



**MEETING OF THE
MUNICIPAL PLANNING TRIBUNAL
(MPT)**

A G E N D A

**DATE:
VENUE:
TIME:**

**25 FEBRUARY 2021
VIRTUAL
10:00**

OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT
Civic Centre
HERMANUS
7200

8 February 2021

TO : THE MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

CONVENING NOTICE : SESSION OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

NOTICE IS HEREBY GIVEN that, due to the Covid-19 lockdown, a meeting of the **Municipal Planning Tribunal (MPT)** will go into session by means of a virtual platform on **Thursday, 25 February 2021 at 10:00**, to consider the attached agenda.

H JANSER (MS)
CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL

Distribution:

1. Ms H Janser (Chairperson)
2. Mr S Müller (Vice Chairperson)
3. Mr S Madikane (Member)
4. Mr H Blignaut (Member)
5. Ms R Louw (Member)
6. Mr R Kuchar (Authorised Official)
7. Mr S van der Merwe (Senior Town Planner)
8. Ms H van der Stoep (Senior Town Planner)
9. Mr H Olivier (Town Planner)
10. Mr P Roux (Town Planner)
11. Secretariat

1. OPENING

2. APPLICATIONS FOR LEAVE OF ABSENCE

3. CONFIRMATION OF MINUTES

3.1 Minutes of a Municipal Planning Tribunal Meeting held on 28 January 2021

4. ITEMS FOR CONSIDERATION

4.1 ERF 790, 17 COVE STREET, DE KELDERS, OVERSTRAND MUNICIPAL AREA: REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE: MESSRS WRAP PROJECT OFFICE ON BEHALF OF HIPPOMANIA (PTY) LTD

Report attached.

4.2 ERF 3010, 93 ATLANTIC DRIVE, ONRUSTRIVIER, OVERSTRAND MUNICIPAL AREA: PROPOSED DEPARTURE : MESSRS ADSQUARED ARCHITECTURE & DESIGN CC ON BEHALF OF JA HOLTZHAUSEN

Report attached.

4.3 PORTION 47 OF FARM HANGKLIP NO.559, HANGKLIP, OVERSTRAND MUNICIPAL AREA: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF MR J DE JAGER ON BEHALF OF THE TRIO DATA SECURITY SERVICES BK

Report attached.

**MUNICIPAL PLANNING TRIBUNAL
(MPT)**

25 February 2021

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4.1**ERF 790, 17 COVE STREET, DE KELDERS, OVERSTRAND MUNICIPAL AREA:
REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE: MESSRS
WRAP PROJECT OFFICE ON BEHALF OF HIPPOMANIA (PTY) LTD****790 GDK****P Roux****10 December 2020****(028) 313 8900****Hermanus Administration****1. EXECUTIVE SUMMARY**

An application was received on 11 February 2020 from Messrs WRAP Project Office on behalf of Hippomania (Pty) Ltd applicable to Erf 790, De Kelders for the following:

- ❖ removal of restrictive title deed conditions D(1)(a), D(1)(b), D(1)(c), D(1)(d) as contained in Title Deed T21764/2018 applicable to Erf 790, De Kelders in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law);
- ❖ application for consent use in terms of Section 16(2)(o) of the By-Law in order to accommodate a restaurant and a flat on ground floor on the property.

The Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the application is attached as Annexure B and the Site Development Plan (SDP) is attached as Annexure C. Title Deed T21764/2018 is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The subject property is currently vacant, and it is zoned as Business Zone 3: Local Business. The property is encumbered with various restrictive conditions and the property owner proposes to utilise the property for mixed use purposes and therefore seeks to remove the restrictive conditions. The applicant also proposes to establish a restaurant on the ground floor with a flat.

4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation for the application is summarised as follows:

- The subject property is situated on the corner of Cove Street and Main Road, De Kelders.
- The property owner bought the property in 2018 in order to develop the property with a restaurant (which will serve meals and alcoholic beverages to customers), deli (which will sell food, alcoholic beverages and non-alcoholic beverages to customers) and a flat on the ground floor.
- There are however restrictive conditions which prohibit the property owner from being able to exercise certain land use rights such as a restaurant. Furthermore, the applicant seeks consent use to develop a restaurant and flat on the ground floor.

