











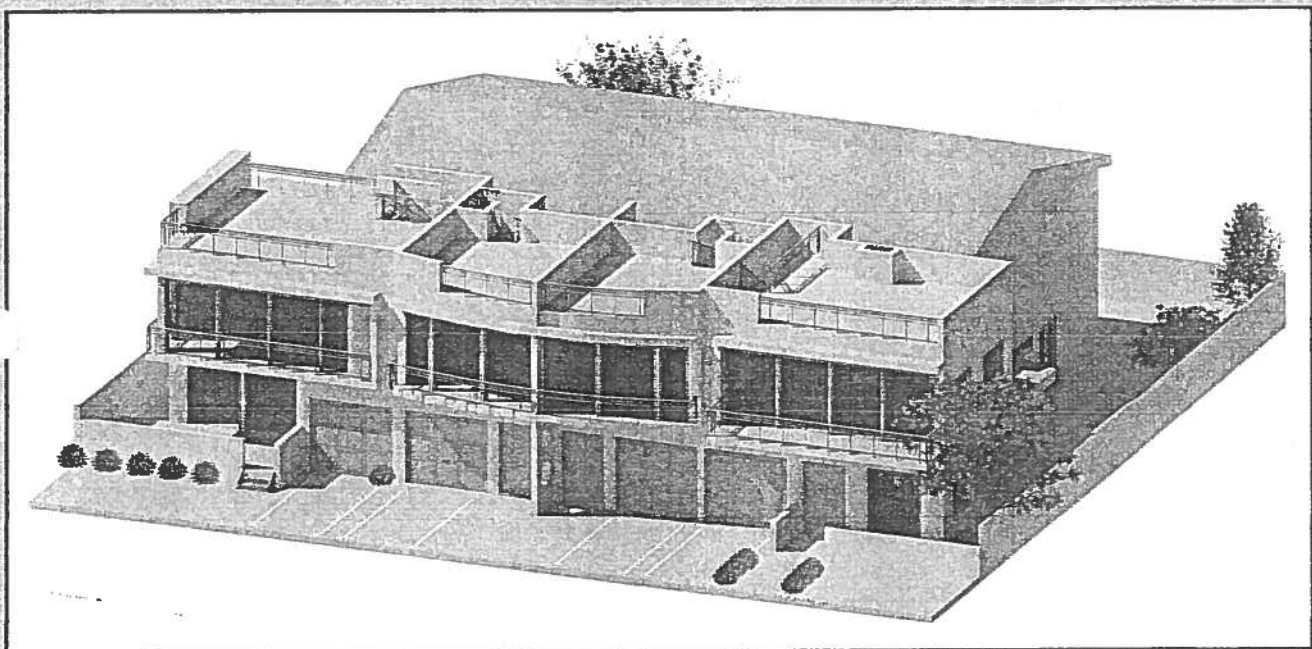


# Erf 6225 to 6227

## Hermanus

# 11<sup>th</sup> Street, Voëlklip

Application is made for departures in terms of a building line, coverage and the amendment of the Site Development Plan of Erven 6225 – 6227, 11<sup>th</sup> Street, Voëlklip, Hermanus in terms of Section 15 and 42 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985).



**AUGUST 2015**

## (ii) FIGURES

Figure 1: Illustration of development proposal .....	1
Figure 2: Sketch showing building line relaxation proposal.....	3
Figure 3: Locality Plan – Regional Context .....	4
Figure 4: Locality Plan – Local Context.....	4
Figure 3: Extracts from the Overstrand Municipal Wide Spatial Development Framework, 2009 .....	5
Figure 6: Extract from the Overstrand Municipality: Hermanus Final Zoning 2014 map .....	5
Figure 7: Google Image illustrating the residential land-use activities of the application area and surrounding properties .....	6
Figure 8: Images illustrating the lack of uniformity between the four units within the townhouse complex.....	7
Figure 9: Sketch illustrating the proposed upgraded townhouse complex .....	8
Figure 10: Sketch illustrating a photograph of the existing townhouse complex compared to the proposed upgraded townhouse complex .....	8
Figure 11: Sketch illustrating the views from the proposed upgraded townhouse complex.....	10
Figure 12: Sketch illustrating the anticipated impact of shade on the adjacent properties during winter and summer.....	11
Figure 13: Sketch illustrating the additions to the town house complex resulting to the amendment of the Site Development Plan .....	12

## (iii) TABLES

Table 1: Property Ownership .....	2
Table 2: Town Planning Parameters.....	2
Table 3: Building line comparison between Residential Zone 1 zoning and General residential Zone 2 zoning.....	6

## (iv) ANNEXURES

Annexure A: Power of Attorneys
Annexure B: Title Deeds
Annexure C: Conveyancer's Certificates
Annexure D: Land use application form
Annexure E: Extract of Hermanus Final Zoning 2014 map
Annexure F: Extract of Current Building Footprint
Annexure G: Site Development Plan
Annexure H: Copy of recent Municipal Accounts

## 1. Introduction

### a. Brief and Background:

Refer to Annexure A for the respective Power of Attorneys.

Interactive Town and Regional Planning was appointed by owners of the properties of Marča Trust, Vildek Beleggings Pty Ltd and Mariana Family Trust to prepare and submit an application for the relaxation of a building line as well as the amendment of the site development plan in terms of Sections 15 and 42 of the Land Use Planning Ordinance, 1985 (Ord. 15 of 1985) on Erven 6225 - 6227 Hermanus, Voëlklip, hereafter referred to as the application area.

For the purposes of this application notice should be taken of the following:

- An application for the upgrading of the adjacent building on Erf 6220 Hermanus, Voëlklip has recently been lodged. This application consisted of a building line relaxation, an amendment to the Site Development Plan as well as Removal of Restrictive Title Conditions.
- The application area forms part of a group housing complex consisting of 8 dwelling units located between 10th and 11th Streets within an existing up-market holiday / residential area.
- The current zoning of the complex is zoned "General Residential Zone 2" but each of these units within this complex is located on its own erf and has its own title deed and no body corporate exists for these units.
- The existing character of the subject buildings within the complex does not compliment the character of the surrounding dwellings within the street and vicinity in terms of scale and appearance.
- Currently there is a significant lack of uniformity of the properties within the complex and the immediate vicinity of the application site. The owners of Erven 6225 – 6227 Hermanus, Voëlklip are striving towards a uniform building and therefore require the permission to upgrade their homes accordingly.

