

**4.5****ERF 418, 30 FLOWER STREET, WESTCLIFF, HERMANUS: APPLICATION FOR REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION, REZONING, CONSENT USE AND DEPARTURE: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF THE DOMEIN TRUST****418 HWC (3544)****H van der Stoep****9 November 2020****(028) 313 8900****Hermanus Administration**

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**1. EXECUTIVE SUMMARY**

An application was received on 13 December 2019 from Messrs Plan Active Town- and Regional Planners on behalf of the Domein Trust, applicable to Erf 418, Hermanus for the following:

- the removal in terms of Section 16.(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law), of restrictive title deed condition C.1 as contained in Title Deed T22246/2019 in order to conduct an overnight accommodation establishment, consisting of eleven (11) bedrooms for patients who utilizes nearby medical facilities;
- rezoning in terms of Section 16(2)(a) of the By-Law of the property from Residential Zone 1: Single Residential to General Residential Zone 1: Town Housing in order to accommodate the above establishment;
- consent use in terms of Section 16(2)(o) of the By-Law, in order to accommodate residential buildings on the property, and
- departure in terms of Section 16(2)(b) of the By-Law to respectively relax the northern- and western lateral building lines from 3m to 2m in order to accommodate the proposed development on the property.

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

**2. DECISION AUTHORITY**

Municipal Planning Tribunal

**3. BACKGROUND / SITE HISTORY**

Erf 418, Hermanus is zoned as Residential Zone 1: Single Residential and is 1110m<sup>2</sup> in extent and is currently used for single residential purposes. The property is developed with a dwelling unit, a second dwelling unit and an outbuilding. The property is a corner erf. The aim of the application is to utilise the property for short-term overnight accommodation for patients that receive/will receive treatment at the existing oncology centre (Hermanus Medical Village) directly to the south thereof.

#### 4. SUMMARY OF APPLICANT'S MOTIVATION

The Motivation Report in support of the application is summarised as follows (the detailed report is attached as Annexure B):

- ❖ The property is ideally located close to the medical centre.
- ❖ The oncology facility caters for the communities in the greater Overberg region and the treatment of some patients are administered over a period of days.
- ❖ Due to the vast area that the oncology facility caters for, patients travel to and from the facility daily and subsequently there is a great need for overnight facilities for patients receiving treatment.
- ❖ No medical treatment will be given to the patients at the overnight facility and they will be referred to as guests in this application.
- ❖ Most surrounding erven are zoned Single Residential, but Erf 418 is within a mixed zoned area of which the land uses trends to auxiliary uses to further enhance the established medical facilities such as Medi-Clinic, Hermanus Medical Village and the Hermanus Hospital.
- ❖ Not all patients can afford to drive back and forth from their residences and the oncology centre.
- ❖ Erf 418 is literally across the road from the oncology facility that makes it extremely accessible for the accommodation of patients.
- ❖ Ample space is available for the provision of the required parking bays.
- ❖ The outbuilding between the cottage and dwelling will be demolished in order that the site development can function well and to comply with the parking requirements.
- ❖ The first phase of the development provides for five (5) bedrooms, three (3) bathrooms, one (1) toilet, kitchen and dining room and lounge within the existing dwelling and cottage.
- ❖ Provision is made for the manager/owner on the property.
- ❖ The second phase is an area of ±154m<sup>2</sup> linking the cottage and dwelling for the addition of six (6) future guestrooms.
- ❖ The maximum number of guests of the site will be limited to eleven (11) since only thirteen (13) parking bays can be provided on-site.
- ❖ It is the intention not to limit the hatched area on the development plan for possible future extensions as single storey, but that the owner would have the opportunity for possible double storey structure. It is therefore proposed that the development parameters of single residential be applicable.
- ❖ The rooms will be limited for the usage by patients making use of the medical facilities in the vicinity only and it will not be utilised as a guesthouse for tourism accommodation.
- ❖ The facility is not a step-down facility for patients, but only an overnight facility for the patients of the oncology facility.
- ❖ It is clear from the definition of a residential building that the usage thereof is for lodging purposes.
- ❖ With the rezoning to General Residential, 3m perimeter building lines will apply and departure is required to accommodate the existing and future structures as per the single residential parameters.
- ❖ The existing access from Flower Street will be used to gain access to the parking area consisting of seven (7) parking bays, and a new access from Fourie Street will be used to gain access to the parking area consisting of six (6) parking bays.
- ❖ All services on the property already exist and it is sufficient to accommodate the proposal.
- ❖ The proposal is in line with the Overstrand Spatial Development Framework and the Growth Management Strategy.

- ❖ The property is not situated within the Heritage Overlay Zone or earmarked for heritage conservation purposes.
- ❖ The application does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).
- ❖ The application is compatible with the Planning Principles of SPLUMA and LUPA.

#### 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	15 July 2020	21 August 2020
Gazette	Yes	17 July 2020	21 August 2020
Notices	Yes	14 July 2020	21 August 2020
Ward councillor	Yes	14 July 2020	21 August 2020
Total comments	<b>ONE (1)</b>		
Total letters of support	<b>NONE</b>		
Was public participation undertaken in accordance with Section 46 - 50 of the Proposed Draft By-Law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly (if no, elaborate below):			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			<b>Yes</b>
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.			<b>N/A</b>

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

Name	Date received	Summary of comments
Telkom	14/07/2020	Attached as Annexure G.
Fire Department	15/07/2020	No objection subject to compliance with the provisions of SANS 10400-A:2016, SANS 10400-T and the By-Law relating to Community Fire Safety. Guesthouses / B&B accommodation (T4.58).
Health	16/07/2020	No objection.
Tourism: Overstrand Municipality	16/07/2020	No objection. Property is well positioned to provide accommodation to the medical care facilities.
Waste Management	21/07/2020	No objection.

Building Department	23/07/2020	No objection. Any building plan application has to comply with all applicable law.
Local Heritage	5/08/2020	No objection.
Engineering Services	4/08/2020	Attached as Annexure H.

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

### Me TAG Fenn: Erf 407, 21 De Goede Street, Westcliff, Hermanus

#### 1. *Is there any limit to the amount of guesthouses / accommodation properties in a defined area?*

##### Current situation:

- Erf 408 is a guesthouse – manager / owners on site.
- Erf 406 is registered as accommodation and takes Air BnB bookings – no manager on site.
- Erf 419 – owned by Backpackers – no manager on site.
- Erf 418 now applying for approval to have 11 rooms – not sure if manager will be on site 24 hours.
- When we bought in 2016 this was a residential area – now we are surrounded by varying types of accommodation.

##### Response from Applicant

There is no limitation to the number of guesthouses that may be operated within a defined area. Each guesthouse is evaluated on its own merit if it can comply with the prescribed land use restrictions. We cannot comment on the guesthouses and backpackers located on Erven 406, 408 and 419 and the way they are managed and if the land use rights are in place. Provision is made for a bedroom for the manager/owner that will reside on the property.

##### Response from Town Planner

The applicant's response is concurred with. Should the application be approved a condition will be imposed that a manager or the owner must reside permanently on the property to ensure that the establishment is properly managed.

The commenter was formally informed that her queries pertaining to Erven 406 and 409 shall be referred to the Town Planner : Land Use Management & Compliance for further investigation and that the necessary actions will be instigated should any irregularities exist.

#### 2. *The area proposed for the additional 6 units linking the cottage and the dwelling – will the design have windows on the boundary walls facing Erf 419, 406 and 407 concerns over the privacy of our back-garden area especially with building lines of only 2m.*

Response from Applicant

No construction will occur at the northern boundary of the subject erf. It is proposed that the building line be relaxed from 3m to 2m along the northern boundary and it is highly likely that rooms will have windows at the northern side. The windows will therefore face in the direction of Erf 419 and will not impact on Me Finn's property. It should be noted that patients will receive treatment at the oncology facility during the day and Erf 418 will be used for overnight accommodation. The impact on the privacy of surrounding landowners will be much lower than that of a single residential dwelling. The subject property could be subdivided and has been subdivided in the past. Two (2) single residential dwelling units could have been constructed on the property that would have had a greater impact on the privacy of surrounding property owners.

Response from Town Planner

The applicant's response is concurred with. It should be mentioned that the affected property owners of Erf 419 at the northern boundary and the owners of Erf 406 at the western boundary of Erf 418 did not object or comment on the application and it can thus be fairly assumed that the proposal meet their approval. It is important to note that the commenter did not provide any power of attorney from the owners of Erven 419 and 406 to comment on their behalf. The comment by Ms Fenn relating to Erven 419 and 406 must therefore be disregarded.

Ms Fenn's property (Erf 407) is situated to the north-west of Erf 418 and the only connection with the subject property is the communal erf peg of the four (4) properties (see aerial photo attached as Annexure I in this regard). Further, the predominant liveable areas of the dwelling on Erf 407 faces in a south-westerly direction that minimize any impacts. It should also be noted that the proposal will be for patients of the nearby oncology facility only and not for tourist that generally operates on a 24/7 basis. It is therefore not foreseen that the proposal can impact on any activities at the rear of Erf 407.

- 3. The definition for General Residential Zone 1 with consent use for residential buildings that include rooms that are rented, boarding houses, hostels, old age homes and residential clubs. Can the definition be restricted to accommodation for use by patients of the medical facility? In future should the facility be -re-sold the new owner would then need to reapply for a new classification before simply converting the facility to boarding houses which could serve the same purpose as backpackers.**

Response from Applicant

The matter regarding the proper zoning was thoroughly discussed with the Municipality and it was agreed that "residential building" is the most suited usage under the General Residential Zone 1 zoning as a consent use. The application is for a specific use and cannot be changed into backpackers, guesthouse or boutique hotel. Any other uses will have to be applied for.

Response from Town Planner

The applicant's response is concurred with. Should the application be approved it should be made subject thereto that the usage is limited to overnight accommodation

for patients of surrounding medical facilities only and not for holiday accommodation. The latter is since the applicant specifically applies for the establishment to be used by overnight patients of the nearby oncology facility.