- The title deed conditions in Title Deed T21764/2018 were incorrectly inserted upon the first transfer of the erf. Messrs Vorster and Steyn Attorneys was appointed to rectify the errors in terms of Section 4(1)(b) of the Deeds Act and to replace the incorrect conditions with the correct conditions and per the conditions of establishment of the Township. The application makes therefore reference to the correct title deed conditions in the accordance with the conveyancer's report.
- It is proposed to remove the following restrictive title deed conditions:

D(1)(a) – “That this erf be used for residential purposes only. This condition shall not apply to the following erven Nos. 523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866 (785, 786, 787, 788, 789, 790) which may be used for shop purposes or residential purposes and Erf No, 791 which may be used for hotel or residential purposes.”

D(1)(b) – “That not more than half the area of this erf be built upon. In place hereof the following condition shall apply to erven Nos. 523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866 (785, 786, 787, 788, 789, 790) when used for shop purposes and Erf No. 791 when used for hotel purposes: That not more than 2/3rds of the area of this erf be built upon.”

D(1)(c) - “That not more than one dwelling, together with the necessary outbuildings and appurtenances be erected on this erf. This condition shall not apply to erven Nos. 523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866 (785, 786, 787, 788, 789, 790) when used for shop purposes and erf 791 when used for hotel purposes.”

D(1)(d) - “That no building shall be erected within 15 feet of any street line which forms a boundary of this erf or within 5 feet of the boundary on any adjoining erf provided that this latter restriction shall not apply to the common boundary or erven held as one under consolidated title.”

- The restrictive condition was inserted into the Title Deed in 1943 when the prevailing land use rights and commercial rights were limited on commercial erven. Commercial uses in small towns have evolved from 1943 and have begun to allow for a greater variety of options including mixed use developments. A shift occurred in development patterns and the application is to align the land uses on the property with the prevailing development trends and pressures which are experienced in De Kelders.
- The restaurant and deli will seek to provide the residents of De Kelders with a variety of commercial options which will be located nearby and reduce the need to travel to Gansbaai. Further, the property is in a commercial node which is currently being under utilised as most of the erven are vacant.
- The application is also made to allow for a flat on the ground floor. It is envisaged that the property owner will reside on the property which will allow for additional surveillance and security on the premises. The flat only constitutes 18% of the total footprint of the building and is not visible from the street.
- The deli is in line with the definition which constitutes a shop and is in line with the title deed restriction.

D(1)(a) - That this erf be used for residential purposes only. This condition shall not apply to the following erven Nos. 523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866 (785, 786, 787, 788, 789, 790) which may be used for shop purposes or residential purposes and Erf No. 791 which may be used for hotel or residential purposes.

The property owner seeks flexibility to establish commercial development on the property which do not conform to the definition of shop and residential purposes.

The restrictive condition was inserted into the Title Deed in 1943 when the prevailing settlement pattern at the time was of small towns with separated monofunctional land uses which allowed for very limited land use rights. This form of planning is considered inefficient as it created distance between the different monofunctional land uses which increased transportation costs and contributed to congestion in networks of traffic and movement.

The prevailing method of settlement planning are multifunctional and mixed use. The removal of the titled deed condition is therefore bringing the land use rights of the property inline with the prevailing development trends and reduces the need to travel to access a greater variety of services.

D(1)(b) - That not more than half the area of this erf be built upon. In place hereof the following condition shall apply to erven Nos. 523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866 (785, 786, 787, 788, 789, 790) when used for shop purposes and Erf No. 791 when used for hotel purposes: That not more than 2/3rds of the area of this erf be built upon.

The restrictive condition contradicts the coverage permitted under the Zoning Scheme (Business Zone 3: Local Business) which allows for 75%. The restrictive condition only relates to a shop and hotel and therefore justifies the removal thereof.

The prevailing settlement pattern at the time was of small towns, suburban sprawls with low density development. The current planning trends are compaction, coupled with densification in response to urbanisation and the growing population. The removal of the restrictive condition will allow the property owner to increase the coverage on the property which will allowing the property owner to be responsive to the current development trend and pressures.