The ultimate objective of this application is obtaining approval to allow for additions and alterations to upgrade and improve the existing residential dwelling buildings as illustrated in the picture below.

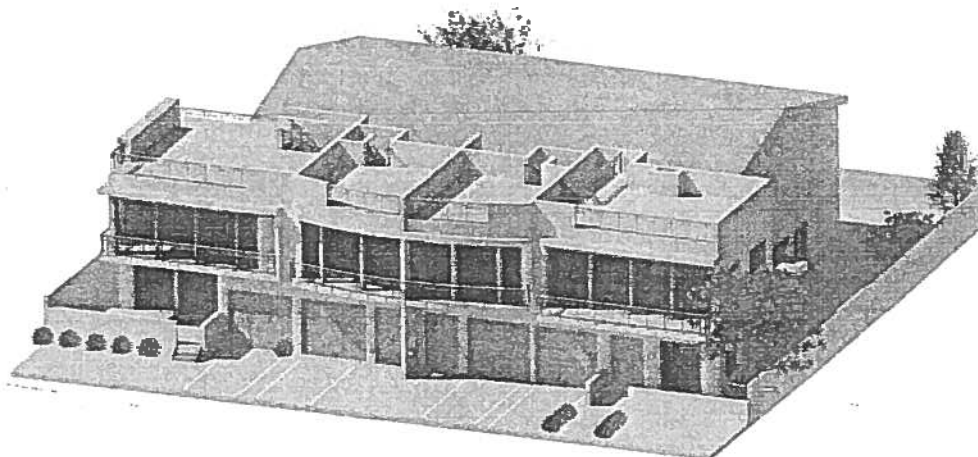
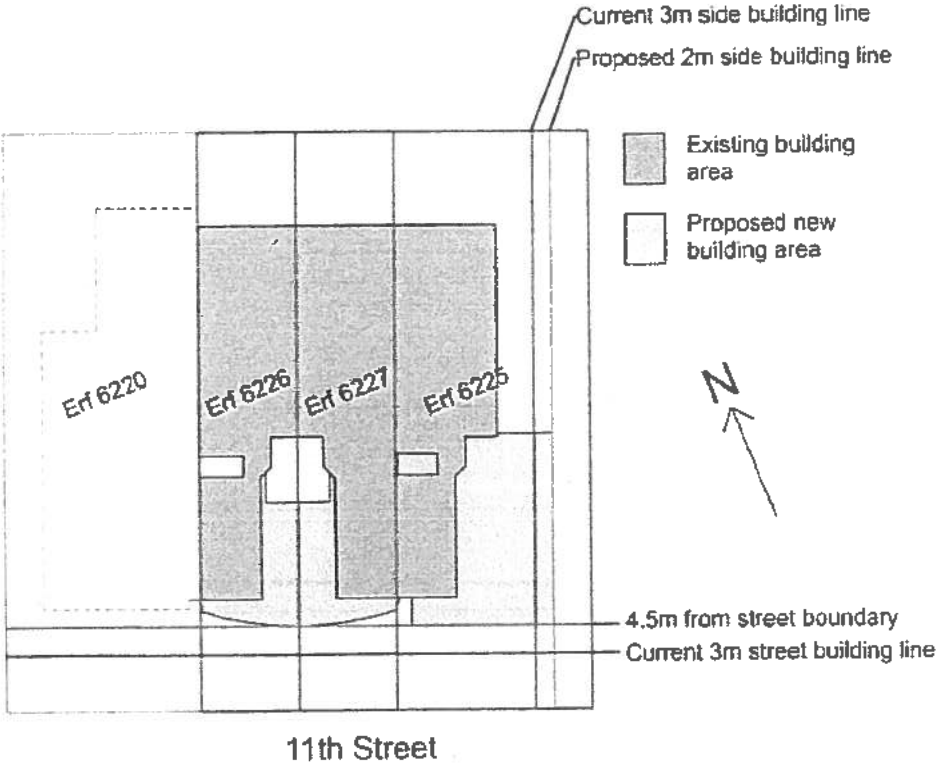


Figure 1: Illustration of development proposal

In order to achieve the above, a statutory application in terms of the Land Use Planning Ordinance, 1985 and the Overstrand Municipality Zoning Scheme, 2012 is required whereby application is made for the relaxation of a side building line and the amendment of the existing approved Site Development Plan.

b. Property Description	Property	Extent	Title Deed	Registered Owner	
Table 1: Property Ownership	Erf 6225, Hermanus	326m <sup>2</sup>	T19223/1984	Marda Trust	
	Erf 6226, Hermanus	162m <sup>2</sup>	T10801/1990	Vildek Beleggings Pty Ltd	
	Erf 6227, Hermanus	162m <sup>2</sup>	T71413/2002	Mariana Family Trust	
c. Title Deed Refer to Annexure C for the Conveyancer Certificates.	The Conveyancer Mr Hendrik Loubser van Zyl from the Attorney Company VGV Attorneys issued a certificate confirming that no restrictive title deed conditions exist against the proposed building line relaxation and the amendment of the Site Development Plan of the subject properties.				
d. Development Criteria:	Parameters	Town Planning Scheme Regulations (TPSR):	Application Proposal:	Comments and Response:	
The development parameters for the Erven 6225 - 6227 Voëlkop, Hermanus as per the Planning Scheme Regulation, in terms of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) are summarised as follows:  Table 2: Town Planning Parameters	Primary Use	General Residential Zone 2 (GR2) – Dwelling house, town housing, private road, private open space.	General Residential Zone 2 (GR2).	Consistent (No change to use or zoning proposed)	
	Consent Uses	Crèche, day care centre, flats, green house, home occupation, residential building, retirement village, tourist accommodation.	Not applicable		
	Coverage	65%  Existing coverage of all four units = 36,9%	Erf 6225- 45% Erf 6226- 63.4% Erf 6227- 63.4% Total development including Erf 6220 = 53%	Consistent	
	Density	50 units / ha	40,98 units / ha	Consistent	
	Height	8m	8m	Consistent	
	Building lines	Street	3m	4,5 m	Consistent
		Side	3m	2m on eastern side	Inconsistent- submit an application
Rear		3m	4m	Consistent	
Parking	2 on-site parking bays per dwelling unit provided that on erven less than 400m <sup>2</sup> only one on-site parking bay needs to be provided	1 bays per dwelling unit	Consistent		