- 4. *It is believed that the permanent residents in the area should have their privacy considered. There are already 5 bedrooms available for patients that is surely enough, and treatments can be phased based on accommodations available. Current noise by surrounding guesthouses is not attended to and cannot be controlled by the law enforcement department.***

Response from Applicant

The oncologist can confirm that five (5) rooms are not sufficient and therefore the reason for the rezoning of the property. There is a great need for such a facility.

No comment why noise cannot be controlled by law enforcement. It is highly unlikely that noise pollution will derive from the proposed usage since it would be utilised for overnight accommodation for patients receiving treatment at the oncology centre. It will not be utilised for holiday accommodation purposes.

Response from Town Planner

The commenter again speaks for the broader residents of the area regarding privacy, whilst the only external remarks received were that of the commenter itself. The commenter does not put forward any grounds for the statement that five (5) bedrooms would suffice. It is the opinion that the applicant would not undergo an expensive endeavor if it was not certain that there is indeed a need for a multi bedroom venue to cater for its patients. A much less expensive alternative would therefore have been a consent use for i.e. a five (5) bedroom guesthouse on the property. No further comment is offered since the applicant addressed the points of comment satisfactorily.

**8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS**

As above.

**9. MUNICIPAL ASSESSMENT OF COMMENTS**

As 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 as set out below.

The objectives relating to:

Spatial Justice

The application will not perpetuate spatial injustices.

Spatial sustainability

The application is located within the urban edge and thus will not lead to urban sprawl. No natural habitat is impacted upon and will have no negative influence on the environment.

Efficiency

The application will optimize the use of property in terms of municipal services and infrastructure.

Spatial resilience

The application will ensure that the existing resource (land) is used to its maximum in an affordable manner and is in line with the Overstrand Municipality's forward planning documents.

Good administration

The application follows the required planning procedures and a good public participation process has 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)**

The same as Point 10.2 above.

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

Consistent with the Zoning Scheme, the Spatial Development Framework and the Overstrand Municipal Spatial Growth Management Strategy.

**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 application is in line with the Overstrand Spatial documents.

**10.9 Additional Planning Motivation For Removal of Restrictive Conditions**

The financial or other value of the rights

The removal of the relevant conditions applicable to the subject erven will have a beneficial financial impact for the landowner since he will be able to indirectly expand its medical practice.

**The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal**

The original holder of rights was the township developer whose rights became null and void when the Municipality took over its functions.

**The social benefit of the restrictive condition remaining in place, and/or being removed/amended**

The removal of the restrictive condition will allow for more affordable overnight accommodation for the applicant's patients in lieu of expensive hospital rooms. It will also have a social benefit due to the need of such facilities in proximity of medical establishments.

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

No, it will result in the property being rezoned to a higher residential zoning with a consent use for a residential building in lieu of single residential status only.

## 11. THE DESIRABILITY OF THE PROPOSAL

The motivation from the application by the applicant is supported. The comments by author on the points of objection should be read in conjunction with the desirability of the application.

The property is ideally located close to the medical centre and would be a huge benefit for the patients of the applicant since they can rather make use of the applicant's overnight facility than the more expensive accommodation alternatives.

As a first phase the applicant will utilise five (5) bedrooms on the property, namely four (4) in the main dwelling and the one (1) bedroom of the self-catering unit. As a second phase the self-catering unit and the main dwelling will be linked to provide a total of eleven (11) bedrooms for patients. An existing outbuilding will be demolished to achieve the required parking bays, as well as a practical parking layout.

It is not the intention of the applicant to conduct a 24/7 accommodation establishment for tourists on the property, but only to cater for its own patients as stated in its motivation report. The latter will result in a much lesser impact on the privacy and the rights of surrounding property owners since there will not be a mentionable movement of people during night times that is more synonymous with traveling tourists from abroad and local. A condition should thus be imposed that the accommodation establishment only be utilised by patients of the nearby medical facilities.

The applicant states that no medical treatment will be given to the patients at the overnight facility. A condition to this effect must be imposed should the application be approved since it would be in contradiction with the overnight accommodation

rights being applied for. None of the affected property owners commented or objected to the application. It is the opinion that all the single residential parameters for the development of the property must be retained and a condition to this effect must be imposed.

The application for departure to retain the single residential building lines are supported since it is the opinion that it will not impact on the rights of the affected property owners. The objector's property and the location of its dwelling unit is of such a nature that the development can hardly impact on the objector's rights, if at all. By retaining the single residential parameters, the development should not impact on any affected property owners. The usage will remain residential in nature.

In terms of the 2006 Spatial Development Framework the property is reserved for residential development. The proposed zoning will still be residential in nature and the proposal is in line with the spatial planning for the area.

In terms of the Growth Management Strategy, 2010 the property is located in Planning Unit 11 with a density allocation of 30 units per hectare or more. No individual units will be created and thus the Growth Management Strategy is not applicable to the proposal.

Provision is made for accommodation of the manager/owner on the property.

It is clear from the definition of a residential building that the usage thereof is for lodging purposes.

The existing access from Flower Street will be used to gain access to the parking area consisting of seven (7) parking bays, and a new access from Fourie Street will be used to gain access to the parking area consisting of six (6) parking bays.

All services on the property already exist and it is sufficient to accommodate the proposal.

No internal objections were received.

In view of the above, the proposal can be regarded as being desirable from a town planning perspective.

## 12. RECOMMENDATION

1. that the application applicable to Erf 418, Hermanus for the removal in terms of Section 16.(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law), of restrictive title deed condition C.4. as contained in Title Deed T22246/2019 applicable to Erf 418, Hermanus in order to conduct an overnight accommodation establishment, consisting of eleven (11) bedrooms for patients who utilizes nearby medical facilities, **be approved** in terms of Section 61 of the By-Law;
2. that the application for the rezoning in terms of Section 16(2)(a) of the By-Law of the property from Residential Zone 1: Single Residential to General Residential Zone 1: Town Housing in order to accommodate the above establishment, **be approved** in terms of Section 61 of the By-Law;

3. that the application for consent use in terms of Section 16(2)(o) of the By-Law in order to accommodate residential buildings on the property, **be approved** in terms of Section 61 of the By-Law;
4. that the application for departure in terms of Section 16(2)(b) of the By-Law to respectively relax the northern- and western lateral building lines from 3m to 2m in order to accommodate the proposed development on the property, **be approved** in terms of Section 61 of the By-Law;
5. that the above approvals be subject to the following conditions:
  - (a) that the utilization of the property be restricted to the accommodation of patients that receives medical treatment at the nearby medical facilities only - it may not be used for short term accommodation for tourists;
  - (b) that the accommodation establishment be restricted to eleven (11) rooms;
  - (c) that the single residential parameters be retained on the property;
  - (d) that the development of the property be restricted to Site Development Plan No. her418sdp.drw dated 11/2019;
  - (e) that the owner/manager resides on the premises and be responsible for the proper management of the accommodation establishment;
  - (f) that a maximum of one (1) permanently demarcated parking bay per bedroom and two (2) for the owner/manager be provided within the erf boundaries;
  - (g) that the accommodation establishment complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;
  - (h) that the accommodation establishment be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area;
  - (i) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality and be obtained prior to conducting the accommodation establishment;
  - (j) no medical treatment may be given to the patients at the overnight facility, except for emergencies;
  - (k) that no self-catering be allowed in the guestrooms;
  - (l) that a single non-illuminated sign that complies with the Municipal By-Law on Signage, may be displayed on the premises;

- (m) that applicable rates and service tariffs, as determined by the annual budget be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
  - (n) that building plans be submitted to the Building Department for approval and that all requirements of the Building Department and Fire Services at the time, be complied with;
  - (o) that the conditions of Engineering Services and Telkom attached as Annexures E and F, be complied with;
  - (p) that all other development parameters as prescribed in the Zoning Scheme be complied with, and
  - (q) that the approvals do not absolve the landowner/s from compliance with any other applicable legislation;
6. that the applicant and person who commented be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 regarding the above conditions of approval.

### 13. REASONS FOR RECOMMENDATION

- ❖ It is desirable from a town planning perspective.
- ❖ The establishment will be to the benefit of the broader community.
- ❖ It will not impact on the rights of surrounding property owners or the existing built environment.

### 14. Annexures

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Title Deed T22246/2019
Annexure E:	Objection
Annexure F:	Comment on objection
Annexure G:	Telkom
Annexure H:	Services Report
Annexure I:	Aerial Photo

