



OVERSTRAND MUNICIPALITY
ERF 5312, 37 MAIN ROAD, NORTHCLIFF,
HERMANUS: APPLICATION FOR CONSENT
USE, DEPARTURE AND DETERMINATION OF
AN ADMINISTRATIVE PENALTY: PLAN
ACTIVE (obo CJG GELDENHUYS)

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 that the following applications applicable to Erf 5312, Northcliff, have been received:

Consent Use

In terms of Section 16(2)(o) of the By-Law to permit the continuous operation of an existing day care centre.

Departure

In terms of Section 16(2)(b) of the By-Law to exceed the maximum permissible number of children from 30 to 60, and also to deviate from the required number of parking bays to provide 5 parking bays in lieu of 8.

Determination of an Administrative Penalty

In terms of Section 16(2)(q) of the By-Law for the unauthorised land use activities.

Detail regarding the proposal is available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning at 16 Paterson Street, Hermanus.

Any written comments must be submitted in accordance with the provisions of Sections 51 and 52 of the said By-law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before **23 September 2021**, quoting your name, address, contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the **Senior Town Planner, Ms. H van der Stoep** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them to formalize their comment.

Municipal Manager, Overstrand Municipality,
P.O. Box 20, **HERMANUS**, 7200

Municipal Notice No. 117/2021

OVERSTRAND MUNISIPALITEIT
ERF 5312, HOOFWEG 37, NORTHCLIFF,
HERMANUS: AANSOEK OM
VERGUNNINGSGEBRUIK, AFWYKING EN
BEPALING VAN 'N ADMINISTRATIEWE
BOETE: PLAN ACTIVE (obo CJG
GELDENHUYS)

Kennis word hiermee gegee ingevolge Artikels 47 en 48 van die Overstrand Munisipaliteit Gewysigde Verordening vir Munisipale Grondgebruikbeplanning, 2020 dat die volgende aansoeke van toepassing op Erf 5312, Northcliff ontvang is:

Vergunningsgebruik

Ingevolge Artikel 16(2)(o) van die Verordening om die deurlopende bedryf van 'n bestaande dagsorgsentrum toe te laat.

Afwyking

Ingevolge Artikel 16(2)(b) van die Verordening om die maksimum toelaatbare aantal kinders van 30 tot 60 te oorskry, en om af te wyk van die vereiste aantal parkeerplekke ten einde 5 parkeerplekke te voorsien in plaas van 8.

Bepaling van 'n Administratiewe Boete

Ingevolge Artikel 16(2)(q) van die Verordening vir ongemagtigde grondgebruik aktiwiteite.

Besonderhede aangaande die voorstel lê ter insae gedurende wekedae tussen 08:00 and 16:30 by die Departement: Stadsbeplanning te Patersonstraat 16, Hermanus.

Enige kommentaar moet skriftelik ingedien word in ooreenstemming met die bepalings van Artikels 51 en 52 van genoemde Verordening by die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) voor of op **23 September 2021**, met u naam, adres, kontakbesonderhede, belang in die aansoek en redes vir kommentaar. Telefoniese navrae kan gerig word aan die **Senior Stadsbeplanner, Me. H van der Stoep** by 028-3138900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer.

Munisipale Bestuurder, Overstrand
Munisipaliteit, Posbus 20, **HERMANUS**, 7200

Munisipale Kennisgewing Nr. 117/2021

UMASIPALA WASE-OVERSTRAND
ISIZA ESINGU-ERF 5312, 37 MAIN ROAD,
NORTHCLIFF, HERMANUS: ISICELO
NGOKUVUMELA UKUSETYENZISWA KWENDAWO
ESEYIKHO, UKWAHLULA NOQIKELELO YOMDLIWO
(IPENALTHI) YOLAWULO: NGABAKWAPLAN
ACTIVE (egameni likaCJG GELDENHUYS)

UMasipala waseOverstrand ukhuphe isaziso esimayela nemiba yeSoloty lama-47 nelama-48 elingokuHlomela uMthethwana kaMasipala waseOverstrand ngeZicwangciso zokuSetyenziswa Mhlaba ku2020 esithi kufunyenwe izicelo ezisebenza kwiSiza esingu-Erf 5312, eNorthcliff:

Yokusetyenziswa

Ukuvumela ukusebenzisa ngokwemiba yeSoloty le-16(2)(o) loMthethwana elivumela ukuqhutywa komsebenzi owenziwayo kwindawo yokugcina abantwana esele ikhona.

Ukucanda ngokwahlula

Ukwahlula ngokwemiba yeSoloty le16(2)(b) loMthethwana ukudlula inani labafundi ukusuka kuma-30 ukuya kuma-60, nokushenxa kwini lesibonelelo ngeendawo zokupaka ezifunekayo ezi-5 zibe zindawo ezi-8.

Qikelelo Yomdlwalo (Ipenalithi) Yolawulo

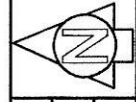
Ukumiselwa kwesohlwayo solawulo kulungiselelwa ukusetyenziswa okungagunyaziswanga komhlaba ngokwemiqathango yeCandelo 16(2)(q) loMthetho kaMasipala.

linkcukacha ezimayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini phakathi kwentsimbi yesi-08:00 neye-16:30 kwiSebe: IziCwangciso ngeDolophu kwa16 Paterson Street, Hermanus.