<p>e. <b>Definitions applicable to the application</b></p>	<p><b>"building line"</b> means an imaginary line on a land unit, which defines a distance from a specified cadastral line, within which the erection of buildings and structures are prohibited, except with the necessary Council approval;</p> <p><b>"townhouse"</b> means a dwelling unit which forms part of a town housing scheme;</p> <p><b>"town housing"</b> and <b>"town housing scheme"</b> means a row or group of linked, attached or detached dwelling units, which are designed and built as a harmonious architectural entity of which every dwelling unit has a ground floor; such dwelling units may be cadastrally subdivided or be sold individually in some other manner;</p> <p><b>"Site development plan"</b> means a scaled and dimensioned plan which shows details of the proposed development as required by the local authority.</p>
<p>f. <b>Application:</b></p> <p>The application form is attached as Annexure D. Refer to Annexure G for the Site Development Plan.</p>	<p>Application is hereby made in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for:</p> <ul style="list-style-type: none"> <li>A departure for the relaxation of the eastern <u>side building line</u> of Erf 6225, Hermanus, Voëlkop from 3m to 2m as illustrated here-below:</li> </ul>  <p><b>Figure 2: Sketch showing building line relaxation proposal</b></p> <ul style="list-style-type: none"> <li>The amendment of the Site Development Plan of Erven 6225 – 6227, 11<sup>th</sup> Street, Voëlkop, Hermanus as illustrated in the sketch here-below:</li> </ul>

## 2. Site Information

### a. Location:

#### Regional Context:

Within the regional context, the application area is located within Voëlklip residential suburb. Voëlklip is a narrow shaped residential suburb on the most eastern side of Hermanus between the Olifants Mountains and the ocean and borders Fernkloof residential area, Grotto beach and the Klein River Lagoon.

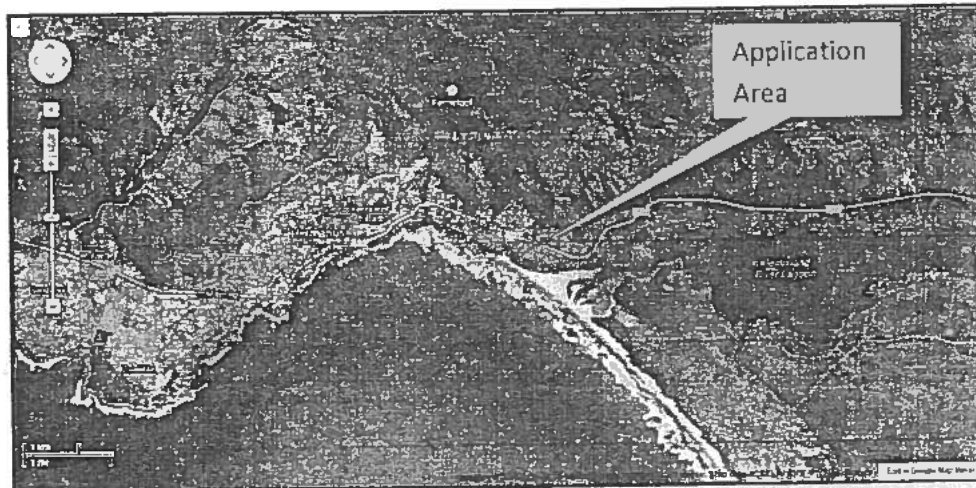


Figure 3: Locality Plan – Regional Context

#### Local Context:

Within the local context the application area consists of residential erven within Voëlklip that forms part of the larger Hermanus East area. This area is predominantly a high income residential area with a large number of dwellings being used as holiday homes.

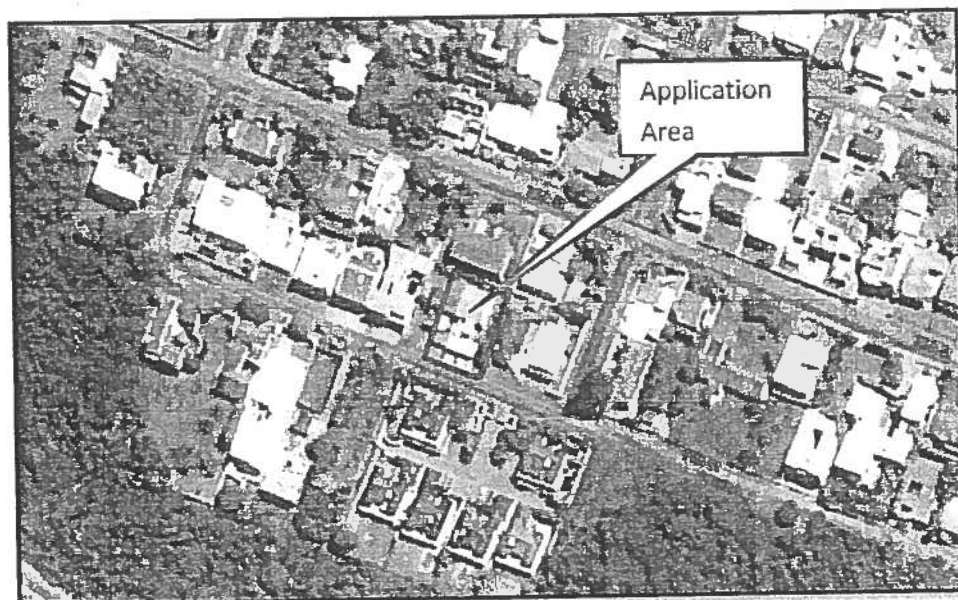
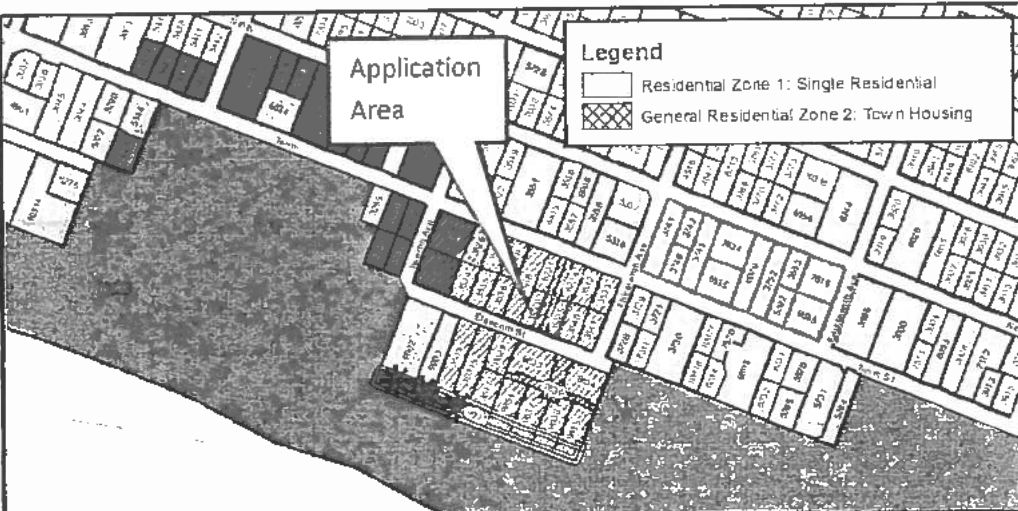