### SIGNATURES

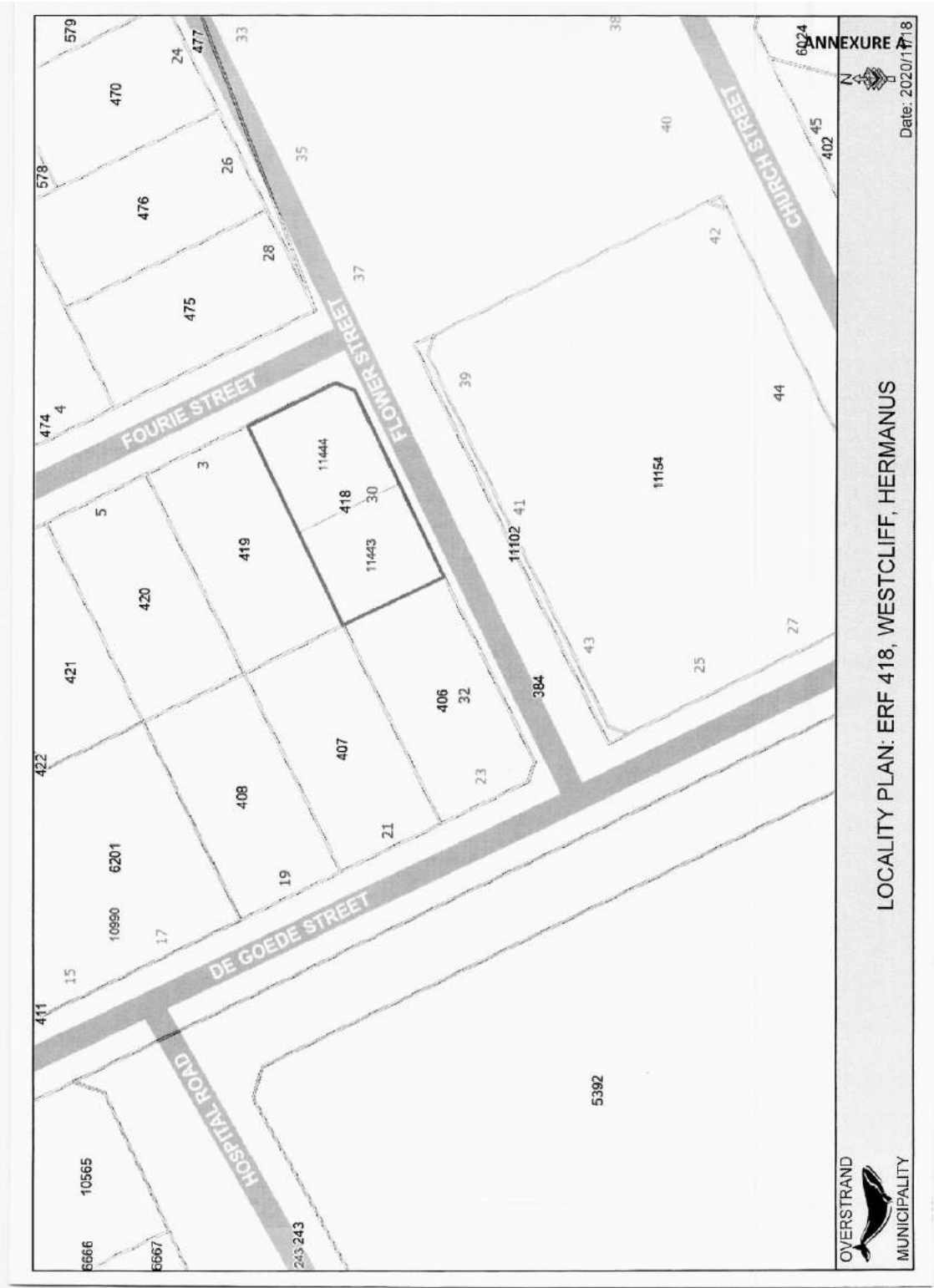
#### REGISTERED PLANNER:

Name: **S VAN DER MERWE**

SACPLAN Reg No: **A/1850//2014**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



**PROPOSED REZONING, CONSENT  
USE, THE REMOVAL OF A  
RESTRICTIVE TITLE DEED  
CONDITION AND BUILDING LINE  
DEPARTURES**

**ERF 418 HERMANUS  
OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT**

**1. BACKGROUND**

The company Plan Active has been instructed by the owner of Erf 418 Hermanus, Dr. J. Duminy on behalf of the Domein Trust to apply for a rezoning, consent use, building line departures and the removal of a restrictive Title Deed condition of Erf 418 Hermanus in order to make provision for overnight accommodation for patients that come from a far for treatment at the Oncology facilities that are establish at the new Hermanus Medical Village.

Erf 418 Hermanus is ideally located across the road to the north of the Hermanus Medical Village. Should the application for the rezoning, consent use and the removal of a restrictive Title Deed condition be approved more restrictive building lines will apply that will have to be addressed with this application.

The Oncology facility caters for communities in the greater Overberg area that includes Hermanus, Caledon, Barrydale, Swellendam through to Heidelberg and Bredasdorp. Depending on the treatment that patients require they could come from as far as Mosselbay, Oudtshoorn and George. Treatment that some of the patients receive at the Oncology facility is administered over a period of days.

Due to the vast area that the Oncology facility services makes it impossible for some of the patients to travel to and from the facility on a daily basis.

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Motivation report

Subsequently there is a great need for overnight facilities for patients receiving treatment at the Oncology Facility.

Patients will not be receiving any medical treatment at the proposed overnight facility and will be referred to as guests in this motivation report.

In order to make provision for more rooms than would be the case for a standard guesthouse it will be required that we apply for a rezoning, consent use, the removal of a restrictive Title Deed condition and building line departures of Erf 418 Hermanus.

## **2. APPLICATION DETAILS**

In order to accommodate more than 5 rooms that will be used as accommodation for patients receiving treatment at the oncology facility it would be required that an application be lodged in terms of:

- Chapter 4, Section 16(2)(a) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the rezoning of Erf 418 Hermanus from Residential Zone 1 to General Residential Zone 1.
- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the departure from the prescribed building lines.
- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the removal of a restrictive Title Deed condition.
- Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for a consent use to accommodate residential buildings on Erf 418 Hermanus.

## Motivation report

**3. DESIRABILITY****3.1 PROPERTY DESCRIPTION**

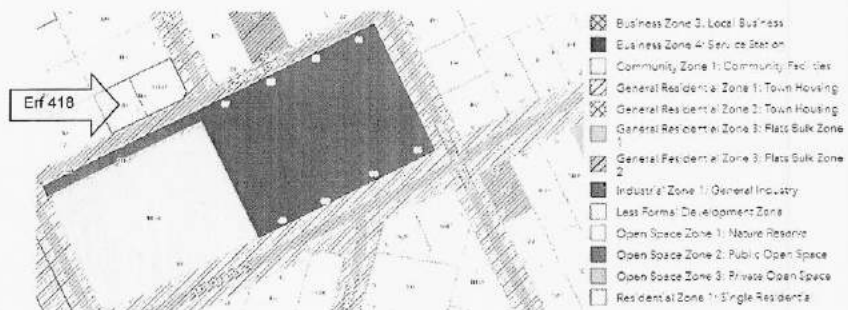
Erf 418 Hermanus is situated on the corner of Flower Street and Fourie Street, Hermanus. Please refer to the enclosed locality plan. The property details are as follow:

Erf Number	Size (m <sup>2</sup> )	Title Deed Nr.	Owner	Zoning
418 Hermanus	1110	T22246/2019	Domein Trust	Residential Zone I

**3.2 ZONING**

Erf 418 Hermanus is zoned Residential Zone 1.

The predominant zonings found in the vicinity of the subject erf are Residential Zone 1, Residential Zone 1 combined with consent uses for guesthouses, General Residential Zone 1 and Community Zones. Please refer to the zoning map abstract below:



## Motivation report

The majority of the surrounding erven are zoned Residential Zone 1 but Erf 418 Hermanus is within a mixed zone area of which the land use tends toward auxiliary uses to further enhance the established medical facilities such as Medi-Clinic, The Hermanus Medical Village and the Hermanus Hospital.

### 3.3 LAND USE

A dwelling, a cottage and outbuilding are currently established on Erf 418 Hermanus. The surrounding area consists mainly of single residential uses, guesthouses, institutional uses, business orientated land uses towards the Hermanus CBD, public roads and public open spaces.

Properties adjoining the subject property are used for single residential purposes with the exception of the Hermanus Medical Village that is located across Flower Street to the south.

## 4 PROPOSAL

Application is made in terms of:

- Chapter 4, Section 16(2)(a) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the rezoning of Erf 418 Hermanus from Residential Zone 1 to General Residential Zone 1.
- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the departure from the prescribed building lines.
- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the removal of a restrictive Title Deed condition.
- Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for a consent use to accommodate residential buildings on Erf 418 Hermanus.

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Motivation report

The owner intends to make provision for accommodation for patients making use of the Oncology Centre located across Flower Street to the south of Erf 418 Hermanus. As mentioned earlier in this motivation, the Hermanus Medical Village caters for communities in the greater Overberg area and even communities as far as George and Mossel Bay. The treatment that these patients are receiving at the Oncology Facility is administered over a couple of days and even as frequent as once a day for a week. Not all the patients can afford to drive back and forth from their place of residence and the Oncology Facility.

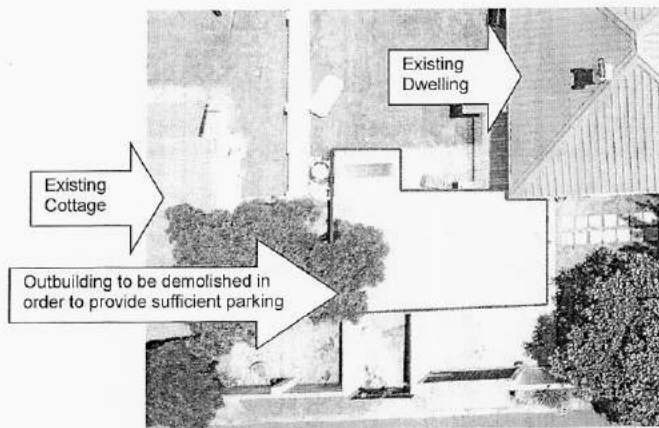
Dr. Duminy who is the Oncologist at the Oncology Facility decided to purchase Erf 418 Hermanus to establish a residential building to accommodate his patients overnight that come from afar. Erf 418 Hermanus is literally across the road from the Oncology Facility making it extremely accessible to be utilised as overnight accommodation for the patients. Erf 418 Hermanus has enough space available to make provision for the necessary parking bays that are required. The subject erf is furthermore also located within an area that has been earmarked for densification purposes.

It would be required that we apply for a rezoning of Erf 418 Hermanus from Residential Zone 1 to General Residential Zone 1, a consent use for residential buildings, building line departures and the removal of a restrictive Title Deed condition. The application detail is as follows:

#### **4.1 Proposed rezoning and consent use**

In order for the site development plan to function well it would be required that the outbuilding that is located between the existing cottage and dwelling be demolished and that only the cottage and main dwelling be retained. The outbuilding consists of a carport and store room. Please refer to an abstract from the aerial photograph below:

## Motivation report



Demolishing the outbuilding would make it possible to utilise this area for parking purposes in order for this application to comply with the parking requirements.

Currently the dwelling and cottage make provision for 5 rooms. The proposed use of the dwelling and the cottage that corresponds with the proposed Land Use Plan can be summarised as follows:

- **Dwelling:**
  - A) Communal Lounge;
  - B) Communal Dining Area;
  - C) Communal Kitchen;
  - D) Manager / Owner Bedroom;
  - E) Guestroom 1;
  - F) Guest Toilet;
  - G) Guest Bathroom;
  - H) Guestroom 2;
  - I) Guestroom 3;
  - J) Guestroom 4;
  - K) Guest Bathroom.
  