Naziphi na izimvo mazingeniswe ngokwezibonelelo zeSoloty lama-51 nelama-52 Omthethwana kaMasipala ochazwe ngentla (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ngomhla okanye ngaphambi komhla wama23 kuSeptemba ku2021, uchaze igama lakho, idilesi, iinkcukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zakho zokuhlomla. Imibuzo ngefowuni ingathunyelwa kuMwangciso weDolophu Ophezulu, Nkszn. H van der Stoep kwa028-313 8900. Igosa likaMasipala lingala ukwamkela izimvo ezifunyenwe emva womhla kokuvala. Nabani na ongakwazi ukufunda nokubhala angandwendwela iSebe Lezicwangciso ngeDolophu apho igosa likamasipala lizakuncedisa uhlomle ngokusemthethweni.

Umlawuli kaMasipala, Overstrand Municipality,
P.O. Box 20, **HERMANUS**, 7200

Inothisi kaMasipala Nomb. 117/2021



Scale: NTS
 Drawing Nr: hef5312.drw
 Date: 06/2021

Plan Description:
LOCALITY MAP

Property Description:
**ERF 5312
 HERMANUS**

All distances approximate
 and subject to survey.
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Stads- en Streeksbeplanners
 Town & Regional Planners



**PROPOSED CONSENT USE, DEPARTURES
AND THE DETERMINATION OF AN
ADMINISTRATIVE PENALTY**

ERF 5312 HERMANUS

DIVISION: CALEDON

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

Mrs. C.J.G. Geldenhuys, the owner of erf 5312 Hermanus, has instructed the company Plan Active to apply for a consent use, departures and the determination of an administrative penalty in order to formalise Trudie's Day Care situated on Erf 5312 Hermanus.

Erf 5312 Hermanus is 512m² in extent and it is held by Title Deed number T2465/1987. The subject property has been used for residential purposes as well as a day care facility for a period of approximately 36 years. Trudie's Day Care started with approximate 10 children and it has grown over the years to approximate 32 children in 2015 and it currently accommodates 59 children. The children vary in ages from 0 - 5 year old. Grade R and older children are not being accommodated at the day care

facility. The Grade R children make use of pre-primary schools and creches established in the greater Overstrand Municipal area.

The owner attempted to formalise the day care facility in 2018 but due to the lack of information the application was not finalised. Subsequently we have been appointed to assist in this matter.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for departures from the land use restrictions of Erf 5312 Hermanus.
- Chapter 4, Section 16(2)(o) of the Overstrand Municipality's revised By-law on Municipal Land Use Planning, 2020, for a consent use for Erf 5312 Hermanus.
- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an administrative penalty.

3. GENERAL APPLICATION INFORMATION

3.1 PROPERTY DESCRIPTION

The property is situated on the corner of Main Road and Albertyn Street, Hermanus, adjacent to Oak Terrace, a 3 storey flat development. Please refer to the enclosed locality map.

3.2 ZONING

Erf 5312 Hermanus is zoned Residential Zone 1 and it is partially utilized as such, due to the fact that it is also used as a day care facility. Surrounding properties are zoned for single residential purposes and general residential purposes (Flats). A number of

consent uses have been approved alongside Main Road. The consent uses granted are mostly for professional uses such as medical consulting rooms consisting of doctors, dentists and physiotherapists. A physiotherapist consulting room is located opposite the day care facility on Erf 5586 Hermanus.

3.3 LAND USE

Erf 5312 Hermanus is used for single residential purposes and a day care facility.

Land uses that surround erf 5312 Hermanus are flats, single residential uses and medical consulting rooms. It is therefore evident that erf 5312 Hermanus is surrounded by mixed land uses.

3.4 PROPOSED DEVELOPMENT

- Departures from the land use restrictions of Erf 5312 Hermanus in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020;
- A consent use for Erf 5312 Hermanus in terms of Chapter 4, Section 16(2)(o) of the Overstrand Municipality's revised By-law on Municipal Land Use Planning, 2020.

3.4.1 PROPOSED CONSENT USE

The existing dwelling established on Erf 5312 Hermanus is used for single residential purposes and a day care facility for approximately 36 years, that started as a small venture consisting of only 10 children. Due to the great demand for day care facilities within the Hermanus area and the shortage of such facilities, Trudie's Day Care has grown to such an extent that it is now accommodating 59 children. Even though the day care facility has been operational for 36 years it has not been formalised in terms of town planning legislation. The principal of the day care facility is also the owner of the subject property and she resides within the dwelling house, that is also used as a

day care facility.

The current zoning of Erf 5312 Hermanus is Residential Zone 1. In terms of this zoning a day care centre can be accommodated as a consent use. Please refer to an abstract from the revised Overstrand Municipal Land Use Scheme Regulations, 2020 below:

Consent uses are:

day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and intensive horticulture.”