Figure 4: Locality Plan – Local Context

<p><b>b. Policy for Hermanus Municipal Area</b></p>	<p>The proposed use is consistent with all relevant policy documents for the Greater Hermanus area. Derived from the following extract from the Overstrand Municipal Wide Spatial Development Framework, 2009 this policy document supports the existing dwelling in the sense that the house forms part of the “balanced mix of housing types for the full range of income groups....” And the promotion of “a range of residential housing types”.</p> <div data-bbox="391 369 1380 577" style="border: 1px solid black; padding: 5px;"> <p><b>EPL 2: Balanced Housing Provision</b></p> <ul style="list-style-type: none"> <li>▪ The ongoing provision of land and / or redevelopment opportunities for residential / housing uses, within the urban edge, must be viewed as a priority. This together with the need to provide for integration and a balanced mix of housing types for the full range of income groups must also inform decision-making.</li> </ul> </div> <div data-bbox="391 582 1380 1052" style="border: 1px solid black; padding: 5px;"> <p><b>7.7.1. Local Spatial Development Principles</b></p> <p><i>i. Promote:</i></p> <ul style="list-style-type: none"> <li>- conservation of sensitive natural resources, including the mountain backdrop and associated Fynbos reserves, a varied coastal strip and associated marine reserves and a series of river and estuarine systems;</li> <li>- conservation of cultural heritage resources, including the character of the historical fishing/holiday settlement areas of Hermanus and Onrust, the number of buildings of historical, architectural and social value, as well as the scenic beauty of the rural landscape of Hemel-en-Aarde Valley;</li> <li>- the equitable distribution of community facilities throughout the Greater Hermanus area;</li> <li>- the provision of a range of residential housing types and appropriate densification strategies in order to retain the character of Greater Hermanus, while ensuring appropriate growth to address the growing population’s housing needs;</li> <li>- Greater Hermanus as a tourism destination.</li> </ul> </div> <p><b>Figure 5: Extracts from the Overstrand Municipal Wide Spatial Development Framework, 2009</b></p>
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<p><b>c. Zoning: (Refer to the Extract of Hermanus Final Zoning 2014 map attached as Annexure C)</b></p>	<p>The application area, Erf 6225 to 6227 Hermanus, Voëlklip is zoned General Residential Zone 2 in terms of the current zoning scheme. No change in the in zoning is proposed.</p> <div data-bbox="383 1249 1412 1758" style="border: 1px solid black; padding: 5px;">  </div> <p><b>Figure 6: Extract from the Overstrand Municipality: Hermanus Final Zoning 2014 map</b></p>
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d. Land Use:

The application area is currently used for residential purposes and is completely surrounded by residential properties. Most of the properties in the vicinity of the application area are used for holiday houses. No change in land-use is proposed.

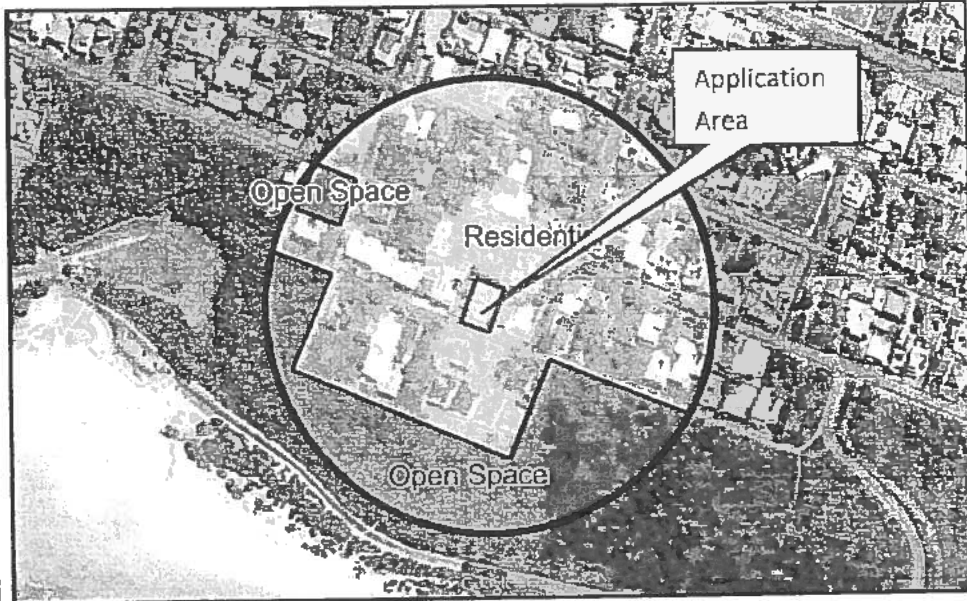


Figure 7: Google Image illustrating the residential land-use activities of the application area and surrounding properties

e. Motivation for the application:

Footprint of the existing buildings illustrated in Annexure F

Introduction:

The motivation of this application is being dealt with by providing some background and facts about the application site, providing the objective of the application and also highlighting what is being applied for. In addition to the above, matters that has been taken into consideration in the design of the proposal is also provided.