- **Cottage**
  - L) Guest Bathroom;
  - M) Living Room;
  - N) Guestroom 5;

## Motivation report

## O) Kitchenette.

With reference to the above uses that are proposed as a first phase, it will make provision for 5 rooms, 3 bathrooms, 1 toilet and common areas accessible to all guests such as the kitchen, dining room and lounge within the existing dwelling and cottage. Provision is also made for a bedroom for the manager / owner that will reside on the property.

As a second phase we are proposing a developable area of  $\pm 154\text{m}^2$  linking the cottage and dwelling for the addition of 6 future guestrooms. The maximum number of guestrooms that could be accommodated on site is therefore limited to 11. Onsite parking can only be provided for a total of 13 vehicles. It is the intention not to limit the hatched area on the site development plan for possible future extensions as a single storey structure, but that the owner would have the opportunity to possibly build a double storey structure should it be required in future. It is therefore proposed that the land use restrictions pertaining to height, coverage and building lines applicable to Residential Zone 1 would apply. Subsequently the proposed development will be limited to a maximum height of 8m, 50% coverage, rear and lateral building lines of 2m.

The rooms would however be limited to a total of 11 rooms only, excluding the room that will be occupied by the manager / owner. The rooms would be limited to be occupied by patients making use of the medical facilities in the vicinity only and will not be utilised as a guesthouse that is used for the purpose of holiday accommodation. As mentioned earlier in this report, persons that makes use of the overnight facility will not receive any medical attention at his establishment. Patients that receive treatment at the oncology facility that are too weak are referred to other medical facilities such as Spescare. Please note that this is not a stepdown facility, but only an overnight facility for patients making use of the oncology facility as stated earlier in this motivation report.

To accommodate more than 5 rooms we are applying for a rezoning from Residential Zone 1 to General Residential Zone 1 with a consent use for a residential buildings. The definition of a residential building reads as follows:

7

## Motivation report

**"residential building"** means a building where lodging is provided, other than a dwelling house, block of flats, or licensed hotel, for human habitation, together with such outbuildings as are ordinarily used therewith and includes residential rooms that are rented, boarding houses, hostels, old age homes and residential clubs, but does not include a retirement village, institution, guest rooms, tourist accommodation, or a place of instruction;

It is clear from the definition of a residential building above that the land use makes provision for buildings that are used for lodging purposes.

### 4.2 Proposed Departures from the building lines

Currently the lateral building lines for Residential Zone 1 erven are 2m. With the proposed rezoning of Erf 418 Hermanus from Residential Zone 1 to General Residential Zone 1, 3m lateral building lines will apply. Subsequently we are applying for the relaxation of the northern and western lateral building lines of Erf 418 Hermanus from 3m to 2m to accommodate the existing dwelling, the cottage and the proposed area for possible future extensions that will be limited to a height of 8m as defined in the Overstrand Municipality Zoning Scheme measured from the base level to the top of the roof. The same height and building line restrictions will be applicable as that of Residential Zone 1 zoned erven.

The intention is that the site be further developed in line with the position of the existing dwelling and the cottage in relation to their distances from the mentioned lateral boundaries as indicated on the site development plan as a grey hatched area labelled "Proposed area for possible future extension". It is further also proposed that the land use restrictions with reference to height and coverage remain the same as the restrictions applicable to a Residential Zone 1 property. The development would therefore be limited to a height of 8m and coverage of not more than 50% of Erf 418 Hermanus.

### 4.3 Proposed Removal of a Restriction

The enclosed Title Deed, T22246/2019 contains the following Title Deed restriction that has to be addressed:

- Page 2, paragraph C.(1): "That the above erf be used for residential purposes only."

## Motivation report

According to **Chapter 4, Section 35(4)** of the Overstrand Municipality's By-Law on Municipal Land Use Planning, 2016 and **Section 39(5)** of the Land Use Planning Act, 2014, when the Municipality considers the removal, suspension or amendment of a restrictive condition; the municipality must consider the following:

- **The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the person as the owner of a dominant tenement.**

The removal of the Title Deed restriction will allow the current owner, the Domain Trust to change the use of the site to that of residential buildings to provide short term accommodation for patients making use of the Oncology Facility.

- **The personal benefit which accrue to the holder of rights in terms of the restrictive condition.**

The personal benefit accumulated to the current owner, the Domain Trust is that they would be in a position to provide short term accommodation to patients making use of the Oncology Facility. The accommodation is affordable and a much needed service for both the Oncology Facility and the general public making use of the medical facilities. The proposal will not have a negative impact on the existing built form in the area and the proposed rezoning, consent use, building line departures and the removal of a restrictive Title Deed condition can be supported.

Surrounding property owners are still protected by the policies in place for the area such as the **Zoning Scheme Regulations of the Overstrand Municipal Area** and the **Overstrand Municipality's By-law on Municipal Land Use Planning, 2016**.

- **The personal benefit which will accrue to the person seeking the removal of the restrictive condition if it is removed.**

The property's current owner will benefit from the rezoning, consent use, building line departures and the removal of a restrictive Title Deed condition as it would

## Motivation report

make it possible to make provision for affordable short term accommodation for patients that make use of the Oncology Facility.

- **The social benefit of the removal, suspension or amendment of the restrictive conditions remaining in place.**

The character of Westcliff has already changed due to a high demand for medical facilities in close proximity to the Medi Clinic, Hermanus Hospital and the new Hermanus Medical Centre. If the condition remains in place, the current owner will not be in a position to make provision for much needed services to accommodate patients that cannot afford to travel back and forth from their homes to the Oncology Facility. If the type of condition to be removed is not considered, and the condition is retained it will have a significant negative social impact.

- **The social benefit of the removal, suspension or amendment of the restrictive condition**

It can be argued that the possible social benefit of removing the restrictive Title Deed condition in order to accommodate short term accommodation for patients making use of the Oncology Facility will be significant and a great asset.

The Oncology Facility caters for communities in the greater Overberg area that includes Hermanus, Caledon, Barrydale, Swellendam through to Heidelberg and Bredasdorp. Depending on the treatment that patients requires they could come from as far as Mosselbay, Oudtshoorn and George. Treatment that some of the patients receive at the Oncology facility is administered over a period of days. Removing the Title Deed condition will enable the owner to make provision for a much needed service to accommodate patients that cannot afford to travel back and forth from their homes and the Oncology Facility.

Furthermore, the removal of the restrictive Title Deed condition is in line with the land use planning principles of efficiency and spatial sustainability as set out in the SPLUMA and LUPA without detracting from the visual or residential appeal of the area.

## Motivation report

- Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of the rights

The removal of the restriction will not remove land use restrictions entirely, as the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016 and the Overstrand Municipality Zoning Scheme provide a level of control that will guide the manner in which the property is both used and developed.

With reference to Section 47 of **Spatial Planning Land Use Management Act, 2013**, the removal of the restrictive Title Deed condition will not deprive any person in the subject area of Hermanus as contemplated in Section 25 of the **Constitution of the Republic of South Africa**. By denying the proposed rezoning, consent use, building line departures and the removal of a restrictive Title Deed condition, the general public of the Overberg region and abroad, making use of the Oncology Facility, will be deprived from a much needed overnight facility as mentioned.

The removal of a Title Deed restriction is applied for in the prescribed manner as per the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016. The proposed removal of the restriction will therefore be in the interest of the current owner and the patients that make use of the Oncology Facility. In relation to the above, the benefit of removing the title deed restriction outweighs the benefits of keeping the restriction in place.

- The Title Deed restricts the land use that the erf may only be used for residential purposes.

It is proposed that Erf 418 Hermanus be used for residential buildings that contradicts the prescribed single residential use referred to in the Title Deed. The restriction reads as follows:

- Page 2, paragraph C.(1): "That the above erf be used for residential purposes only."

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The land use restriction in the Title Deed, T22246/2019 is more restrictive than the proposed land use. If the restriction in the Title Deed is not removed the

## Motivation report

property owner will not have the opportunity to make provision for short term accommodation as mentioned in this report.

**5 ACCESS & PARKING**

The existing access from Flower Street will be used to access the proposed parking area consisting of 7 parking bays. A new access is proposed from Fourie Street to gain access to the 6 proposed parking bays.

We have made provision for 1 parking bay per bedroom and 2 parking bays for the owner / manager. The provision of parking bays is similar to that of a guesthouse. With reference to the parking layout on the proposed new site development plan 13 parking bays can be provided on Erf 418 Hermanus. 2 Parking bays will be for the sole use of the owner / manager and the remaining 11 parking bays are for the use of the guests. 2 of the 13 parking bays that are provided are parking bays for physically disabled people. In terms of Section 17.1.6 of the Overstrand Municipality Zoning Scheme 2 physically disabled parking bays have to be provided when provision is made for a total of 11-50 parking bays.

All parking bays indicated are standard and measures 2.5m x 5m and with at least 7.5m manoeuvre space. Parking bays number 6 and 7 are parking bays for physically disabled persons and measures 5m x 4m each. With reference to the above information pertaining to the provision of parking is it clear that this application complies with the parking requirement in terms of the Zoning Scheme.

It should be noted that some of guests are not in a physical state to drive a motor vehicle and rely mostly on spouses bringing them to the overnight facility or they make use of taxis. It is our opinion that the majority of parking bays would be unoccupied. The Oncology Facility is situated literally across the road and a pedestrian access gate is located on the periphery of the Hermanus Medical Village right opposite Erf 418 Hermanus. The Oncology Facility is therefore walking distance from the proposed overnight facility. The house is wheelchair friendly and a wheelchair service is available to guests.

Motivation report

## 6. SERVICES

All services on the subject property already exist and are sufficient to accommodate the 11 proposed guestrooms on Erf 418 Hermanus. Due to the fact that guests making use of the overnight facility will be spending most of the day at the Oncology Facility it is also our opinion that the impact on the current service delivery will be minimal.

## 7. TITLE DEED

Title Deed No T22246/2019 has a restriction that needs to be removed in order for this application for the rezoning, consent use, building line departures to be approved.

