takes issue with the trading hours applied for by the Applicant, namely 10h00 to 02h00, as the on consumption liquor trading times set by the City of Cape Town (local municipality) only start from 11h00 to 02h00.

C. APPLICANT'S REPRESENTATIONS / RESPONSE

9. The Applicant submits that when the Authority is tasked with considering an application, certain factors must be considered in making the final determination, namely:-

- 9.1. It must be shown that the granting of a license is in the public interest;

- 9.2. The Applicant must be of good character;

- 9.3. The premises for which the license is to be obtained is suitable, and the premises must be correctly zoned; and

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9.4. The Applicant must show that the granting of the license does not prejudice:-

9.4.1. residents of a residential area;

9.4.2. older persons or the frail;

9.4.3. school children under the age of 18; and

9.4.4. congregants of a religious institution located in the vicinity of the proposed premises.

GOOD CHARACTER

10. As per the Applicant's Section 35 Affidavit, and her submissions contained in her Applications, she is not disqualified from holding a liquor license. Indeed, her track record shows that since operating her license circa June 2012, she was a "model" licensee and of good character. The DLO (Elsies River) confirm in their report that regular compliance inspections were done- noting no complaints or crimes ever having been committed- and indeed confirm that the reason for closing the business was only due to the owner feeling unsafe as a result of unwanted gangster activity in the area.

SUITABILITY

11. The premises are correctly zoned for business-related activity- a copy of the zoning certificate is attached hereto, marked "A", confirming same. The premises are also suitable for its intended use- as can be seen on the photographs provided in the application.

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PREJUDICE & PUBLIC INTEREST / IMMEDIATE NEED

12. The Applicant submits that the granting of a liquor license will not be in the public interest if prejudice or hindrance may be caused to any residents in the immediate area.

13. In the case of *Bulk Deals Six CC & Another v Chariperson, Western Cape Liquor Board*, it was found that the “factors relating to public interest should not be considered in isolation but holistically, with reference to the applicant, the premises in question and the potential prejudice which would be caused to residents of a particular residential area.” It was further found that such prejudice and public interest enquiry should be assessed with reference to the manner in which the proposed business is to be operated, and not relate to speculative or irrelevant considerations.

14. Neither of the DLO reports made any reference and/or mention of the risk of prejudice against any of the 4 categories listed under paragraph 9.4 above.

15. The granting of the license will therefore not prejudice any community members/institutions- save for allegedly the other 19 on-consumption businesses in this policing district. The only prejudice they may suffer is in the form of healthy market-related competition- and in any event do not form part of the qualifying criteria mentioned herein above.

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16. Therefore, all things considering, it cannot be said that this application is not in the public interest. The DLO's contention that there is no immediate need for another licensed business, is of no force or effect- as this is not a qualifying criteria for the granting of an application of this kind.

17. The Applicant is of good character, the premises are suitable, no objections have been received by any community members in the immediate vicinity of the premises, and no prejudice exists against any residents, the elderly, school children and/or religious institutions. All things considering, it cannot be found that this application is not in the public's interest.

SECTION 66(2) REMOVAL APPLICATION (PENDING) & SECTION 48(1)

18. The Applicant is uncertain as to how the application for a temporary liquor license would unduly influence the objectivity of a pending removal application in terms of section 66(2).

19. Section 48(1) of the Act, 4 of 2008, specifically provides that "The Presiding Officer may upon application by a licensee referred to in section 33(b) or (d), and upon the payment of the prescribed fee, grant a temporary liquor licence for the use by that licensee only: Provided that in the case of section 33(d), the temporary liquor licence is limited to the sale and consumption of liquor on the premises where the liquor is sold."