Background:

The application site forms part of a residential complex of consisting of 8 units of which four are located along 10<sup>th</sup> Street and four along 11<sup>th</sup> Street.

Although these units form part of a complex, each individual unit is located on a separate erf.

These erven are small (between 162m<sup>2</sup> and 326m<sup>2</sup>) and are zoned General Residential Zone 2. General Residential Zone 2 zoning is normally applied for town housing complexes on large erven of 5 000m<sup>2</sup> erven or larger.

Building lines for General Residential Zone 2 zoning category sites meant for larger erven are substantially more than Residential Zone 1 category sites for erven smaller than 400m<sup>2</sup> (as applicable to the application sites) as illustrated in the following table:

Zoning	Building lines		
	Street	Side	Rear
Res Zone 1 Erven less than 400m <sup>2</sup>	2m	1m	1m
Gen Res Zone 2	3m	3m	3m

Table 3: Building line comparison between Residential Zone 1 zoning and General residential Zone 2 zoning

The fact that the complex consists of individual erven results that no body corporate exists to manage the general appearance and character of the building complex and enforcing an uniform character. (Probably the result of different styles used on the individual properties). Also see the insert here-below illustrating the lack of uniformity of the existing building complex:

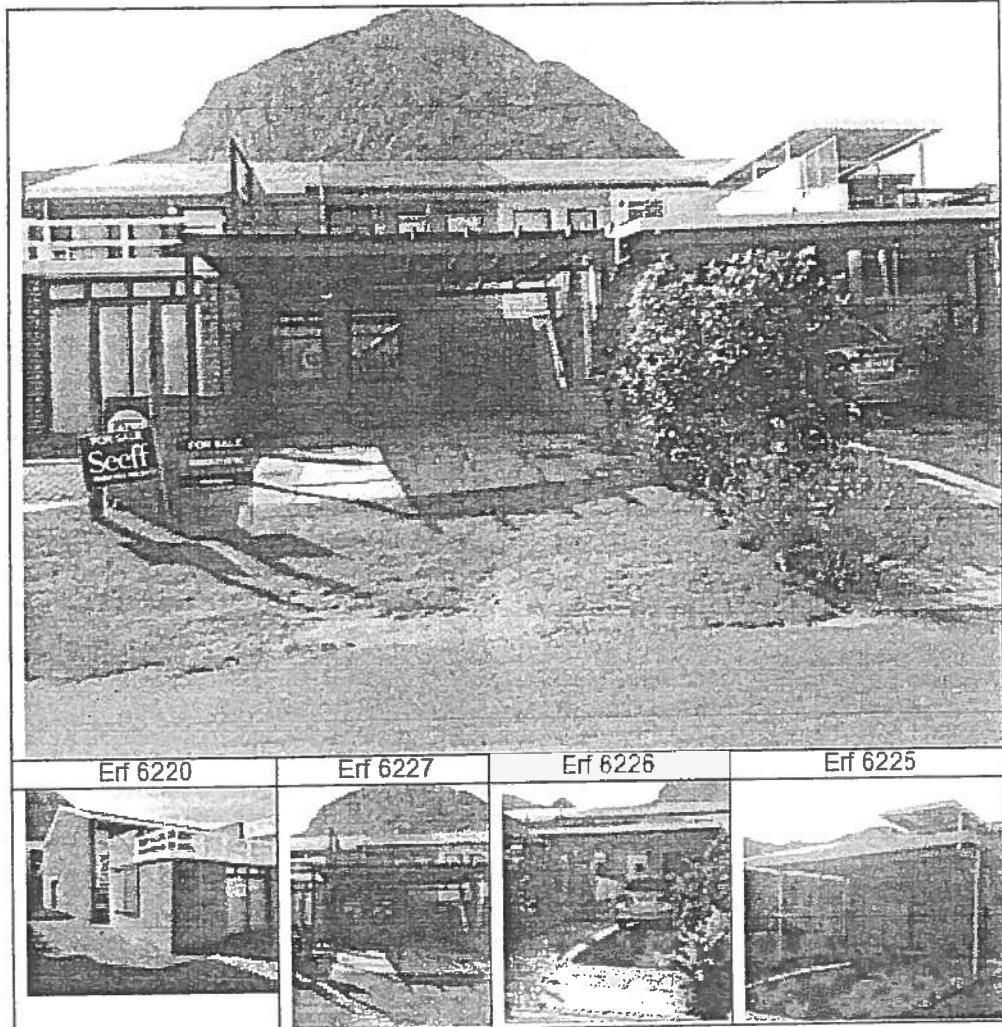


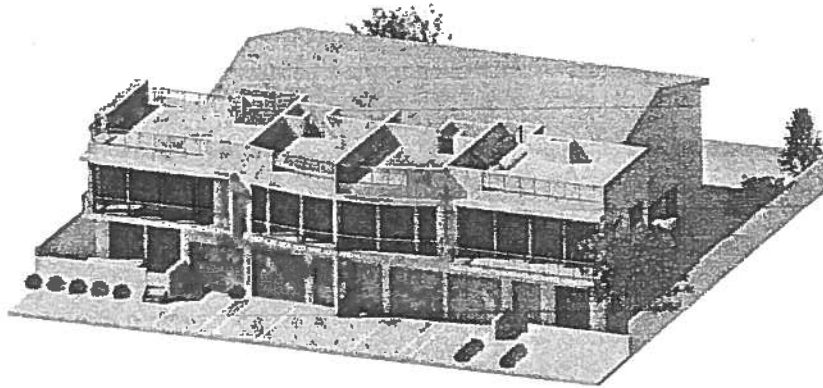
Figure 8: Images illustrating the lack of uniformity between the four units within the townhouse complex

The existing character of the residential complex especially in 11<sup>th</sup> Street is not considered aligned with the character the properties in the street especially in terms of aesthetical appearance and property value (even though being on smaller erven).