The Title Deed restriction that must be removed is:

- Page 2, paragraph C.(1): "That the above erf be used for residential purposes only."

## 8. FORWARD PLANNING

The Overstrand Municipal Growth Management Strategy (OMGMS) indicates that Erf 418 Hermanus is situated within planning unit 11 that consists of an existing mature residential area and is wedged in between the development corridor alongside the Main Road, existing old age home and the adjacent medical land uses. Densification is proposed for 40% of the area by means of 2 storey gallery access type simplex-row housing and will potentially contribute 258 additional dwellings. The density proposed is 31.1 units per hectare.

In terms of the Strategic Growth Management Interventions plan the property directly south, a portion of the Hermanus commonage is earmarked for hospital / clinic use and has been developed as such.

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## Motivation report

Being situated within an area earmarked for densification is it our opinion that the application for rezoning, consent use, departures from the lateral building lines and the removal of a restrictive Title Deed condition is in line with the Growth Management Plan. The proposed accommodation facility is compatible with the existing surrounding land use and built form that consists of single residential uses, medical facilities, tourist accommodation and an old age home.

The Overstrand Municipal Wide Spatial Development Framework (2006) earmarks the site as residential. A residential zoning will be applied for with the combination of a consent use. The amendment of the Overstrand Municipal Wide Spatial Development Framework is therefore not required.

With reference to the above mentioned forward planning guidelines it is our opinion that the proposed application for rezoning, consent use, building line departures and the removal of a restrictive Title Deed condition should be supported.

**9. THE POTENTIAL OF THE PROPERTY (DESIRABILITY OF THE PROPOSED UTILIZATION)**

The subject property is ideally positioned in close proximity to the Hermanus Medical Village that is within walking distance from Erf 418 Hermanus, within an area that has changed over time to make provision for medical related uses and auxiliary services.

Due to the location and accessibility the subject property has the potential to be utilised by patients that has scheduled appointments to receive therapy at the Oncology Facility, that is administered over a couple of days.

## **10. THE RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**

### **10.1 HERITAGE VALUE AND IMPACT**

Erf 418 Hermanus is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). The existing dwelling situated on Erf 418 Hermanus is not earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009). It is however assumed that the dwelling is older than 60 years. No building plans are available for the existing structures established on Erf 418 Hermanus. For phase 1; only the land use of the property would change to make provision for accommodation within the 2 residential buildings.

The necessary application for the demolition of the outbuilding will be submitted prior to the commencement of any demolition work. The necessary building plans will be submitted for any future extensions and if it is required, the necessary application will be lodged in terms of the Heritage Legislation, prior to the commencement with any construction work.

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

In the light of the above mentioned it is evident that the proposed rezoning, consent use, building line departures from the northern and western lateral building lines and the removal of a restrictive Title Deed condition will not have a negative impact on the heritage value of the subject property or the Greater area of Hermanus.

### **10.2 ENVIRONMENTAL IMPACT**

15

## Motivation report

The proposed rezoning, consent use, departures from the northern and western lateral building lines and the removal of a restrictive Title Deed condition of Erf 418 Hermanus do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

### **10.3 PLANNING PRINCIPLES**

**Spatial justice:** The proposed accommodation for patients making use of the Oncology Facility creates employment opportunities for local residents in town and also provides a much needed service to the communities within the Overberg area and even communities that are located beyond the borders of the Overberg area. Most of the staff / employees who will benefit from the proposed guesthouse will be local residents living in Hermanus (i.e. previously disadvantaged communities).

**Spatial sustainability:** This application constitutes the provision of overnight accommodation for patients making use of the Oncology Facility across the road to the south, within an area that has been earmarked for densification purposes. The proposed application will have no impact on the conservation worthy areas of Hermanus. Spatially the land use will be in keeping with the residential character of the area and would provide a much needed service.

**Efficiency:** The proposed accommodation is easily accessible and conveniently located and within walking distance of the Oncology Facility.

**Spatial resilience:** Not applicable to this application.

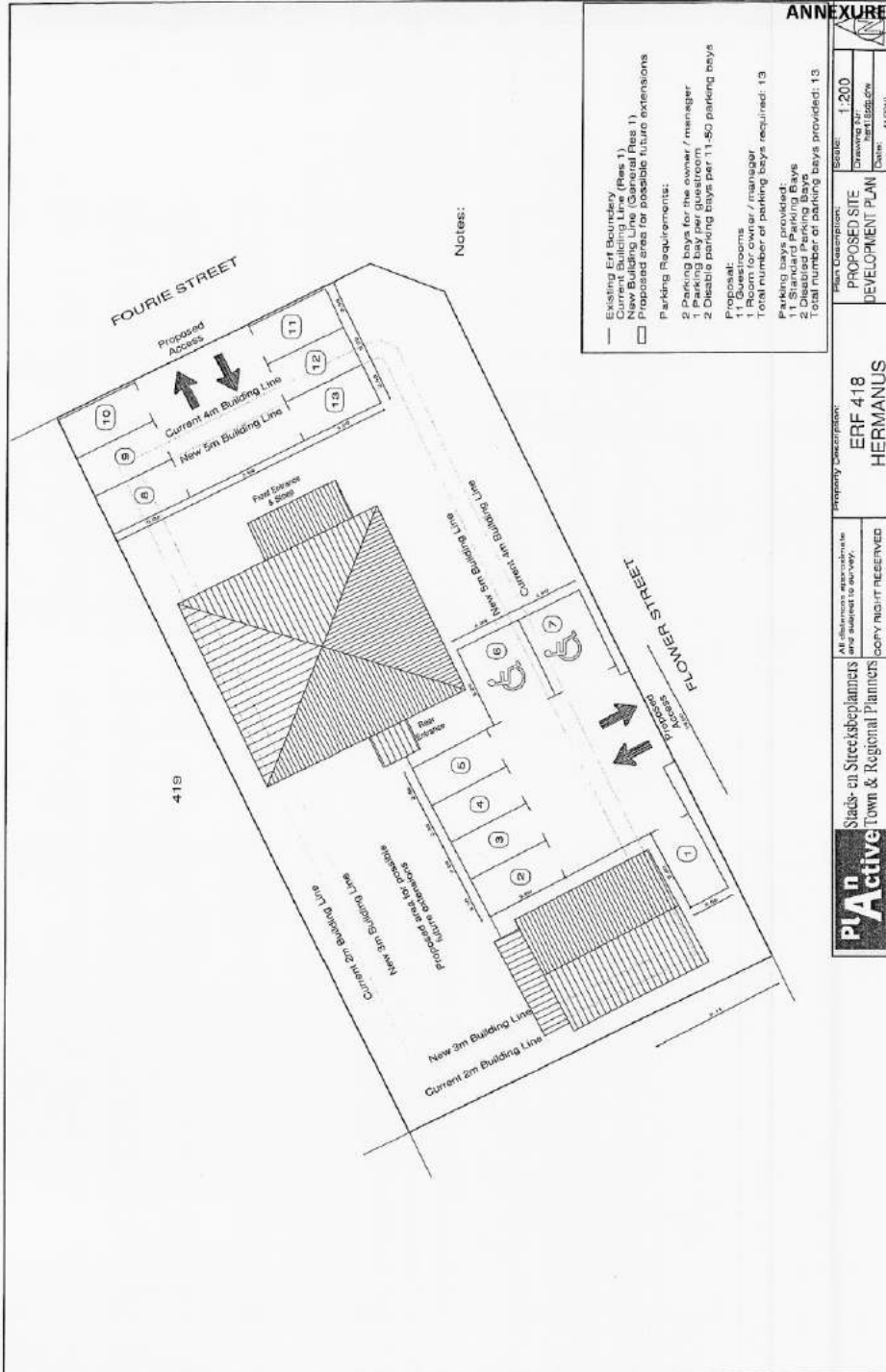
**Good administration:** Our Company is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016.

**11. RECOMMENDATION**

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

- All services on the subject property already exist;
- The proposal is compatible with the existing built character of the area;
- The impact on traffic will be minimal;
- The proposed accommodation will have a minimal impact on the current bulk services.
- The establishment will be professionally run and will also be well maintained. The provision of accommodation for patients making use of the Oncology Facility will be an asset to Hermanus.
- The proposed accommodation will not have a negative impact on the current character and land values of the surrounding erven.
- All the required parking bays are located on Erf 418 Hermanus.