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20. The submission that the above section does not make provision for the Applicant in this instance to obtain a temporary liquor license whilst awaiting the finalisation of her application for the removal of her on-consumption license is, with respect, incorrect.
21. The Applicant is, all things considering, a license holder as envisaged in section 33(b) referred to above. She is the holder of a valid liquor license for the sale of liquor for on-consumption.
22. Indeed, there is a pending removal application which, if successful, will allow the Applicant to conduct her business on the proposed premises full-time; but the objectivity of that pending application could not possibly be negatively affected by the granting of this temporary license.
23. If one interprets the provisions of sections 33(b) and 48(1) holistically, it implies that the Liquor Licensing Tribunal may grant a temporary liquor license ONLY to an existing licensee who holds a liquor license for on-consumption purposes, and ONLY that licensee may use such a temporary license. The Applicant in this instance meets that criteria.
24. The premises which the licensee intends to use for the temporary license is different to that for which the existing the license granted (the pending section 66(2) application obviously proves that), but provided the Liquor Licensing Tribunal is satisfied that the premises are suitable- which the Applicant respectfully submits there is enough evidence and submissions to prove that it is- then all criteria for the granting of this temporary license are met. To this end, the Applicant also notes that she was in fact advised by the staff of the WCLA that she could launch a section 48(1) Application for a temporary liquor license pending the finalisation of her section 66(2) Application.

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TRADING HOURS

25. The Applicant, in her Application, merely "*proposed*" that trading commences at 10h00 "*or in accordance with the relevant by-laws*". See paragraph 3.6 of the Application.
26. If the municipality's by-laws dictate that trading can only commence at 11h00, then the Applicant shall abide by such provisions and the Liquor Licensing Tribunal has the requisite authority to impose such a condition- or any other justifiable conditions insofar as the trading hours are concerned. The Applicant shall abide by any such conditions imposed- just as she had when previously trading under the name and style of Nandi's Place.

CONCLUSION

27. There is no doubt that the Applicant and her Application for a temporary liquor license meets all requirements set out in the relevant legislation, as well as the qualifying criteria alluded to herein above.
28. In conclusion, there exists no valid ground for the refusal of the Applicant's Application for a temporary liquor license for the reasons set out herein above, and the Applicant prays that the Liquor Licensing Tribunal finds in her favour and grants the Application applied for.



T. Swanepoel

Attorney for the Applicant
Cape Town, 18 October 2022

"A" LLTC



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

DEVELOPMENT MANAGEMENT

Ingrid Dorman

T: 021 444 7939

30 September 2022

To whom it may concern

ZONING SCHEME EXTRACT
City of Cape Town Municipal Planning By-Law , 2015

On the date reflected above, Council's records indicated the property (ies) listed below to be zoned for the following purposes:

Property description	Erf 8368 Goodwood
Physical address	86 Vootrekker Road
Base zoning	General Business 4
Sub – zone (if any)	GB4
Overlay zoning (if applicable)	None
Primary land use permitted	PRIMARY USES Business premises, dwelling house, second dwelling, boarding house, flats, place of instruction, place of worship, institution, hospital, place of assembly, place of entertainment, hotel, conference facility, service trade, authority use, utility service, rooftop base telecommunication station, multiple parking garage, private road, [and] open space, veterinary practice and filming
Other previously approved use rights (if applicable)	None
Road widening/new road schemes (if any)	None

The following must be noted when reading the zoning extract:

- The above zone is subject to various development parameters and land use restrictions which are contained in the applicable zoning scheme regulations, a copy which is either attached or available on request at your nearest district planning office.
- This document is provided for information purpose only.
- It is further noted that the above information doesn't necessarily include reference to all previous land use approvals, restrictions, exclusions, departures or may not reflect lapsing of approvals. The reader is advised also check the records of any other previous approvals, consents, exclusions, departures granted from the zoning scheme regulations or an approval not exercised has lapsed as well as title deed for other restrictions that might impact on the development of the property.
- Use of the property in accordance with above specified zone does not exempt the owner/occupier from compliance with any other legal or statutory requirement which may affect the property.