**The Proposal:**

Subsequent to the above, the owners of the complex along 11<sup>th</sup> Street agreed to respond to the above challenges / facts / realities as spelled out and decided to apply for the permission to upgrade and extend the complex (and individual units) to create a uniform façade more aligned with that of the other properties in 11<sup>th</sup> Street.

The proposal will consist in essence of the reconstruction of the existing front segment along the street frontage by redeveloping the existing garages and the enclosure on the first floor deck areas.

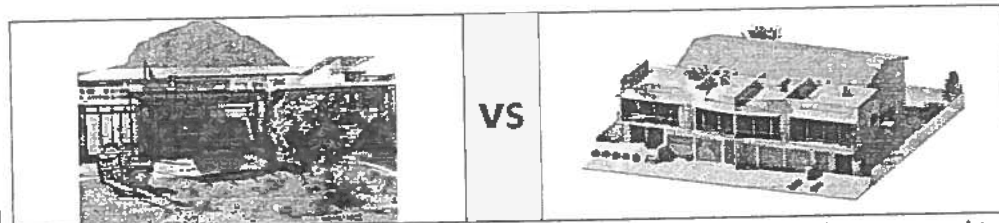


**Figure 9: Sketch illustrating the proposed upgraded townhouse complex**

In order to achieve the above proposal and objective, application is made for:

- the relaxation of Erf 6225 Hermanus, Voëklip's eastern building line from 3 m to 2 m ,
- the amendment of the existing site development plans of Erven 6225 to 5227 Hermanus, Voëklip.

The catalyst to the above proposal originated from an application that was lodged by the owners of Erf 6220 Hermanus, Voëklip to upgrade their property. Following this application the owners of Erven 6225 to 6227 Hermanus, Voëklip agreed to apply for permission to upgrade their properties similarly to that of the proposal for Erf 6220, Hermanus, Voëklip.



**Figure 10: Sketch illustrating a photograph of the existing townhouse complex compared to the proposed upgraded townhouse complex**

The proposed upgrade will also align the complex aesthetically with the dwellings in Eleventh Street.

Thus, through this application the owners endeavour to obtain approval to upgrade the existing complex to a norm aligned with the buildings in the immediate vicinity of the application area.

**Motivation for the relaxation of the building lines:**

The proposed extensions of Erf 6225 Hermanus extends over the existing side building line of the erf. The erf is less than 400m<sup>2</sup> in extent and is burdened with a General Residential Zone 2 zoning which is normally applicable to town house complexes on large erven (i.e. of 5000m<sup>2</sup> and more). Residential erven of less than 400m<sup>2</sup> have side building lines of 1m. However, given that this erf forms part of a complex, it is considered appropriate to apply for a building line relaxation in scale with the area. Therefore a 2m side building line as

applicable and applied on the abutting properties is considered aligned with the character of the area.

In addition to the above, no services are located within these area proposed to be extended into. The purpose of building lines are inter alia meant to provide space for the fire brigade to obtain access to the back of properties as well as for municipal services like water pipelines. The subject Erf 6225 Hermanus, Voëlklip is consistent with these requirements.

**Motivation for the amendment of the Site Development Plan:**

The above mentioned changes have implications on the existing layout of the complex as well as the individual erven requiring changes to the layout of the buildings. Subsequently due to these changes, the amendment of the Site Development Plan is required.

**Additional matters taken into consideration in the design and layout of the proposed upgrade of the building on the application sites**

Common matters when a changes to properties within established areas takes place causes should be considered , people consider to the following problems arising from such changes:

- Privacy and views being impeded,
- Impact of the sun and shade,
- property values being negatively affected,
- Unsightly buildings,
- Construction damage to the adjacent properties.

With regards to this application all the above matters are being discussed here-below:

**Privacy and Views**

In principle, South African law does not recognise an inherent right to an existing view from a property, because a view is considered a mere incidental advantage, and since the recognition of a natural right to the view from a property would interfere with neighbouring owners' rights to build on their properties. (Carolina A Koch, University of Stellenbosch Paper with topic of The Right to a View: Common Law, Legislation and the Constitution").

Special attention has been given in this layout not to infringe on the privacy of the neighbours by introducing divider wall between the different units as well as limiting windows on the lateral sides of the dwelling units.

Even though that views are also not an inherent right, this application proposal design has been done in such a manner to restrict views onto the properties of the adjacent owners as illustrated in the following sketch:

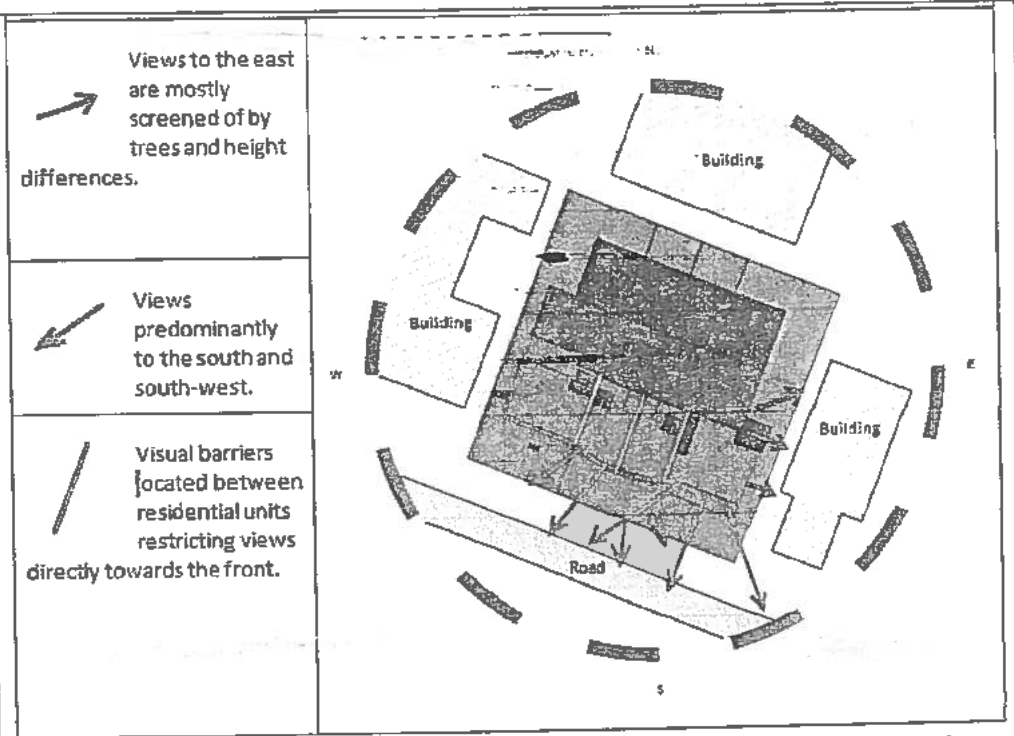
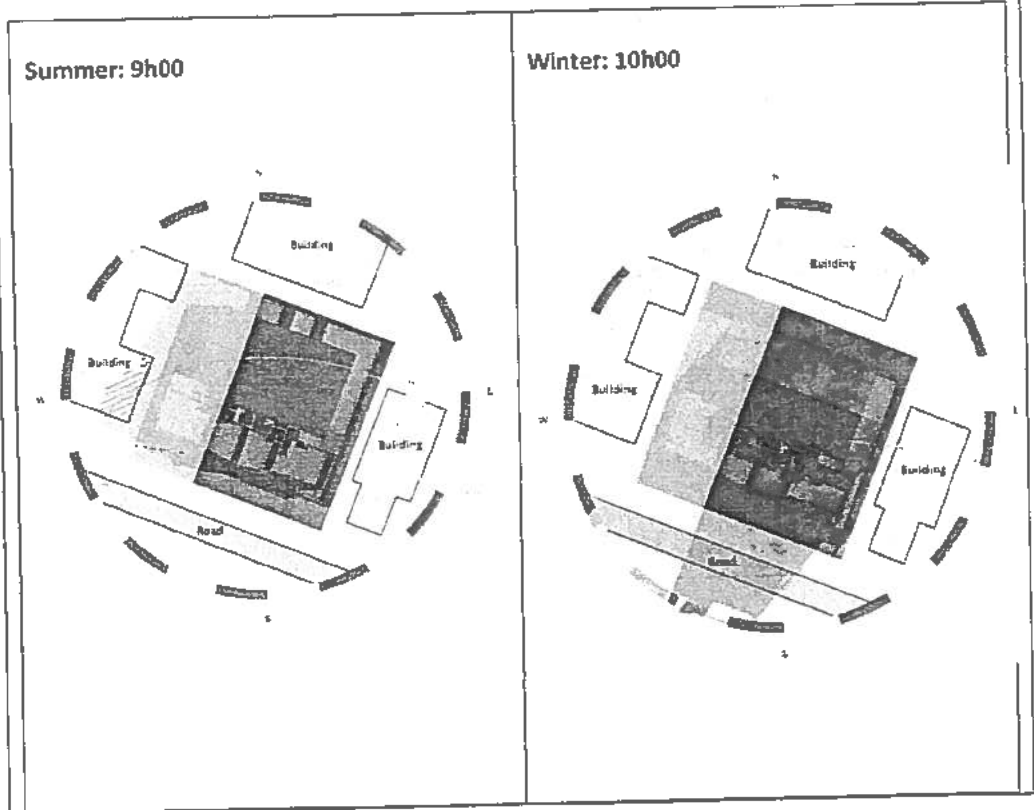


Figure 11: Sketch illustrating the views from the proposed upgraded townhouse complex

Sun and shade

This matter is interpreted in the same way by Common Law as the matter regarding view, being a mere incidental advantage / disadvantage of the sun shine / shade. The impact of the proposed additions is expected to have a minor impact on the adjacent buildings as illustrated in the following sketch:



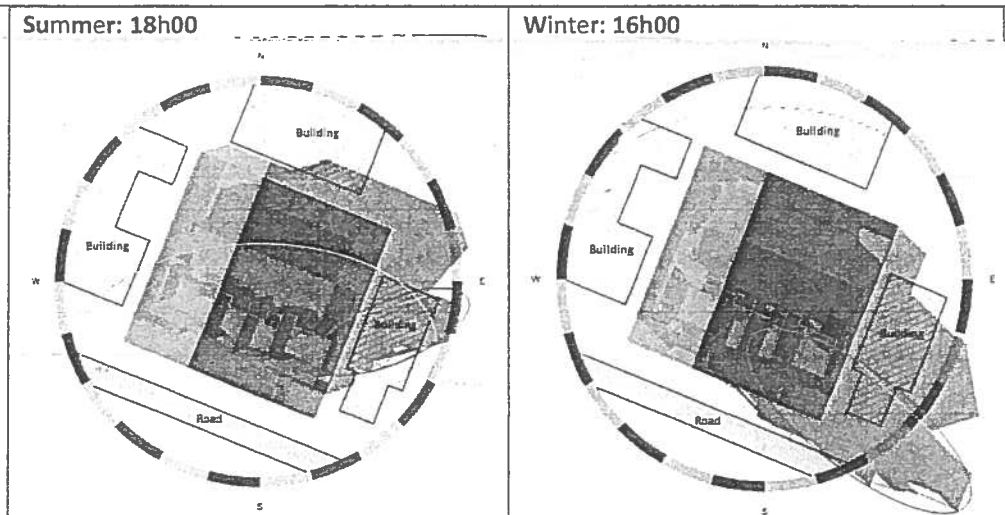


Figure 12: Sketch illustrating the anticipated impact of shade on the adjacent properties during winter and summer

#### Unightly buildings and Property values

As can be derived from the Site Development Plan it is evident that the proposal brings about design elements to consolidate and unite the image of the four units. This in turn will without doubt improve the general aesthetical appearance and attractiveness of all four units. Furthermore the capital investments of more than R1 million per unit will positively contribute towards the general value of all four these units. Subsequently the proposal for the upgrading is anticipated to align with the value, character and image of the dwellings in the immediate area.