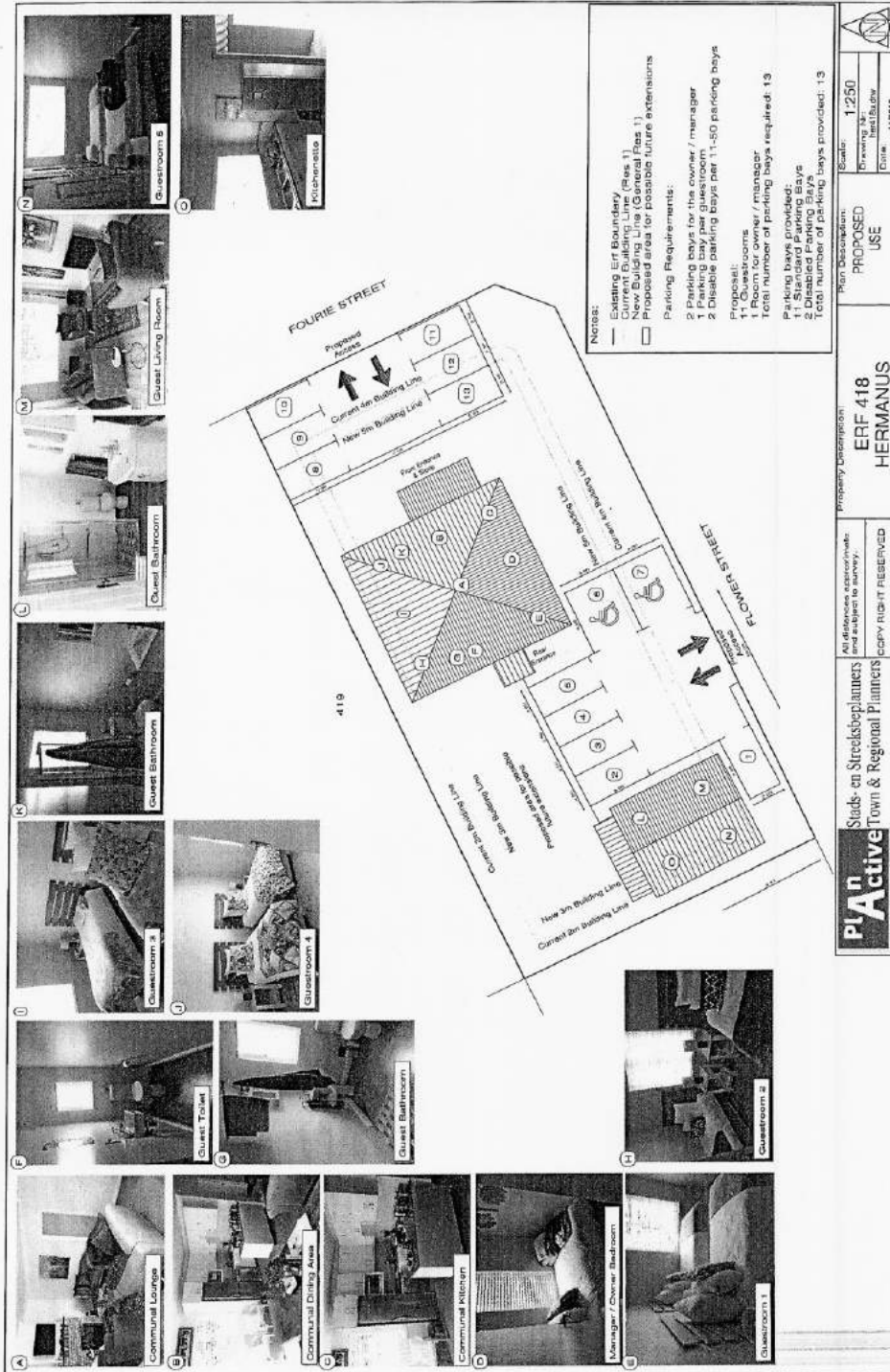
With regards to the above mentioned it would be appreciated if the Overstrand Municipality would approve the proposed rezoning, consent use, building line departures and the removal of a restrictive Title Deed condition of Erf 418 Hermanus.



Notes:

- Existing Erf Boundary (Per 1)
  - New Building Line (General Res 1)
  - Proposed area for possible future extensions
- Parking Requirements:
- 2 Parking bays for the owner / manager
  - 2 Disabled parking bays per 11,80 parking bays
- Proposed:
- 11 Rooms
  - 1 Room for owner / manager
- Parking bays provided:
- 11 Standard Parking Bays
  - 2 Disabled parking bays
- Total number of parking bays provided: 13

<b>PIA n</b> Active Studios - on Streets/planners Town & Regional Planners	All dimensions approximate and subject to survey. COPY NOT RECEIVED	Property Description: <b>ERF 418</b> <b>HERMANUS</b>	Plan Description: <b>PROPOSED SITE</b> <b>DEVELOPMENT PLAN</b>	Scale: 1:200 Drawing No: 20180620 Date: 11/02/19
	Proposed Access			



**Plan Description:**  
**ERF 418**  
**HERMANUS**  
**PROPOSED USE**

**Plan Description:**  
 All distances approximate and subject to survey.  
**PLAN Active Town & Regional Planners**  
**COPY RIGHT RESERVED**

1082

Prepared by me

*[Signature]*  
 CONVEYANCER  
 JANINE FOUCHE

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 2.500.000,00	R. 1588,00
Reason for exemption	Category Exemption	Exemption i t o. Sec/Reg. Act/Proc.

**VERBOND MORTGAGED**

VIR FOR R 1 800 000,00

**B** 000011892 / 2019

04 JUN 2019

*[Signature]*

T 000022246 / 2019

**DEED OF TRANSFER**

**DATA / VERIFY**  
 06-06-2019  
 TAMARA MASIU

BE IT HEREBY MADE KNOWN THAT

**JANINE FOUCHE**

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

**DAVID ARTHUR AUSTIN** being duly authorised thereto by a Special Power of Attorney in his favour signed at HERMANUS on 5 MARCH 2019, granted by

**GRAHAM ARMSTRONG**  
 Identity Number 360914 5118 183  
 Unmarried

**DATA / CAPTURE**  
 06-06-2019  
 JENNY VAN WYK

which said Power of Attorney was signed at HERMANUS on 2 APRIL 2019

And the appearer declared that his/her said principal had, on 5 March 2019, 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:

**The Trustees for the time being of DOMEIN TRUST  
Registration Number IT9054/2006**

its Successors in Office or assigns, in full and free property

ERF 418 HERMANUS  
IN THE OVERSTRAND MUNICIPALITY  
DIVISION CALEDON  
PROVINCE WESTERN CAPE

IN EXTENT 1110 (ONE THOUSAND ONE HUNDRED AND TEN) Square metres

FIRST TRANSFERRED by Deed of Transfer Number T10258/1930 with a diagram relating thereto and held by Deed of Transfer Number T74022/1995

- A. SUBJECT to the conditions referred to in Certificate of Registered title Number 8206 dated 30<sup>th</sup> September 1930.
- B. SUBJECT to the following conditions contained in Deed of Grant issued under Section 10 of Act No. 15 of 1887 on 5<sup>th</sup> August 1922 (Caledon Freeholds Vol. 3 No. 8) namely:

"The land hereby granted shall be subject to all rights and servitudes which now affect or at any time hereafter may be found to affect, the title of the land hereby granted, or which may be binding on the Government in respect of the said land as at the date hereof."

- C. SUBJECT to the following further special conditions imposed by the Administrator and contained in Deed of Transfer Number T8952/1940, namely:
1. That the above erf be used for residential purposes only.
  2. ....
  3. ....
  4. That all buildings to be erected on this property shall stand back not less than 3,15 metres from the line of any street or avenue on which the lot may abut; such space may be used as gardens but shall not be built upon.

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

**GRAHAM ARMSTRONG, Unmarried**

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

**The Trustees for the time being of DOMEIN TRUST  
Registration Number IT9054/2006**

its Successors in Office 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 R2 500 000,00 (TWO MILLION FIVE HUNDRED 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

04 JUN 2019

2019

q.q.

In my presence

REGISTRAR OF DEEDS

A4573/1930

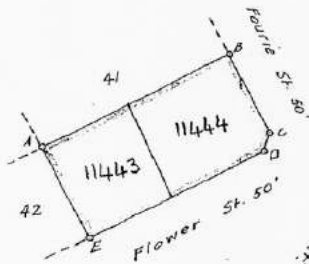
TP.17<sup>D</sup>.  
Approved

GRASS CUT.

*A.L. Hill*  
Surveyor-General.  
27 OCT 1930

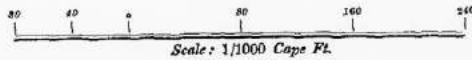


SIDES Cape Feet		ANGLES	
AB	150.00	A	90.00.0
BC	65.00	B	90.00.0
CD	14.14	C	95.00.0
DE	140.00	D	135.00.0
EA	75.00	E	80.00.0



\*NOW ERF NO 418  
HERMANUS

110 sq. m.



The figure *ABCDE* represents 11200 Sq. Feet of land called  
\*LOT. No. 43 of SECTION A HERMANUS EXTENSION No. 1 TOWNSHIP  
which is referred to hereunder, situate in the Municipality of Hermanus, DIVISION  
of CALEDON, PROVINCE of CAPE of GOOD HOPE.

Surveyed in February, 1930, by me *A.L. Hill*. Land Surveyor

This diagram is annexed to  
Transfer Deed No. 10258  
dated 10.12.1930 in favour of  
*W.A. Goucher Jnr and  
S.M. Wessendrop*  
*W.A. Goucher*  
Registrar of Deeds.

The original diagram is No. A1714/1930  
annexed to Certificate of Registered  
Title Deed No. 8206 dated 30.9.1930  
in favour of *Committee of the  
Municipality of Hermanus*

S.G. File No. S.2479/25  
Survey Records No  
E.419/1930.  
NS. M3368  
M3374  
A1-358  
753

Hermanus erf 418

THE FOLLOWING REVISIONS HAVE BEEN MADE FROM THIS DIAGRAM

SURVEY RECORD	DIAGRAM NO.	SUBDIVISION	AREA IN SQ. M.	TRANSFER NO.	INITIALED	REMDR.
65/2011	159/2011	ERF 11443	516 SQ.M			
"	160/2011	ERF 11444	594 SQ.M			

Leaving no remainder

**From:** Theresa Fenn <tfenn@telkomsa.net>  
**Sent:** Wednesday, August 19, 2020 7:57 PM  
**To:** 'hboshoff@overstrand.gov.za' <hboshoff@overstrand.gov.za>  
**Subject:** QUESTIONS REGARDING APPLICATION FOR ERF 418

Good afternoon Mr Boshoff

I have tried to call you today to discuss a few questions regarding the above application but I was advised that your switchboard was unable to transfer calls and that I should rather put my questions in an email.

I am the owner of the property on Erf 407 and would like to ask a few questions regarding the regulations for the changes requested for Erf 418.

Is there any limit to the amount of guesthouses / accommodation properties in an defined area.  
 Current situation :

Erf 408 is a Guesthouse – manager / owners on site

Erf 406 is registered as accommodation & takes Air BnB bookings – no manager on site

Erf 419 – Owned by Backpackers – no manager on site

Erf 418 now applying to for approval to have 11 rooms – not sure if manager will be on site 24 hours

When we bought in 2016 this was a residential area – now we are surrounded by varying types of accommodation.