D(1)(c) - that not more than one dwelling, together with the necessary outbuildings and appurtenances be erected on this erf. This condition shall not apply to erven No. 523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866 (785, 786, 787, 788, 789, 790) when used for shop purposes and erf 791 when used for hotel purposes.

The condition was inserted in the Title Deed when the suburban model of development entailed dwelling which accommodated a single family and where commercial and residential land uses were separated. This was in response to low density development promoted at the time. The increased population rates and urbanisation does not make the past model feasible.

The current planning trends are compaction, coupled with densification in response to urbanisation and the growing population. The removal of the restrictive condition will allow the property owner to increase the density on the property which will allow the property owner to be responsive to the current development trend and pressures.

D(1)(d) - that no building shall be erected within 15 feet of any street line which forms a boundary of this erf or within 5 feet of the boundary on any adjoining erf provided that this latter restriction shall not apply to the common boundary or erven held as one under consolidated title.

The alcohol storage area, lapa and bar encroach on the side- and street building lines which justifies the removal of this restrictive condition.

The offset of building lines was inserted in line with the prevailing suburban form and model used in at the time.

The property is zoned for commercial use, the prevailing trend is to allow for commercial land uses on street boundary. This is due to commercial zoned properties have higher parking requirements and therefore requires less onerous building line restrictions in order to better position the building on site.

The restrictive condition contradicts the coverage permitted under the Zoning Scheme (Business Zone 3: Local Business) which allows:

- Street and side building line: 0m and rear building line of 3m.

Removing the restrictive condition will bring the land use rights in line with the Zoning Scheme Regulations.

- The applicant motivated the application in terms of Section 35(4) of Overstrand By-law on Municipal Land Use Planning, 2015 and Section 42(c) of Spatial Planning and Land Use Management Act, 2013.
- The zoning of the property will remain unchanged which is Business Zone 3: Local Business, and the removal of the title deed restrictions will not exempt the owner of the property from having to comply with the zoning parameters.
- The property is vacant, and the removal of the title deed conditions will incentives the property owner to develop the property. This will also lead to job opportunities and nearby facilities for the community members of De Kelders.
- The application is further motivated to be in line with the relevant forward planning documentation.
- The application is further motivated to be in line with the Planning Principles of SPLUMA.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local Newspaper	Yes	14 August 2020	18 September 2019
Gazette	Yes	14 August 2020	-
Notices	Yes	13 August 2020	18 September 2019

Ward councillor	Yes	13 August 2020	18 September 2019
Total comments	THREE (3)		
Total letters of support	NONE		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly?			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA?			Yes
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?			Yes

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

Name	Date received	Summary of comments
Fire Services	14/08/2020	Annexure E
Solid Waste	11/08/2020	No objection.
Building Department	24/08/2020	No objection
Engineering Services	23/09/2020	Annexure F

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

It should be noted that the applicant for Erf 790, De Kelders has submitted a similar application on Erf 787, De Kelders. One (1) of the objection letters received from Judith Barnard on Erf 606, De Kelders also relates to the application on Erf 787, De Kelders.

Further, objections were received from Tilla Conradie on Erf 871, De Kelders (9 Berg Street) and Francois Bouwer on Erf 861, De Kelders (14 Berg Street).

Please note that the points of concern are grouped together where they are the same.

The objections are summarised in **bold** below:

- We have only recently received notice to provide comments, after the building is standing at roof height. The notice is dated 14 August 2020 and we received it only on 8 September 2020.***

Why has the building operations started and on so far before all the comments on the removal of restriction were requested?

Response from Applicant

The existing building is being constructed in line with approved building plans. The application was sent by registered mail to the objector however, due to the delay of the postage service the postage was delayed.

Response from Town Planner

Comment from applicant is noted. Affidavit was provided from applicant stating that the site notice was on display from 13 August 2020 to 20 September 2020. Further, an advertisement was placed in the local newspaper.

A building plan was approved in 2019 on Erf 790, De Kelders for a shop and construction has commenced based on the building plan approval. The shop as indicated on the building plan is compliant with the title deed restrictions and zoning of the property and therefore did not require the public's comment.