It however often happens that affected parties argue that new development proposals will detrimentally affect the value of their properties. In the light of this, notice should be taken of the following article extract from the City of Johannesburg's website:

*"Section 7 of the abovementioned Act is viewed by many as being contentious as it would appear to give a Local Authority the discretion to "refuse" a building plan application on the grounds that it could negatively affect adjacent properties. This probability is described in terms of three "categories" of "impact", as set out in sub-sections (aaa) to (ccc), as can be seen in the following extracts from Section 7:*

*"If a local authority is satisfied that the building to which the application in question relates-*  
*(aa) is to be erected in such a manner or will be of such a nature or appearance that -*  
*(aaa) the area in which it is to be erected will probably or in fact be disfigured thereby;*  
*(bbb) it will probably or in fact be unsightly or objectionable;*  
*(ccc) it will probably or in fact derogate from the value of adjoining or neighbouring properties...*

*...such local authority shall refuse to grant its approval in respect thereof..."*

*"Those conditions that would comprise a genuine "derogation of value" (of adjoining properties) would therefore, of necessity, have to be extreme. An example would be the construction of a corrugated iron "shack" in an affluent neighbourhood. A case where neighbours "don't like" the appearance of a building and postulate that their properties will reduce in value as a consequence is no reason for the Local Authority to consider refusing a building plan application: objective criteria must be consistently applied, and the probability of a reduction in the market value of adjacent properties must be backed up by real, substantial evidence before consideration is given to the refusal of an application on these grounds."*

Thus, in an unlikely event where someone is of opinion that the development proposal will derogate the value of their properties, will have to provide substantial evidence to such effect.

#### Construction risk

The design has been made in such a way that limited structural changes are proposed to the existing main communal building section.

In addition to the above, as part of the construction phase, a structural engineer will investigate and ensure the necessary precautionary measures are in place to prevent any possible damage to the adjacent properties. In such unlikely event insurance will also be taken out to cover any damages.

#### Pragmatic design

In addition to the relaxation of the building line a departure is subsequently also required for the amendment of the existing site development plan. The following plan illustrates the amendment of the Site Development:

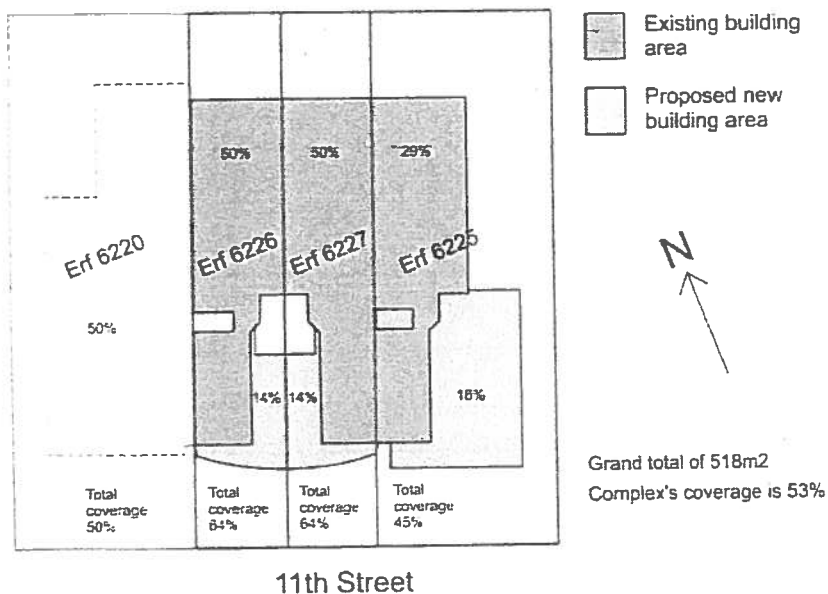


Figure 13: Sketch illustrating the additions to the town house complex resulting to the amendment of the Site Development Plan

#### **Conclusion:**

An application has been made for the relaxation of the eastern side building line of Erf 6225 Hermanus, Voëlkop and the amendment of the Site Development Plan of Erven 6225 to 6227.

The objective of the application is to obtain the required authority to renovate and extend the buildings on Erven 6225 to 6227 Hermanus in such a way that they conform to the general character and scale of that of the properties in existence in 11<sup>th</sup> Street Voëlkop, Hermanus.

The proposed upgrade and additions of the buildings are not foreseen to impact negatively on any of the adjacent properties in any way, but rather contribute to the architectural quality of the street and area.

<b>3. Desirability Criteria:</b>	
<b>a. Land Use Planning Ordinance Requirement:</b>	<p>Section 36 of the Land Use Planning Ordinance, 1985 (Ord. 15 of 1985) stipulates that applications may only be refused if it lacks desirability or if it impacts negatively on existing rights. Furthermore, the Ordinance prescribes that, when a decision is made, the health, welfare and safety of the community, and the built and natural environment must be taken into account.</p> <p>The proposed relaxation of the building line is considered not to impact negatively on surrounding land uses and community needs and will not have any negative impact on the health, welfare, and safety of the nearby community and built and have no negative impact on the natural environment.</p>
<b>b. Character of surrounding area:</b>	<p>The area surrounding the application area is mostly a high income residential area. The application makes provision for the relaxation of a building line to allow for a two meter building line similar to the surrounding properties, including the adjacent erf.</p> <p>The proposal is therefore most compatible with the character of the surrounding area.</p>
<b>c. Location and accessibility of the site:</b>	<p>The application area is located on Eleventh Street. The application area is facing a road and has direct access from Eleventh Street.</p> <p>The proposal is therefore most compatible in terms of the location and accessibility criteria.</p>
<b>d. Land use Policies:</b>	<p>The application is fully consistent with the spatial policy documents relevant to the application area.</p>
<b>e. Impact on existing land uses:</b>	<p>The application will have no negative impact on the current zoning or the abutting land-uses is therefore compatible with the land-uses of the area.</p>
<b>4. Conclusion:</b>	
<p>The application as motivated in this report is regarded desirable within its local context and well integrated within the existing community. It is therefore recommended that this application be approved in terms of Section 15 and 42 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) as applied for here-below:</p> <ul style="list-style-type: none"> <li>• A departure for the relaxation of the eastern side building line of Erf 6225, 11<sup>th</sup> Street, Voëlklip, Hermanus from 3m to 2m.</li> <li>• The amendment of the Site Development Plan of Erven 6225 – 6227, 11<sup>th</sup> Street, Voëlklip, Hermanus as illustrated in the accompanying documentation. (Refer to Annexure G).</li> </ul>	