It is proposed that an application is to be submitted for a consent use for a day care centre that could accommodate 60 children in total. With reference to the attached plan indicating the internal layout of the dwelling, the dwelling can be described as follows:

- The pedestrian access to the dwelling is from Main Road, Hermanus from where it is accessed via an existing enclosed stoep. The master bedroom is the first room to the west from the front door and also has an en-suite bathroom. The master bedroom is occupied by the owner, Mrs. Geldenhuys, whom is also the principle of the day care centre.
- The existing laundry and large kitchen are located at the end of the passage to the east and is also primarily used by the owner / principle.
- The remaining extent of the rooms are used as class rooms labelled 1 to 5 on the attached plan.
- Toilet facilities utilised by the children have also been provided to the satisfaction of the Health Department and the Early Childhood Development Department.

With reference to the above the existing dwelling has been adapted to make provision for 5 classrooms. Children from the ages of 3 months to 5 years are being cared for at the day care facility. The children are divided into suitable age groups into the 5 class rooms, as depicted on the enclosed Internal Layout plan where they would take part

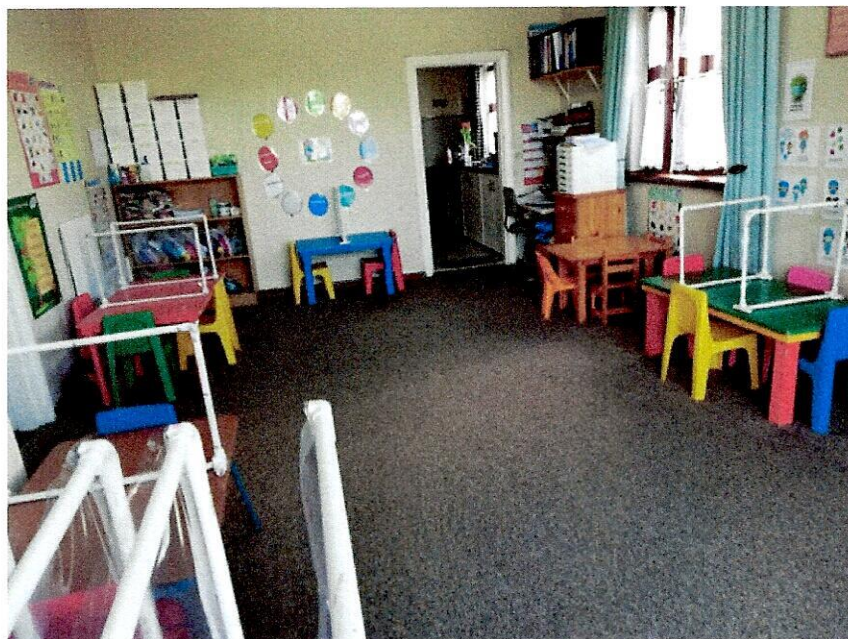
in daily activities.

The current demography of the children attending the day care can be tabled as follows:

Age Group	Number of children
3 – 12 Months	3
1 to 2 years	13
2 to 3 years	10
3 to 4 years	15
4 to 5 years	18

Photographs of each of the classrooms 1 to 5 as labelled on the Internal Layout plan are as follow:

Classroom 1: (Age Group 4-5 years)



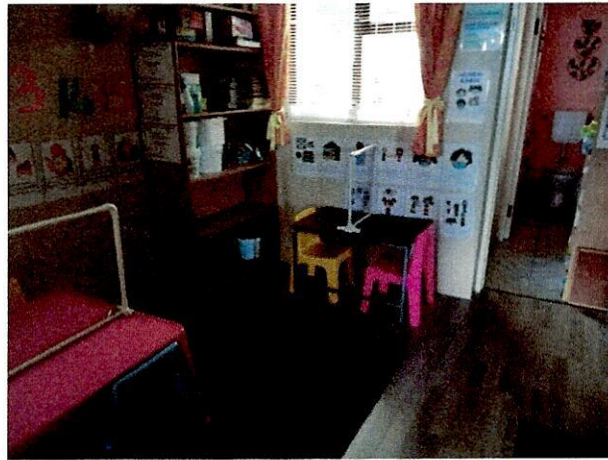
Classroom 2: (Age Group 1-2 years)



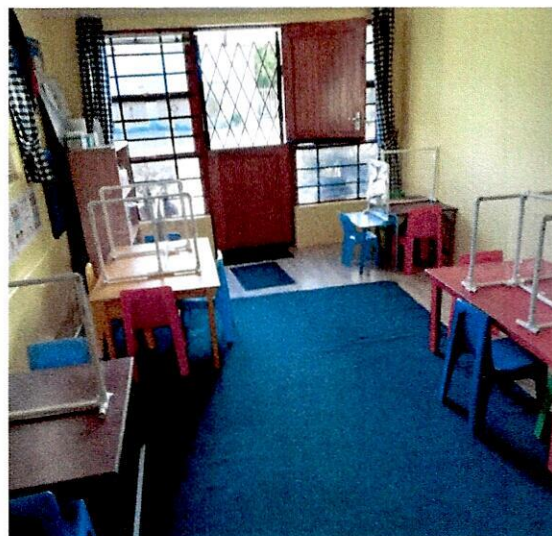
Classroom 3: (Age Group 2-3 years)



Classroom 4: (Age Group 2-3 years)



Classroom 5: (Age Group 3-4 years)



Motivation report

No meals are prepared onsite for the children and no meals or cold drinks are provided by the day care centre. Children attending the day care facility must bring their own lunch boxes from home, that they can enjoy during the course of the day during breaks and set meal times.