Yours faithfully

for DIRECTOR: DEVELOPMENT MANAGEMENT
PAROW ADMINISTRATIVE BUILDING,
CNR VOORTREKKER ROAD AND TALLENT STREET, PAROW, 7500

CIVIC CENTRE IZIKO LOLUNTU . BURGERSENTRUM
12 HERTZOG BOULEVARD CAPE TOWN 8001 P O BOX 298 CAPE TOWN 8000
www.capetown.gov.za

LLTD

Evangeline Benson

From: Liquor Licence <Liquor.Licence@capetown.gov.za>
Sent: Thursday, 06 October 2022 3:39 PM
To: tanya@kjblaw.co.za; tanya@kjblaw.co.za; Evangeline Benson; Viaan Cupido
Cc: Ardel van Niekerk; Magsoedah Soedie Jacobs; Zolile Siswana; Zolile Siswana; Miranda Booysen
Subject: Section 48(1) Temporary Liquor Licence - T22090033 - Gallery Club
Importance: High

Western Cape Liquor Authority
 3rd Floor Sunbell Building
 3 Old Paarl Road
 Bellville
 7530

CITY OF CAPE TOWN
 SUBCOUNCIL 04
DIRECTORATE: Corporate Services
DEPARTMENT: AREA Central
 Municipal Offices Cnr Voortrekker and Tallent Roads Parow 7

Dear Sir / Madam

**SUBMISSION OF COMMENTS ON SC04 RECEIVED ITO:
 SECTION 48 OF THE WESTERN CAPE LIQUOR ACT, 2008 AS AMENDED:**

Application Reference No	T22090033		
Event Name	Gallery Club		
Trading Hours	10 - 13, 17 - 20, 24 - 27 November 2022, 01 - 04, 8 - 11, 15 - 18, 22, 25 December 2022 10h00 - 02h00		
Section	Section 48(1) Temporary Liquor Licence		
Address	ERF 8368 No 86, Voortrekker Road Goodwood, Goodwood		
Applicant Representative		Applicant	
Name	Tanya Swanepoel	Name	Gertrude Maune
Address	10 Pepper Street Cape Town	Address	12th Avenue 216 Leo Mews Block F Leonsdale
Contact Number	079 902 0014	Contact Number	082 351 8560
E-Mail	tanya@kjblaw.co.za	E-Mail	tanya@kjblaw.co.za

LLTD'

SubCouncil

SC04

Ward

027

It is here by confirmed that, in terms of subdelegated authority, the following recommendation was received from Subcouncil : 04

RECOMMENDATION

Subcouncil 04 recommends that the application received from Gertrude Maune for the Gallery Club, Reference No. T22090033

BE NOT SUPPORTED.

The Section 48(1) Temporary Liquor Licence for Gallery Club is NOT SUPPORTED for the following reasons:

- * Photos that are included in the application are illegible. It is therefore not possible to get an accurate idea of the proposed premises
- Because the applicant is lodging a Section 66 application to have WCP/039499 (Nandi's Place) removed to 86 Voortrekker Rd Goodwood, any contraventions of the Licence conditions must be submitted to make an informed decision.
- The consent to sell liquor indicated as annexure "L" is not on a letter head of the Property Owner/landlord (Julhas Company Pty Ltd).
- * The signature on the Consent Form is illegible.
consent.
- The many complaints received from the immediate residence reported to the local SAPS about noise and other activities from patrons.

FOR FURTHER DETAILS CONTACT:

Name	<i>Ardela van Niekerk</i>
Contact Numbers	021 444 7092
E-mail Address	<i>Ardela van Niekerk</i>

LLTD!

Directorate

Corporate Services – Area Central

Ardela van Niekerk

SUBCOUNCIL MANAGER:

[For information regarding our privacy practices, please see our privacy notice](#)

CC:

- * Applicant / Applicant's representative
- * SubCouncil Manager and Staff
- * Area Director

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Email: ken@kjblaw.co.za

7 October 2022

Your Ref:

Our Ref: 22075/TS

**CITY OF CAPE TOWN –
SUBCOUNCIL 04**

EMAIL: liquor.license@capetown.gov.za

RE: GALLERY CLUB - LIQUOR LICENSE APPLICATION

Application reference number: T22090033

Dear Sir / Madam

We confirm having received the City's recommendation to not support the Applicant's application for a temporary liquor license for the following reasons:-

1. The photographs provided were copies (in black and white) and allegedly illegible;
2. Any contraventions of the current liquor license (under WCP/039499) conditions are to be submitted;
3. The consent to sell liquor is not on a letterhead of the Owner; and
4. The complaints received from immediate residents who allegedly reported to the local SAPS about noise and other activities from patrons.