Should this application be considered, I have the following questions:

- I see there is Managers accommodation – will the manager be on site 24 hours to be able to handle patients.
- The area proposed for the additional 6 units linking the cottage & dwelling – will the design have windows on the boundary walls facing Erf 419, 406 & 407 – concerns over the privacy of our back garden area especially with building lines of only 2m.
- On page 7 as part of the second phase there is mention that the owner would have the possibility to build a double storey structure – should this structure have windows facing Erf 419 & 406 & 407 this would impede on the privacy that we have of our back garden area, again especially with building lines of only 2m.
- The definition for General Residential Zone 1 with consent use for residential buildings – residential buildings includes rooms that are rented, boarding houses, hostels, old age homes & residential clubs. Can the definition be restricted to accommodation for use by patients of the Medical facility? In future should this facility be re-sold the new owner would then need to re-apply for a new classification before simply converting the facility to boarding houses which could serve the same purpose as Backpackers.

I understand the need for a facility to cater for patients undergoing treatment over a few days but also believe that we as permanent residents in the area should have our privacy considered.

As there are already 5 rooms available to patients surely this should be sufficient and treatments can be phased based on accommodation availability.

Currently noise by surrounding guest houses is not attended to and cannot be controlled by the law enforcement department.

Until I have a further understanding of the above questions I wish to put in writing that I OBJECT to the current proposed plan.

Your feedback will be greatly appreciated.

Regards  
 Theresa Fenn



TOWN & REGIONAL PLANNERS  
STADS-EN STREEKSBEPLANNERS

planactive@hermanus.co.za  
Website: www.planactive.co.za

TP. D. / heart  
(I. J. Olijia)



ANNEXURE F 1/4

6 Magnolia St / Str  
PO Box / Posbus 296  
HERMANUS  
7200  
Tel: (028) 313 1673  
Fax / Faks: (028) 312 1351  
Email:

Our reference: PA19082

12 October 2020

The Municipal Manager  
Overstrand Municipality  
PO Box 20  
HERMANUS  
7200

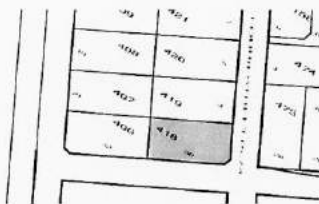
For attention: Mr. H Boshoff

Sir,

FILE NO:	AF 418
	Nastoff ✓
SCAN NO:	HWC 418
COLLABORATOR NO:	1469701

**PROPOSED REZONING, CONSENT USE, THE REMOVAL OF A RESTRICTIVE TITLE DEED  
CONDITION AND BUILDING LINE DEPARTURES: ERF 418 HERMANUS**

The formal response on Mrs. Fenn's questions sent to Mr. Boshoff refers. Mrs. Fenn is the owner of Erf 407 Hermanus and shares a common corner with Erf 418 Hermanus as indicated on the map below for easy reference:



Below are our answers on Mrs. Fenn's questions:

- Is there any limit to the amount of guesthouses / accommodation properties in a defined area. Current situation is as follows :

Erf 408 is a Guesthouse – manager / owners on site

Erf 406 is a registered as accommodation & takes Air BnB bookings – no manager on site

Erf 419 – Owned by Backpackers – no manager on site

***There are no limit on the number of guesthouses that may be operated within a defined area. Each guesthouse is evaluated on its own merit and if it can comply with the prescribed land use restrictions. We can not comment on the guesthouses and***

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

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

19 OCT 2020

**backpackers located on erven 406, 408 and 419 mentioned above and the manner in which they are managed and if the land use rights are in place.**

- Erf 418 is now applying for approval to have 11 rooms – not sure if manager will be on site 24 hours

**It is clearly described in our motivation report that a manager / owner will reside on the premises. Please refer to the abstract below:**

**"With reference to the above uses that are proposed as a first phase, it will make provision for 5 rooms, 3 bathrooms, 1 toilet and common areas accessible to all guests such as the kitchen, dining room and lounge within the existing dwelling and cottage. Provision is also made for a bedroom for the manager / owner that will reside on the property."**

- When we bought in 2016 this was a residential area – now we are surrounded by varying types of accommodation. Should this application be considered, I have the following questions:
  - I see there is Manager's accommodation – will the manager be on site 24 hours to be able to handle patients.

**As mentioned above, the manager / owner will reside on the property to welcome and assist patients that will make use of the overnight facilities. The rooms would be limited to be occupied by patients making use of the medical facilities in the vicinity only and will not be utilised as a guesthouse that is used for the purpose of holiday accommodation. Please take note that persons that makes use of the overnight facility will not receive any medical attention at his establishment. Patients that receive treatment at the oncology facility that are too weak are referred to other medical facilities such as Spescare. Please note that this is not a stepdown facility, but only an overnight facility for patients making use of the oncology facility as stated in our motivation report.**

- The area proposed for the additional 6 units linking the cottage & dwelling – will the design have windows on the boundary walls facing Erf 419, 406 & 407 – concerns over the privacy of our back garden area especially with building lines of only 2m.

**No construction will take place on the boundaries of the subject erf. It is however proposed that the building line be relaxed from 3m to 2m along the northern boundary. It is highly likely that rooms will have windows on the northern side being north facing. The windows will therefore face in the direction of Erf 419 Hermanus and will not impact on Mrs. Fenn's property being Erf 407 Hermanus. It should be noted that during the day patients will receive treatment at the Oncology facility and will Erf 418 Hermanus be used for overnight accommodation. It is our opinion that the impact on privacy of the surrounding landowners will be much lower than that of a single residential dwelling. It should also be taken into consideration that the subject property has the opportunity to be subdivided and has been subdivided in the past. Subsequently 2 single residential dwellings could have been constructed on Erf 418 Hermanus that would have a greater impact on the privacy of the surrounding landowners.**

- o On page 7 as part of the second phase there is mention that the owner would have the possibility to build a double storey structure – should this structure have windows facing Erf 419 & 406 & 407 this would impede on the privacy that we have of our back garden area, again especially with building lines of only 2m.

***Please refer to our comments above. The privacy of the mentioned erven would be jeopardised if only a double storey dwelling be developed within the parameters of the land use restrictions under the current zoning. The proposed residential building and the purposed thereof will not have a greater impact on the privacy of the surrounding erven.***

- o The definition for General Residential Zone 1 with consent use for residential buildings – residential buildings includes rooms that are rented, boarding houses, hostels, old age homes & residential clubs. Can the definition be restricted to accommodation for use by patients of the Medical facility? In future should this facility be re-sold the new owner would then need to re-apply for a new classification before simply converting the facility to boarding houses which could serve the same purpose as Backpackers.

***The matter pertaining to the correct zoning was firstly discussed with Mrs. Hanneen van der Stoep. It was agreed that the proposed residential building is the most suited land use described as a primary right under a zoning of General Residential Zone 1 prior to the compilation and submission of the application. This matter was also clarified on 10 March 2020 during a meeting held at the Overstrand Municipality with Mr. Schalk van der Merwe. Our application is for a specific use and can not be changed into a backpackers, guesthouse or boutique hotel. We can only presume that the approval will limit the land use what was applied for and future possible landowners will have to comply with the conditions of approval. Any other uses other than what was approved will have to be applied for and recirculated to the adjoining landowners.***

- o I understand the need for a facility to cater for patients undergoing treatment over a few days but also believe that we as permanent residents in the area should have our privacy considered. As there are already 5 rooms available to patients surely this should be sufficient and treatments can be phased based on accommodation availability.

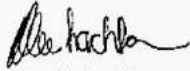
***Please refer to our comments on the above 2 questions. The Oncologist can confirm that 5 rooms are not sufficient and therefore the reason for applying for the rezoning of the subject property. There is a great need for a facility such as we have proposed.***

- o Currently noise by surrounding guest houses is not attended to and cannot be controlled by the law enforcement department.

***We cannot comment on why noise cannot be controlled by law enforcement. We can however mention that it is highly unlikely that any noise pollution will derive from the proposed residential building due to the fact that it would be utilised as overnight accommodation for patients receiving treatment at the Oncology Centre. The subject property will not be utilised for holiday accommodation purposes.***

We trust that you and Mrs. Fenn will find our answers on her questions sufficient and that the application will be dealt with favourably.

Yours faithfully

A handwritten signature in black ink, appearing to read "John Mc Lachlan". The signature is written in a cursive style with a prominent initial "J".

John Mc Lachlan



Division of Telkom SA SOC Ltd

10 Jan Smuts Drive  
Pinelands  
7404

**Stefan Geldenhuys**  
Tel: 021 414 5546  
Email: StefanG@openserve.co.za

**Our Ref.: HMN486**  
**Your Ref.: 418 HWC**

14 July 2020

**Attention : S Muller**  
**Overberg Municipality**  
**Hermanus**

**Wayleave Application : APPLICATION FOR REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION,  
REZONING, CONSENT USE AND DEPARTURE, ERF 418, 30 FLOWER STREET, WESTCLIFF, HERMANUS**

With reference to your application received 14 July 2020

Please notify this office immediately if you locate any Open Serve plant that was not indicated. Please contact our representative Melt Van As at telephone number 021 852 1717 / 081 363 7873 / Meltva@openserve.co.za

I hereby inform you that Open Serve approves the proposed work indicated on your drawing in principle. This approval is valid for **12 MONTHS ONLY**, after which reapplication must be made if the work has not been completed.

Any changes or deviations from the original planning during or prior to construction must immediately be communicated to this office.

Approval is granted, subject to the following conditions.

As per the drawing supplied, Open Serve infrastructure **will not be affected**. However, care should still be **taken should it be evident that there is in fact Open Serve network present on the actual sites**.

61 Oak Avenue, Highveld, Techno Park, Centurion 0157,  
Private Bag X881, Pretoria, Gauteng, 0001

It would be appreciated if this office can be notified within 30 days of completion of the construction work. Confirmation is required on completion of construction as per agreed requirements.

Should Open Serve infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Open Serve rights remain reserved.