The children are being taught skills, participate in arts and crafts, outdoor and indoor play activities and breaks. The children do not all have play time at the same time, but alternate in small groups during the course of their day. Subsequently outside noise is limited and does not cause a nuisance. The day care also complies with all Covid 19 restrictions, that have been imposed. The classroom and outdoor play equipment are well maintained, as can be seen in the photographs depicting the classrooms and the play areas. 3 Dedicated toilets are provided for the use of the children and hand wash basins.



Motivation report

The day care operates from 7:00am to 17:00pm, Monday to Friday. It is closed over the weekends and during the December annual holiday. Children access the day care facility from Albertyn Street where they are scanned and sanitized before entering their classrooms. The parents use a stop and go system within the road reserve of Albertyn Street as indicated on the enclosed Site Plan. 5 Parking bays can be provided onsite with enough manoeuvre space to exit the property safely. The detail of the provision of parking and the stop and drop facility will be dealt with in paragraph 3.7.2 below.

The day care currently makes provision for 6 permanent job opportunities that exclude the owner / principle of the day care. The 6 staff members represent 2 carers from Zwelihle, 1 carer from Mount Pleasant and 3 carers from Hawston. Only one carer from Hawston owns a motor vehicle. The remaining staff members make use of lift clubs and public transport, i.e. taxis to and from their place of employment and their homes.

The following approvals and certificates have been obtained in the past that we have attached as Annexure A:

- Health Certificate issued by the Overberg District Municipality for an early childhood development centre to a maximum of 70 children. Issued 18 January 2021 and is valid until 18 January 2022;
- Certificate of registration of a partial care facility issued by the Western Cape Government, Social Development for maximum number of 70 children. Valid until 19 October 2021;
- Letter of recommendation from Overberg District Municipality for the registration of a day care centre for a maximum of 39 children. Issued 26 May 2015;
- Fire and safety compliance certificate issued on the 13th of May 2015.

Due to the fact that the owner, whom is also the principle, resides at the premises and that the employees arrive before the children at 7:00am, and leave their place of employment after the children have gone home the vehicle manoeuvre space could have a multipurpose. Subsequently the manoeuvre space allocated for the owner and

employees' vehicles will also be used as play area for the children. The total size of the play area is $\pm 115\text{m}^2$ in extent. In terms of ECD (early childhood development) 1m^2 of outdoor space is required per child. With reference to the proposed total number of 60 children only 60m^2 is required, but a play area of $\pm 115\text{m}^2$ will be provided. Cognisance must also be taken of the fact that the children at the day care facility do not have play time at the same time, but alternate in small groups throughout the day.

The day care facility that has been operational for approximate 36 years is a great asset to the community of Hermanus and provides a great service of which there is a shortage of. The day care facility is well managed and does not cause a nuisance. No complaints have been submitted to the Overstrand Municipality against the day care operated from Erf 5312 Hermanus to date.

3.4.2 PROPOSED DEPARTURES

The application was discussed with the Overstrand Municipal Town Planning Department and due to the location of Erf 5312 Hermanus, the most viable option to formalise the day care is by means of a consent use. A consent use for a day care centre however has limitations from which we will have to depart. In terms of Section 16.10.5 of the Overstrand Municipality Land Use Scheme Regulations 2020, the following provisions shall apply where a day care centre is operated on a Residential Zone 1 property:

- a) A maximum of 30 children/babies are permitted subject to compliance with the minimum indoor and outdoor play space according to applicable legislation;
- b) The day care centre must be compliant with all the applicable relevant legislation;
- c) A minimum of 1 parking bay per teacher and a pick-up-and-go facility must be provided to the satisfaction of the engineering services;
- d) Applicable tariffs in accordance with the Municipal budget;

- e) A register of children must be kept and completed, and the register must be produced for inspection on the request of the Municipality;
- f) The hours of operation shall be restricted to 06h00 to 18h00 from Mondays to Fridays and from 06h00 to 13h00 on Saturdays, and

The proprietor of the day care centre shall reside on the property.

The day care facility complies with the restrictions listed above, with the exception of items (a) and (c).

Due to the great demand for day care facilities in the Hermanus area the day care facility has grown to a number of 59 children, that cannot be accommodated elsewhere. Other day care facilities in the Hermanus area have also reached their capacity. We are therefore applying for a departure from the restriction that limits the number of children to 30 to make provision for a maximum of 60 children. The dwelling in its current format can comply with the relevant legislation governing day care facilities to a number of 70 children. We are however applying for a departure to accommodate a maximum of 60 children.

As mentioned earlier in this motivation, 6 people are employed at the day care facility of which only 1 person owns a motor vehicle. In terms of the abovementioned Section of the Overstrand Municipality Land Use Scheme Regulations 2020, 1 parking bay will have to be provided per teacher as well as a stop and drop facility. Subsequently provision will have to be made for 2 parking bays for the owner / principal and 6 parking bays for the employees. 5 of the employees make use of lift clubs and public transport such as taxis. Subsequently only 3 parking bays will be utilised. With reference to the site plan a total of 5 parking bays can be provided on site and a stop and drop facility in Albertyn Street.