We have instructions to respond thereto as set out herein below.

AD POINT 1 ABOVE:-

We confirm that it is not a requirement in terms of the current legislation that originals are to be lodged with the municipality and/or SAPS- mere copies have always been sufficient. In any event, more legible photographs could have been requested from the writer and to oppose an application without having done so is, with respect, unfounded.

We have therefore taken the liberty to attach clear, colour photo's – as lodged with the WCLA.

AD POINT 2 ABOVE:-

We confirm that it would be for SAPS and/or the DLO to report on such contraventions.

In any event, writer did enquire from the police officer in Elsie's River whether they ever experienced any problems with the Applicant, and/or whether any of the conditions were ever contravened, and was informed that there were none.

Furthermore, the Applicant has been in possession of a liquor license since 2012 and operated her business under the aforementioned license for 6 years- without any contraventions and/or complaints. She only stopped trading and closed her business in 2018 due to the gang-related activity in the area and felt it was unsafe for her and her patrons to continue. The license however, is still valid and has been lawfully renewed every year so that she may seek and find (as she now has) a safer environment to conduct her business.

It follows, that if there were contraventions of her license conditions, surely she would not have been able to automatically renew her license as aforesaid for the past 10 years- it goes without saying the WCLA would have been under a legal obligation to revoke her license if this was not the case, and they have certainly not.

In the circumstances, we would propose that the City awaits receipt of the DLO report on this point, before making any further and final determinations.

AD POINT 3 ABOVE:-

Consent on a letterhead, as required, is attached hereto for ease of perusal- though it is noted that nowhere in the applicable legislation is this a requirement. Indeed, we have been advised by our client that the landlord is a foreigner and does not operate his business in such a manner- but nonetheless we have managed to obtain same (see attached as received from the landlord) same which ought to meet with your satisfaction. Should the original be required, we will arrange for same to be delivered to your office.

AD POINT 4 ABOVE:-

We are uncertain as to how this could possibly be a point of objection based on the mere simple fact that the Applicant has not even commenced trading on the premises. Any noise and/or other activities complained of by the immediate residents certainly could not have been made against the applicant- save for the building and renovation work that have been carried out to make the premises suitable for its intended use (which of course would have in and of itself been noisy).

To anticipate that there will be complaints is premature and unfounded. Should the licensee be granted a temporary liquor license and then receive complaints, same can and will be dealt with accordingly at that stage (such measures are provided for in the relevant legislation as well)- though it is highly doubtful this will be the case.

Furthermore, there are numerous other similar businesses in the area and on Voortrekker Road in general- who are allowed to operate and conduct their business until early hours of the morning. It is unclear why the Applicant should be prejudiced when she has not even been given the opportunity to prove otherwise. A mere objection based on the notices in and of itself cannot be a bar to the Applicant's application when all other requirements are lawfully met.

For the above reasons, we urge you to reconsider your position and to favourably support our client's application for a temporary liquor license.

We thank you for your time.