Yours faithfully



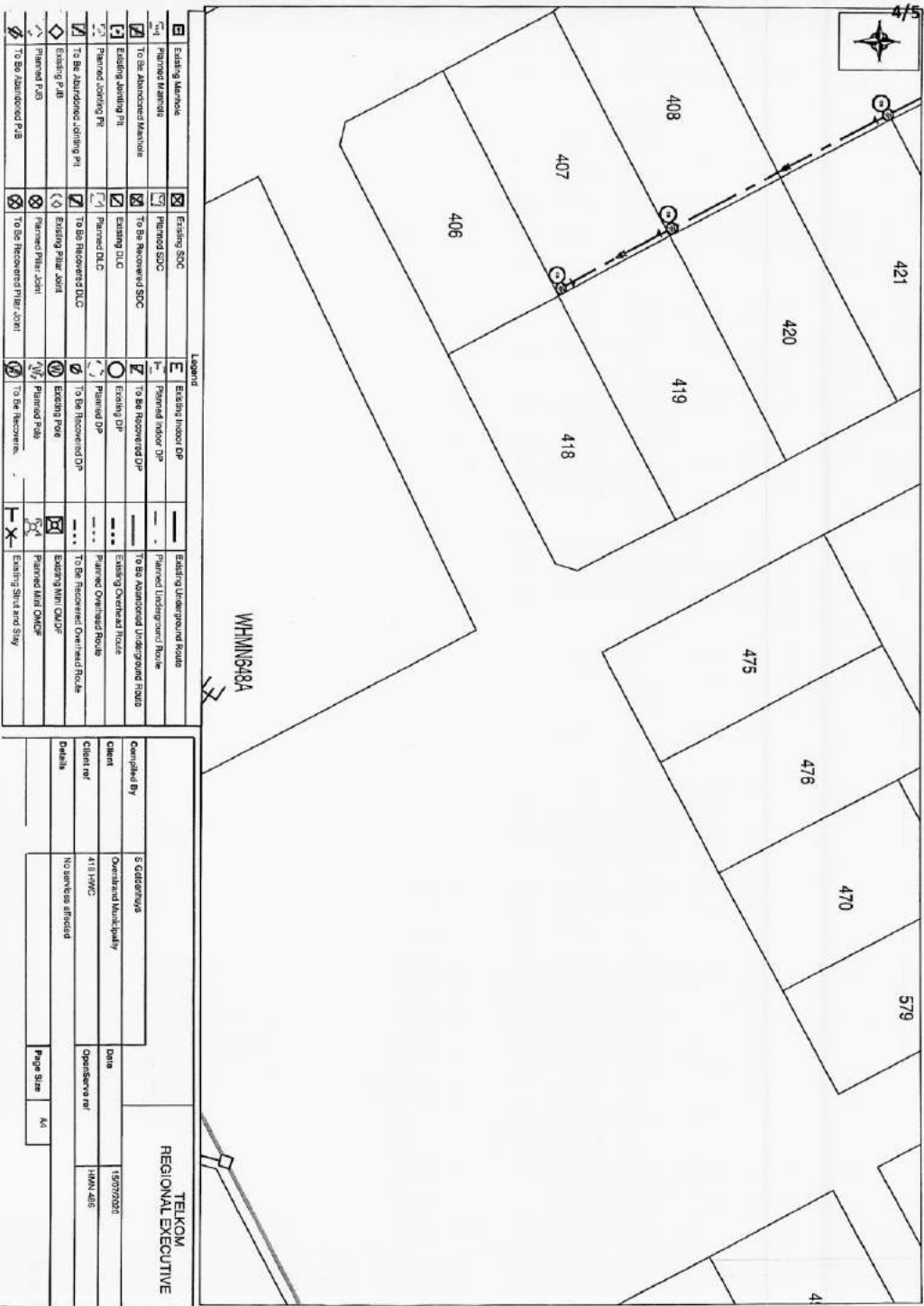
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For Selwyn Bowers  
Operations Manager  
Wayleave Management: Western Region

**PLANT NOT AFFECTED**

If any plant not indicated exists and information or supervision is required please contact this office at least 48 hours before any work commences.

Melt Van AS		081 363 7873	
<b>Refence number</b> HMN 486	<b>Marked Up</b> S Geldenhuys	<b>Date</b> 15-Jul-20	
			



Legend	
<input checked="" type="checkbox"/> Existing Manhole	<input checked="" type="checkbox"/> Existing SOC
<input checked="" type="checkbox"/> Planned Manhole	<input checked="" type="checkbox"/> Planned SOC
<input checked="" type="checkbox"/> To Be Abandoned Manhole	<input checked="" type="checkbox"/> To Be Recovered SOC
<input checked="" type="checkbox"/> Existing Landing Pit	<input checked="" type="checkbox"/> Existing D/C
<input checked="" type="checkbox"/> Planned Landing Pit	<input checked="" type="checkbox"/> Planned D/C
<input checked="" type="checkbox"/> To Be Abandoned Landing Pit	<input checked="" type="checkbox"/> To Be Recovered D/C
<input checked="" type="checkbox"/> Existing Pole Joint	<input checked="" type="checkbox"/> Existing Pole Joint
<input checked="" type="checkbox"/> Planned Pole Joint	<input checked="" type="checkbox"/> Planned Pole Joint
<input checked="" type="checkbox"/> To Be Abandoned Pole Joint	<input checked="" type="checkbox"/> To Be Recovered Pole Joint
<input checked="" type="checkbox"/> Existing Indoor DP	<input checked="" type="checkbox"/> Existing Indoor DP
<input checked="" type="checkbox"/> Planned Indoor DP	<input checked="" type="checkbox"/> Planned Indoor DP
<input checked="" type="checkbox"/> To Be Abandoned Indoor DP	<input checked="" type="checkbox"/> To Be Recovered Indoor DP
<input checked="" type="checkbox"/> Existing Overhead Route	<input checked="" type="checkbox"/> Existing Overhead Route
<input checked="" type="checkbox"/> Planned Overhead Route	<input checked="" type="checkbox"/> Planned Overhead Route
<input checked="" type="checkbox"/> To Be Abandoned Overhead Route	<input checked="" type="checkbox"/> To Be Recovered Overhead Route
<input checked="" type="checkbox"/> Existing Mini-Cable	<input checked="" type="checkbox"/> Existing Mini-Cable
<input checked="" type="checkbox"/> Planned Mini-Cable	<input checked="" type="checkbox"/> Planned Mini-Cable
<input checked="" type="checkbox"/> Existing Street and Slab	<input checked="" type="checkbox"/> Existing Street and Slab

<p style="text-align: center;"><b>TELKOM</b> <b>REGIONAL EXECUTIVE</b></p>	
Completed By	S. Gidderhus
Client	Overland Municipality
Client ref	418 14902
Details	No services affected
Date	15/07/2021
Operator ref	MMN 486
Page Size	A4



Wayleave  
OPENSERVE

This wayleave, Ref **WWIP\_LH\_252 WHMN** is valid for 12 months from date hereof and is subject to the following conditions.

1. No mechanical plant or vibrator type compactors may be used within three meters of any OpenServe (i.e. any Telecommunications equipment above or below ground level).
2. The position of our plant affected by the proposal is indicated as approximate and our **PIETER LAMBERT 023- 342 1817 / 081 392 6737**  
Email: PieterL@openserve.co.za  
must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of OpenServe Plant will be indicated on-site.
3. A written request must be submitted to OpenServe for consideration should the applicant require our plant to be relocated. The cost of such relocation will be recoverable from the applicant.
4. It is the responsibility of the applicant to verify the existence of the indicated plant and to notify OpenServe immediately should the applicant locate any OpenServe plant which is not indicated on the plans.
5. Should the applicant expose any OpenServe Plant, the safeguard thereof will be the applicants full responsibility.
6. Failing to comply with the above conditions or any special conditions addendum hereto will be regarded as gross negligence and the applicant will be held responsible for and damage or loss as a result thereof.

Date: **7/15/2020** For Regional General Manager  
Western Cape

OPENSERVE Symbol Legend	
1. Underground Pipe Route	
2. Underground Buried cable	
3. Pipe Junction Boxes	
4. Street Distribution Cabinet (SDC)	
5. Jointing Pillar ( PJ ) Above Ground	
6. Pole	
7. Robot Control	
8. Aerial Route	
9. Stay	
10. Strut	
11. Call Office	

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR REMOVAL OF A RESTRICTIVE TITLE DEED  
CONDITION, REZONING, CONSENT USE & DEPARTURE: ERF 418,  
WESTCLIFF**

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

**Conditions:**

1. That a Bulk Services Contribution Levy (BICL) be paid by the developer to supplement municipal services and amenities in accordance with the relevant legislation and as determined by the Council. The BICL tariff is adjusted by Council annually. The total BICL payable will be the amount as determined by the BICL Policy and tariff at the date of **actual payment**. BICL amounts quoted in any document will normally be applicable to the particular year in which the document was compiled and Council will not be bound by the quoted amounts.

- 1.1 **Developments containing Sectional Title Units/ Commercial Buildings** (non-free standing properties – property is not to be subdivided)

The BICLs are to be paid in full **prior** to submission of the building plans. Building Plans will not be accepted unless the BICL is paid in full.

- 1.2 **Developments with free standing properties** (property that is subdivided and plots to be sold individually).

The BICLs are payable **prior** to clearance being issued by the Income Department of the Municipality.

The contribution according to the current policy (2020/2021) is as follows:

**Freehold erven:**

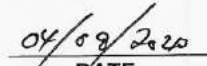
Water	R 23 957.00 x 0.6	=R 14 374.20
Sewerage	R 16 153.00 x 0.6	=R 9 691.80
Roads	R 7 243.00 x 1.0	=R 7 243.00
Stormwater	R 8 357.00 x 0.74	=R 6 184.18
Solid Waste	R 1 448.00 x 1.0	=R 1 448.00
<b>TOTAL (inclusive of VAT)</b>		<b>=R 38 941.18</b>

Note:

- 1.3 **The above figures are estimates**  
1.4 **The above figures do not include connection fees**

2. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
3. that only the existing 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 owner's cost;
4. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*;
5. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Area Manager: Hermanus for written approval;
6. that stormwater be allowed to discharge through Erf 418, Westcliff, unobstructed;
7. that any additional and / or extended vehicle entrances will be for the owner's account;
8. that no on-street parking be allowed.

  
DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES

  
DATE



Subject property and Erf 407 objector's property.

Date: 2020/11/05