With reference to the site plan, only 5 parking bays can be provided onsite instead of the required 8. We are therefore applying for a departure from the provision of the required number of 8 parking bays to only make provision for 5. From the day care's experience during the 36 years of operation it is highly unlikely that more than the 3 parking bays provided on site, will be used. No complaints re the current parking situation have been received from a traffic point of view and from our experience the

day care does not create any traffic congestion problems. Due to the fact that the majority of employees make use of lift clubs and public transport the departure from the required number of parking bays can be supported.

3.4.3 PROPOSED DETERMINATION OF AN ADMINISTRATIVE PENALTY

As mentioned, Trudie's Day Care was established approximately **36 years ago** by a single parent of two children, in an attempt to provide for them. The owner started off with 10 children in the day care facility, which later increased to 32 children in the year 2015 and currently accommodates 59 children. The day care is currently established in the existing dwelling situated on the subject property, where the owner of the property, whom is also the principle of the day care, Mrs Geldenhuys, resides.

The intention is to formalise the day care facility by applying for a consent use, departure from the maximum number of children that can be accommodated, departure from the minimum parking requirements and determination of an administrative penalty. The intention is to rectify the contravention, as a result of a notice of non-compliance served by the Overstrand Municipality to the owner of Erf 5312 Hermanus. The owner now intends to formalise the land use to provide her full co-operation to the Overstrand Municipality to ensure that the necessary approvals are obtained.

In terms of **Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020** an application is made for the determination of an administrative penalty for unauthorised land use. In terms of Chapter 9, Section 90(1), "A person who is in contravention of this By-Law, and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned".

In terms of **Chapter 9, Section 90(3)**, of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 the applicant must, to the satisfaction of the municipality, provide the following:

3.4.3.1. CRITERIA FOR DETERMINATION OF AN ADMINISTRATIVE PENALTY

a) The Nature, duration, gravity, and extent of the contravention

A day care facility was established on the subject property approximately **36 years ago**. The owner, Mrs. Trudie Geldenhuys established the day care in an attempt to provide for her two children as a single parent. The day care started off with 10 children and has increased to now accommodate 59 children between the ages of 3 months to 5 years old.

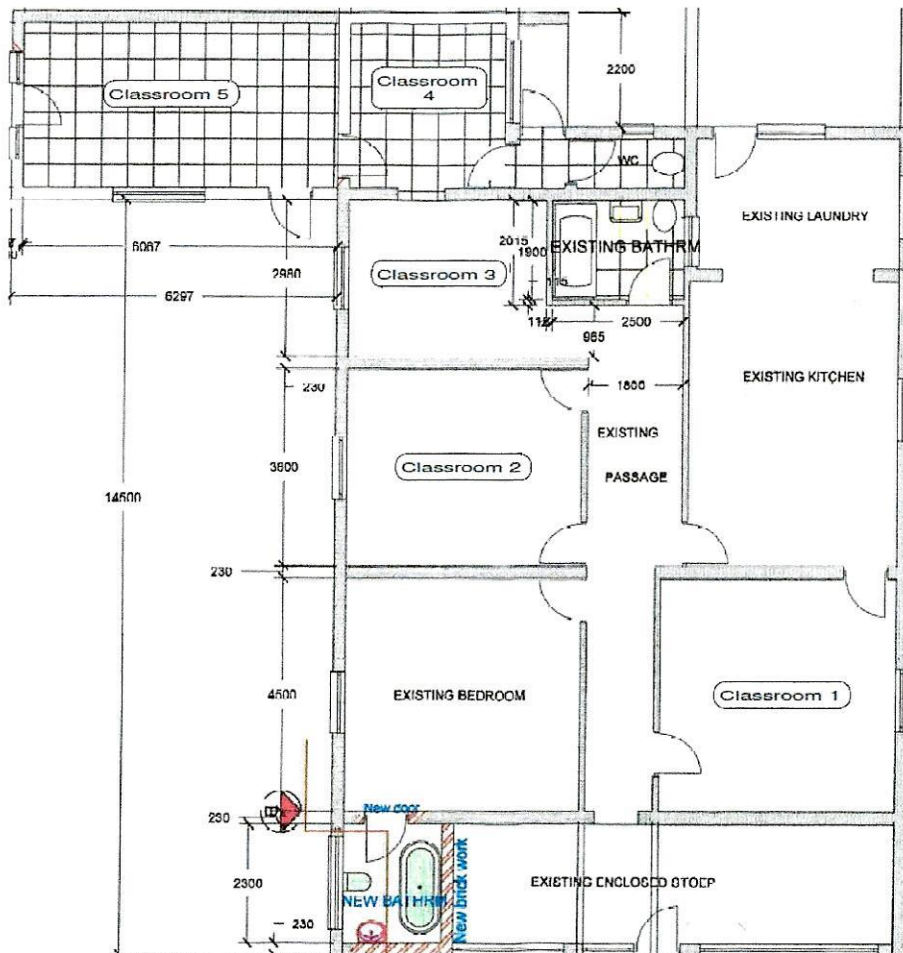
The day care facility currently generates an income for 6 employees and therefore they can also provide for their families. 2 employees are from Zwelihle, 2 employees from Hawston and 1 employee from Mount Pleasant. The 3 employees from Zwelihle and Mount Pleasant commute to work by means of public transport and the two staff members from Hawston travel with one vehicle.