Yours faithfully

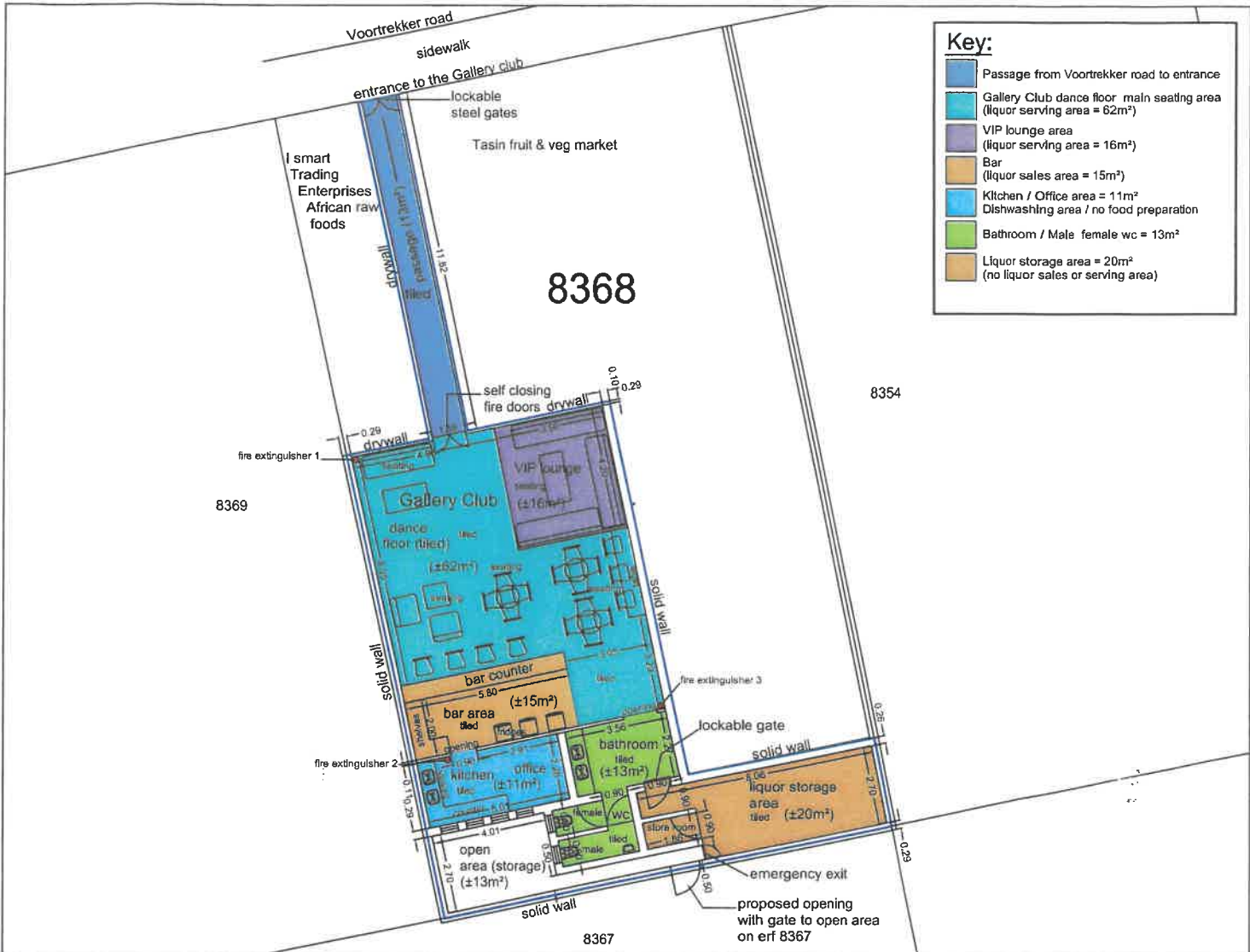
Tanya Swanepoel

LLT E

KJ Bredenkamp Attorneys

LLTE!

SITE LAYOUT PLAN:



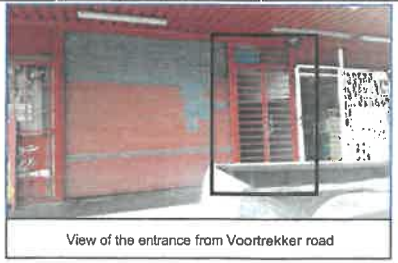
Notes:

- * Only liquor sales and serving in the dedicated areas as per the key
- * Payment done by way of cash / snapscan / zapper
- * Sales / serving limited to patrons on the Gallery Club premises
- * Right of admission reserved by owner / no alcohol served to under 18's

Prepared by	Pierre Jordaan
Date	20/09/2022
Reference	GalleryClub/APS3
Scale	1:150