The Day care currently operates Monday to Friday from 7am to 5pm and is closed over weekends, as stated earlier in the report.

The existing day care is established in the existing dwelling on Erf 5312 Hermanus, where the owner/principle resides. The dwelling consists of the following;

- Existing playroom changed Classroom 5;
- Existing study changed to Classroom 4;

- 3 Bedrooms changed to 1 bedroom and Classrooms 2 & 3;
- Existing laundry;
- Existing kitchen;
- Existing living room changed to Classroom 1;
- Two bathrooms;
- Existing enclosed stoep.



The owner of the subject property and principle of the day care has obtained the following certificates for the establishment:

- **Fire safety compliance certificate dated 13 May 2015.**
- **Certificate of registration of a partial care facility in terms of Section 82 of the Children’s Act 38 of 2005 for a total of 70 children.**
- **Certificate from the Department of Health for a maximum of 70 children dated 18 January 2021.**

The owner of the subject property intends to provide her full co-operation to the Overstrand Municipality to rectify the land use as it was always her responsibility to ensure that approvals were obtained for any land uses that is in contravention with the Scheme Regulations.

The nature of the unauthorised land use of the day care is unobtrusive in nature and does not impact negatively on the surrounding properties. No complaints from surrounding property owners have been received. A consent use to establish a day care on the subject property, a departure from the maximum children allowed and a departure from the total amount of on-site parking provided are also applied for.

b) The conduct of the person involved in the contravention

The owner attempted in the past to legalise the land use. Because of her financial position the owner attempted to compile and submit the land use application in her personal capacity. Because of the lack of expertise in handling such a procedure, the land use application was therefore rejected by the Overstrand Municipality. Due to the low profit margins and the financial issues the owner could not afford at the time to appoint a professional town planner to attend to the land use application on her behalf. The owner has however now appointed the company Plan Active Town and Regional Planners to submit an application to rectify the unauthorised land use that is in contravention of the zoning scheme regulations.

c) Whether the unlawful conduct was stopped

The owner is in the process of rectifying the contravention by applying for a consent use, departure from the maximum number of children accommodated, departure from the minimum parking requirements and the determination of an administrative penalty. The day care facility is still operating as the sudden

closure will have dire repercussions. Many parents, children and workers will be devastated as other arrangements will have to be made. New jobs for the employees will also have to be obtained in a very difficult current economic situation. The children that will have to leave the day care facility, if the application is not recommended, cannot be accommodated elsewhere as there is a great demand and shortage of day care facilities in the Hermanus area.

d) A report by a quantity surveyor in matters of unauthorised building/construction

In terms of **Chapter 9, Section 90(5)(b)**, “for land use in contravention of this By-Law – may not be more than 100% of the municipal valuation of the area that is used unlawfully, as determined by the Municipality.”

We request that **no penalty fee** be imposed as the establishment has a very low profit margin. It is important to note that the facility was initially established to help a single parent to provide for her children and has grown to an establishment that creates 6 jobs, that in turn makes provision for the upkeep of extended families. Day care fees are used for the payment of salaries and to purchase stationary consisting of paper, glue, paint, crayons, paintbrushes, toilet paper etc., all supplied by the day care facility. Subsequently the day care facility does not have financial reserves for unforeseen expenses.

If the Overstrand Municipality finds it necessary that an administrative penalty fee be enforced for the unauthorised land use, the required documentation will be submitted in due course to calculate the applicable penalty fee as the property owner cannot afford to incur expenses upfront in the compilation of the required documents.

We however kindly request that there should be **no penalty fee** imposed as the day care facility contributes to a need in the community for the care of small children of working parents.

e) Whether a person involved in the contravention has previously contravened this By-Law or a previous planning law

The owner of the subject property has previously contravened this By-Law and previous planning law. It was mentioned previously that the owner received a notice of non-compliance. The owner herself, due to a lack of funds, attempted to rectify the matter by applying for the day care facility previously, but the application was rejected by the Overstrand Municipality because it was deemed to be incomplete due to a lack of information. The owner was not in a financial position at the time to appoint a professional town planner to attend to an application and therefore the application procedure was not finalised.

We appeal to the Overstrand Municipality to take into consideration the low impact the unauthorised land use has on the surrounding area. It should also be considered that **no** complaints from surrounding property owners have been submitted with regards to the illegal land use. It should also be considered that the day care facility was established by the owner to generate an income for herself and that the owner previously attempted to rectify the contravention of the regulations.

It should also be considered that the day care facility provides job opportunities to 6 people. With the current limited economic opportunities, it would be very difficult for people to find new job opportunities. With the proposed application the owner intends to rectify the defaults on the subject property in order to obtain the necessary approvals for the established day care centre. We therefore respectfully request that a penalty fee **not** be imposed on the property owner for the reasons given above.

3.5 CHARACTER OF THE ENVIRONMENT

The subject property is situated within a mixed use area consisting of flats, medical consulting rooms and single residential erven. Erf 5312 Hermanus is located on the corner of Main Road and Albertyn Street, en route to pre-primary schools, the primary school and the high school. Accessibility to the day care facility is therefore excellent. The day care facility has been in operation for the last 36 years and has been well managed to such a degree that no complaints have been received.

Due to the fact that we are applying to formalise the existing day care facility, that has been in existence for 36 years, there will be no additional impact on the surrounding landowners. The owner / principle resides in the dwelling used for the day care, therefor it is proof that the property is still also used for single residential purposes. The proposal will not change the land use, but it would make provision for an additional use and primary land use of the subject property in order to formalise the existing day care.

With reference to the above the impact on the character of the area will therefore remain unchanged. The proposed consent use and departures will not have a negative impact on the neighbouring properties or mix use character of the area.

3.6 POTENTIAL OF THE PROPERTY (DESIRABILITY OF THE PROPOSED UTILIZATION)

The zoning of the subject property and land use will remain unchanged. We are applying for a consent use and departures to formalise a day care facility that has been in existence for 36 years. The subject property is well located in close proximity to pre-primary schools, a primary school, a high school and the Hermanus CBD. The day care facility is well managed and does not cause a nuisance to the surrounding landowners and is a great asset to the community of Hermanus. The proposed consent

use and departures, to formalise the day care facility will not handicap any future land use applications on Erf 5312 Hermanus. Property values of surrounding erven will also not be negatively affected by the proposed application.

3.7 IMPACT ON EXTERNAL ENGINEERING SERVICES

3.7.1 PROVISION OF SERVICES

All services on the subject property already exist. Additional services are not required and therefore the proposal will not have a negative impact on existing services that are provided by the Overstrand Municipality.

3.7.2 TRAFFIC IMPACT, PARKING AND ACCESS

The existing accesses to Erf 5312, Hermanus will be retained. The property has a vehicular access from Albertyn Street that will also be utilised to access the proposed parking area. A pedestrian access is located on Main Road, but it is only utilised by the owner. There is a stop and drop facility at Albertyn Street from where the children enter the day care facility. The stop and drop facility is located $\pm 20\text{m}$ from the stop sign located on the corner of Albertyn Street and Main Road.

Children and parents do not make use of the pedestrian access located on Main Road. No new access points are proposed. As mentioned before, the school is well managed and clear instructions have been conveyed to the parents how to drop off and collect their children. Children are dropped off and picked up over a period of an hour in the mornings and afternoons. Subsequently the impact on the traffic flow in the area is minimal as currently being experienced and will remain unchanged.

3.8 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.8.1 HERITAGE VALUE

Erf 5312 Hermanus is developed and not earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009).

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 consent use and departures will not have a negative impact on the heritage value of the subject property or the Greater Hermanus area.

3.8.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed consent use and departures do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

3.9 FORWARD PLANNING AND LAND USE DOCUMENTS

The *Overstrand Spatial Development Framework (2006)* earmarks the area where erf 5312 Hermanus is situated, as residential. The zoning of the subject property will remain unchanged (Residential Zone 1) and the application constitutes primarily a consent use and departures. Therefore, the proposed application falls within the existing planning for the Hermanus area.

The Overstrand Municipal Growth Management Strategy (OMGMS) indicates that erf 5312 Hermanus is located within Planning Unit 9. Densification is proposed for this area including a pre-primary school and primary school.

The Overstrand Municipality Spatial Development Framework 2020 earmarks the site as Urban Development. Retaining the zoning and applying for a consent use and departures to formalise the day care facility is in line with the proposed forward planning of the area.

3.10 PLANNING PRINCIPLES

The planning principles of spatial justice, spatial sustainability, efficiency and spatial resilience of this application can be described as follows:

Spatial Justice: The proposed consent use and departures in order to formalise the existing day care facility are in line with the current land use tendencies. A number of pre-primary schools and day care facilities are established within residential areas such as Mulberry Bush Pre-School, Jungle Tots and Country Kids. The proposed consent use and departures to formalise the day care facility will be beneficial to the community, especially working parents and it also makes provision for 6 permanent jobs excluding the owner / principle. There is a great shortage for a community services such as this and the day care facility is ideally located and easily accessible.

Spatial sustainability: The proposed application for the consent use and departures will have no impact on the conservation worthy areas and the land use will be in line with the current land use character of the area.

Efficiency: The day care facility is easily accessible and conveniently located in an urban area in close proximity of schools and the Hermanus CBD.

Spatial Resilience: Spatial resilience is 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 relevant 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.

4. **RECOMMENDATION**

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

- The application is merely to formalise a well-established day care facility that has a good reputation, is extremely well managed, does not cause a nuisance and that has been operational for 36 years;
- It is proposed that the children are limited to 60 and subsequently the total number of children will conform with the certificates already issued by the Departments of Health and Social Development;
- All services on the subject properties already exist;
- The proposed consent use and departures fall within the existing land use tendencies in the area;
- The proposal is compatible with the existing built character of the area;
- The impact on the traffic and services will not increase with this application;
- The proposed consent use and departures will not have a negative impact on the current character and land values of the surrounding erven.
- The property is large enough to make provision for the number of children proposed and subsequently the departure from 30 children to 60 children can be supported.
- Due to the employees preferred method of transport, can the departure from the provision of parking on-site, determined by the number of teachers, be supported. No motor vehicles are parked for lengthy periods outside the

Motivation report

property boundaries, during the hours of operation, and subsequently the proposal will have no impact on traffic flow.