3

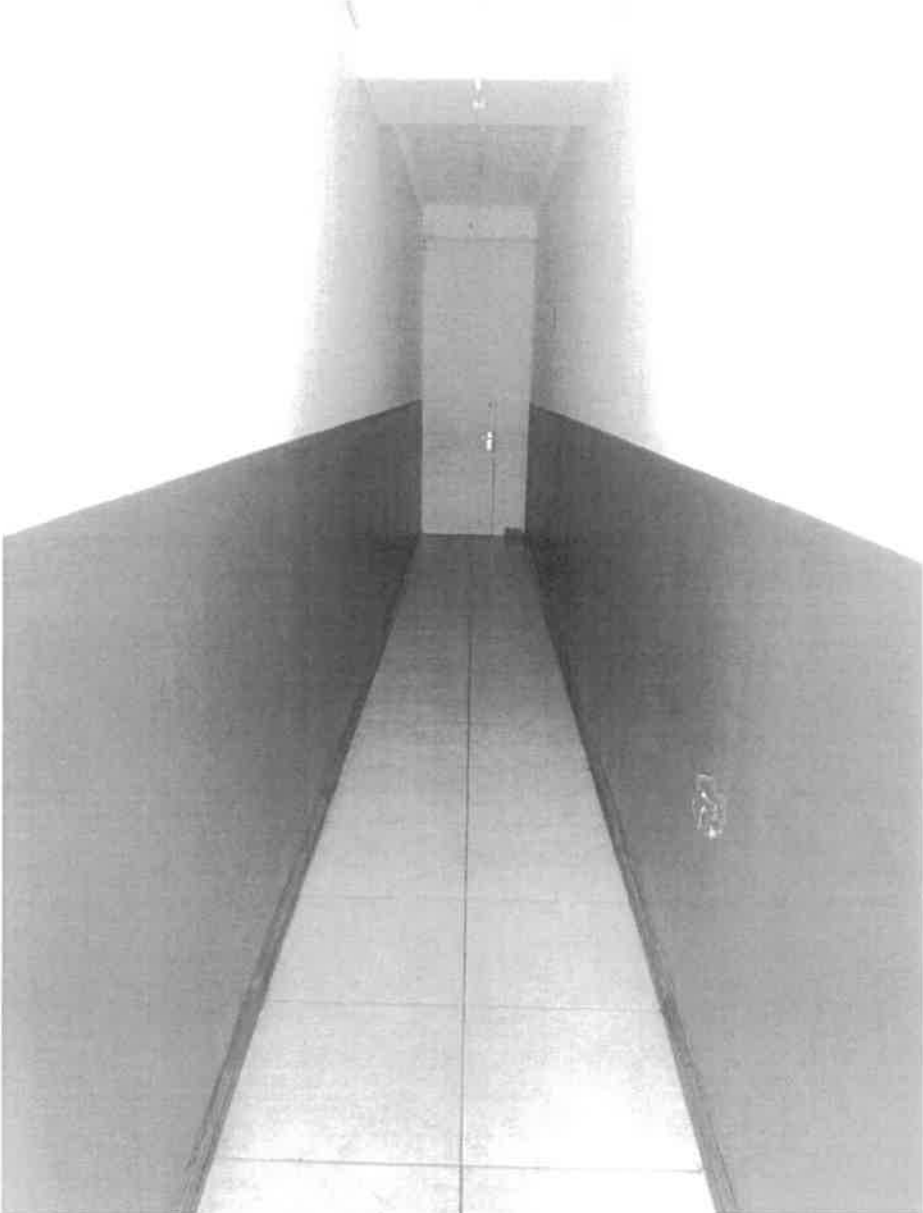


1 FRONT ENTRANCE TO PROPOSED LICENSED PREMISES



LLTE'