- Due to strict rules that apply for dropping off and collecting children by means of a well implemented stop and drop facility, no congestion in Albertyn Street will be caused.
- Stopping / Parking of parent vehicles in the Main Road is not permitted and it will continue to be enforced.

With regards to the above mentioned it would be appreciated if the Overstrand Municipality would consider the application favourably for the proposed consent use and departures for Erf 5312 Hermanus.



Swings to be relocated to make provision for vehicular manoeuvre space.



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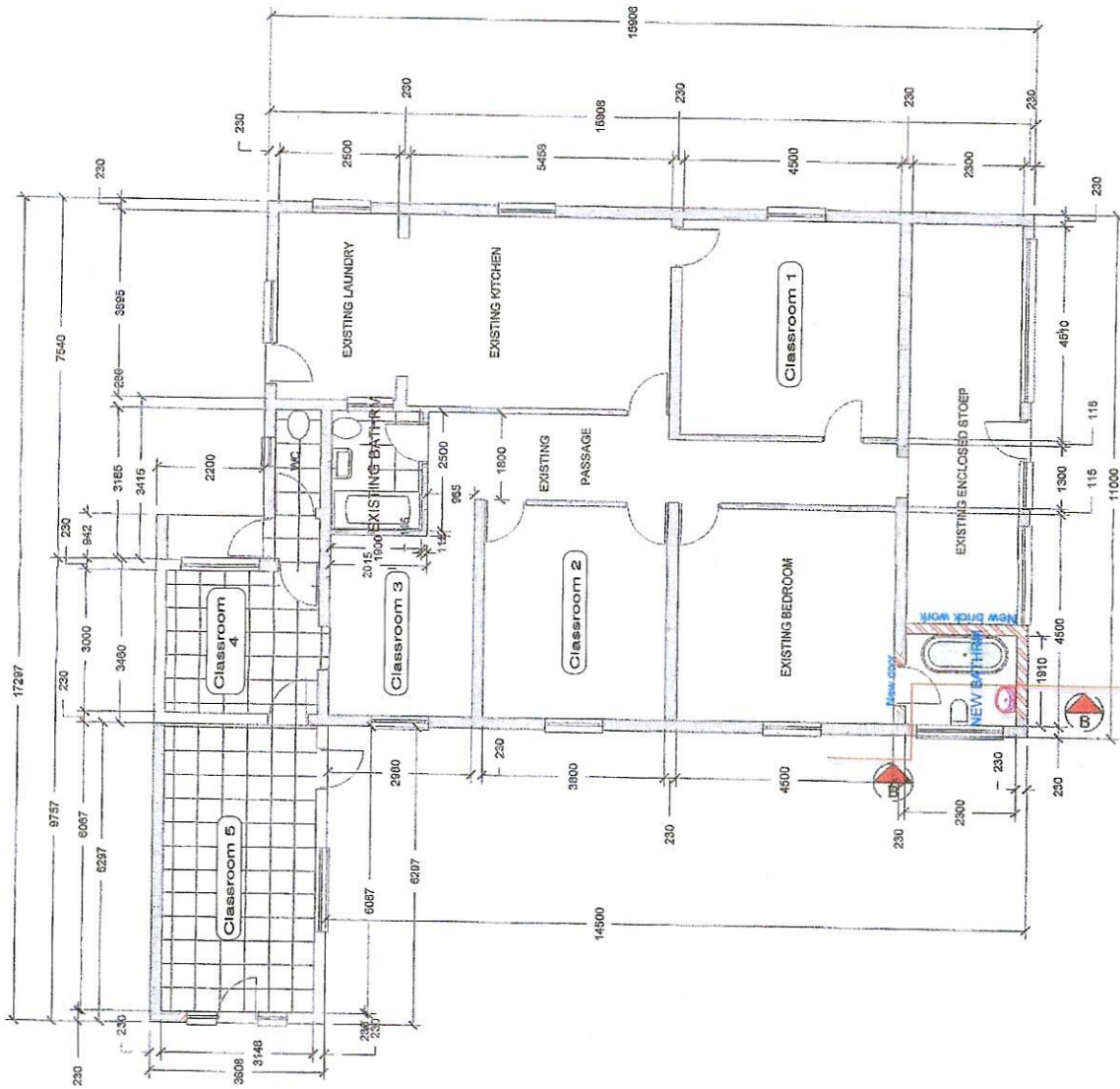
All distances approximate and subject to survey.
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Property Description:
**ERF 5312
HERMANUS**

Plan Description:
**SITE
PLAN**

Scale: **1:200**
Drawing Nr: her5312.dwg
Date: 05/2021





Scale: 1:100
 Drawing Nr: 105312.dwg
 Date: 09/2021

Plan Description:
INTERNAL LAYOUT

Property Description:
ERF 5312 HERMANUS

All distances approximate and subject to survey.
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