2 CORRIDOR LEADING FROM FROM ENTRANCE TO EMERGENCY EXIT, WITH ENTRANCE TO SEATING
AND POINT OF SALE AREA ON THE SIDE



3 ENTRANCE DOOR REFERRED TO ABOVE



4 PROPOSED SEATING AREA



5 CONTINUATION OF PROPOSED SEATING AREA



6 CONTINUATION OF PROPOSED SEATING AREA, WITH ENTRANCE TO OFFICE (ON LEFT) AND POINT OF SALE/BAR (ON RIGHT)



7 PROPOSED KITCHEN AREA



8 BATHROOM FACILITIES, MEN'S AND WOMEN'S TOILETS SEPARATED- WITH FLUSH TOILETS AND DOORS FOR PRIVACY





8 STORAGE AND OFFICE SPACE BEHIND CLOSED AND LOCKED DOORS- WILL BE CLEARED OUT BEFORE TRADING COMMENCES





LTF

INSPECTORATE REPORT

LIQUOR LICENCE (ON CONSUMPTION)

NANDI`S PLACE

2012/537/WCP/039499

1. INTRODUCTION:

Request from Presiding Officer for an Inspector to peruse the objections, the replication thereto as well as attend at the premises and provide a report whether the granting of the temp license for the duration an the type of activity is in the public interest, and whether this is an urgent request. Please see if the report could be provided by 12:00 tomorrow. The premises is Nandi`s Place situated at 86 Voortrekker Road Goodwood. It is an on-consumption premises with LmaTS/WCP/Number :2012/537/WCP/039499.

2. INSPECTION AND FINDINGS:

On Tuesday 8 November 2022 at 14:20 an inspection at the premises at Nandi`s Place, situated at 86 Voortrekker road, Goodwood was conducted. The immediate vicinity was observed. The premises is situated in the main road and there is about four license premises situated in the vicinity. To the left side of the premises, it is Togs Sports Bar that is situated an estimated 100 meters away, Liquor Shop Shoprite situated an estimated 200 meters, Planet an estimated 300 meters. To the right of the premises, Open Arms Pub is situated an estimated 150 meters from this premises. (A few photos was taken from outside and inside and attached as BEN1)



LITE

My findings is as follows:

No comments can be made on any trade objections. The noise pollution can be addressed on the license conditions. The allegations of prostitution and the deterioration of the area is only based on assumptions. The crime must be addressed by The South African Police Service and cannot be placed at the foot of the applicant. The S A Police Service should investigate all allegations of drug pedaling and prostitution. The City's Law Enforcement can also play their part in enforcing its municipal bylaws. An interview with the applicant was also conducted and according to her all provisions concerning the sale of liquor is in place to be compliant, and security personnel will be on duty whenever the place is in operation.

I have spoken to the DLO, Warrant Officer Jacobs, stationed at Goodwood SAPS, and he provided me with a Crime Analysis, for the sector in which the said premises is situated in. (Copy of the Crime Analysis attached as BEN2)

According to the Crime Analysis of SAPS the influx of crime is low regarding contact crimes. Therefore these obstacles that our mentioned is a work in progress and it can be addressed. I further recommend this application.

Inspector Warren Benjamin
Compliance & Enforcement
Western Cape Liquor Authority
Date: 9 November 2022

BENI





BENI

tractor

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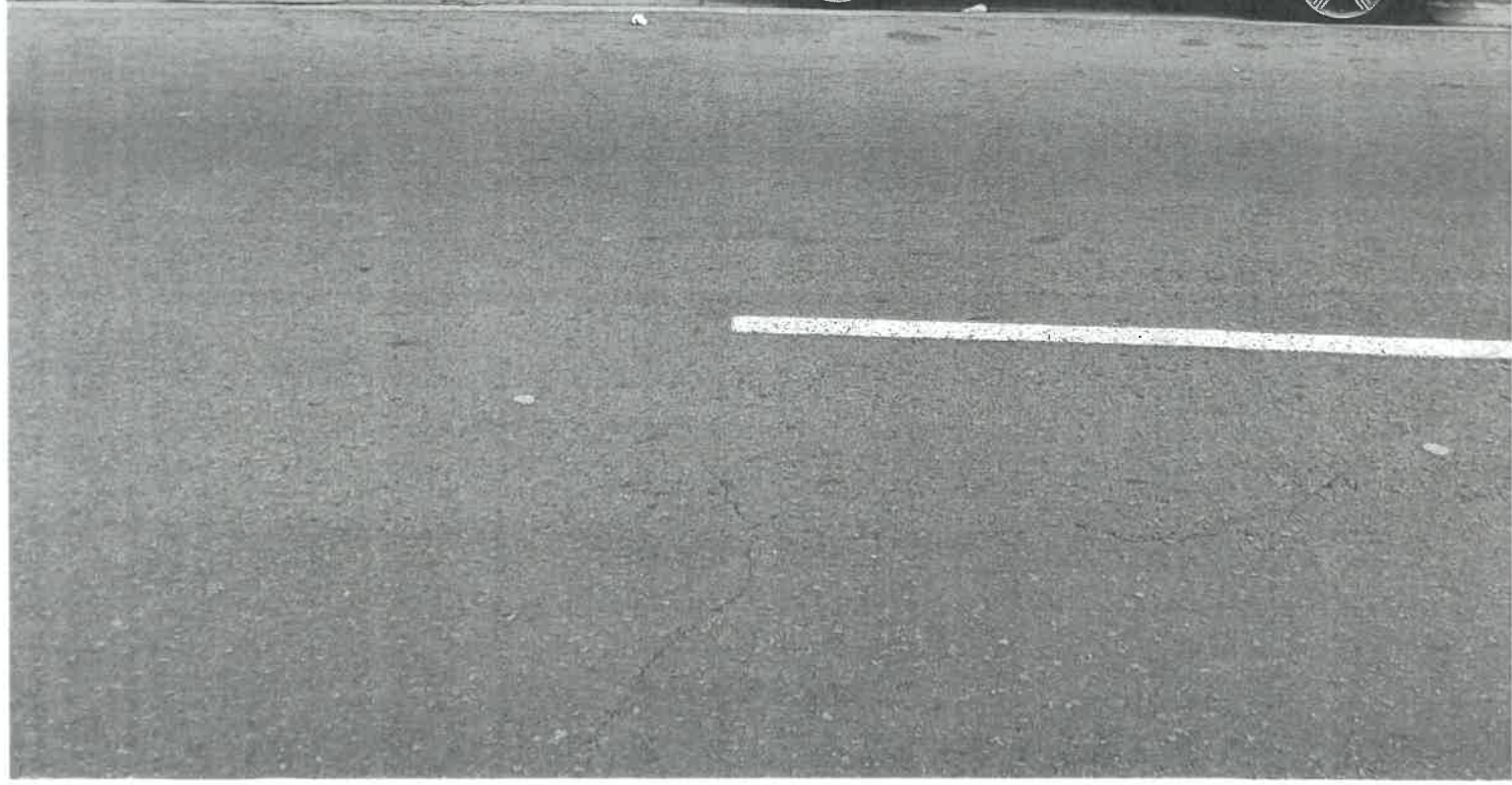
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CRIME ANALYSIS

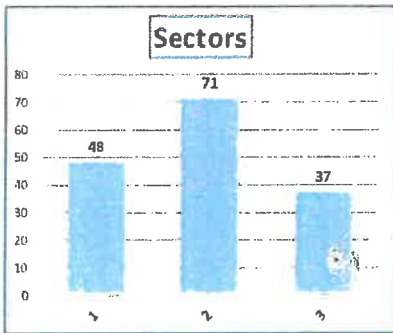
86 VOORTEKKER ROAD GOODWOOD

The analysis was done for a 6 month period within 2021/2022 focussing on the Street / hotspot the address is located in.

SELECTED CRIMES

- Robberies
- Assaults
- Sexual Offences

The address is located in **Sector 1** and Geographical block **2349**



GEO BLOCK	CASES	PERCENTAGE
2341	54	14.92%
2342	28	7.73%
2343	23	6.35%
2339	21	5.8%
2338	20	5.52%
2349	20	5.52%

The address is situated in an area where the influx of crime is low regarding contact crimes.

ANALYSIS COMPILED BY:


SERJ DJ SNYDERS

CIMAC – SERG DJ SNYDERS
GOODWOOD SAPS
021-5924430