- 2. De Kelders is a peaceful suburb. The development of a restaurant with a liquor licence will automatically cause noise. Persons on holiday have no respect for permanent residences especially with alcohol nearby it will be worst.**

The use of the lapa will negatively affect the nearby guesthouse in terms of noise. The guest house might lose business and it defeats the motivation that the business will create employment.

Response from Applicant

The lapa is only 11m² in extent and will have shelving and a fridge and will mainly be used as a point of sale.

No excessive noise can be projected from the approval and construction of the lapa bar. The facility is likely to attract people from outside of De Kelders who might seek accommodation which will benefit the guest house facilities.

By removing the restrictive condition will allow the property owner to develop the property in line with the location it is in as a commercial node. The subject property is surrounded by erven which are zoned B3 which have the potential to collectively function as a commercial node. The commercial node itself is surrounded by streets and a utility zoned property which together create a buffer to reduce the likelihood of surrounding property owners being exposed to nuisance activities as cited by the objector. It is a generalisation that all guests behave badly and lack respect when under the influence of alcohol.

Response from Town Planner

The objector's statement is a generalisation. Further, the operation of any development (shop or restaurant) on the property will have to remain compliant with the Noise Regulations and Business Act. Should the property owner not adhere to this then the surrounding property owners may submit a complaint to the Municipality or other relevant Authority.

3. ***The are no business hours mentioned, can it be made known, there is a rule that no noise may take place after midnight.***

Response from Applicant

The operation hours of the restaurant and deli will be determined by market needs which makes it difficult to determine before operation have commenced. The objector can be assured that no excessive noise or other nuisance will emanate from the subject property as the management will ensure that all activities are orderly.

Response from Town Planner

As stated previously, any development (shop or restaurant) on the property will have to remain compliant with the Noise Regulations and Business Act, this also relates to business hours.

4. ***There is no speed calming measures in Jubilee Street, all other nearby streets do have them, and this causes additional traffic in Jubilee Street. The restaurant will just cause this to worsen.***

Change in the usage of the zoning will lead to additional traffic in the area especially at the busy intersection. No traffic study was done with the application. Additional late-night traffic will be a nuisance to the residents of the area.

Response from Applicant

The application is not a rezoning of the property, but for the removal of the title deed restrictions and consent use. Therefore, no traffic impact study or assessment is required. The entrance area to the property is projected not to become a nuisance due to the small-scale nature of the proposed restaurant and deli.

The issue regarding the lack of speed calming measures in Jubilee Street must be discussed with the relevant municipal department.

Response from Town Planner

The comment provided by the applicant is agreed with. It should be noted that the business node in general will generate traffic to the area, whether the usage is for a shop, guesthouse or other purposes and that the business node has been in existence for over 20 years, but is currently underutilized, as more erven are developed the number of visitors and traffic will increase.

5. ***With regards to Erf 787, De Kelders no mention is made why the restriction must be removed.***

Response from Applicant

This is not related to the current application.

Response from Town Planner

As noted earlier, the applicant for Erf 790, De Kelders has submitted a similar application on Erf 787, De Kelders. The comment is therefore not relevant to the current application.

- 6. *The lapa bar is immediately next to the pedestrian entrance. This is a huge “no” in a residential area. Cove Street will be a quick stop to use the pedestrian entrance, this will be a concern for road users and pedestrians such as children. If the entrance is open the teenagers might take their chances.***

Response from Applicant

Business zoning allows for a 0m building line on the street- and side boundary. The rationale is to remove the title deed restriction to allow the development to be in line with the properties which are developed in the Overstrand.

The “lapa bar” is used as a point of sale from waiters serving liquor to patrons of the restaurant having meals either inside or outside the restaurant.

The main vehicle entrance to the subject property is on Main Street and not from Cove Street. The pedestrian access will be used on occasion. Movement will therefore be channelled from Main Street and the traffic concerns are unlikely to materialise.

Response from Town Planner

The public will only be able to park on designated parking bays, general traffic legislation is applicable and parking of vehicles by patrons or the general public which is done in contradiction with the relevant legislation will have to be reported to the relevant authority.

- 7. *There is already a restaurant situated in a 100m radius from the proposed one. It will not be viable to have two restaurants in a suburb as small as this one, further bookings can be made to eat at Kloeks@Home argument of little choice is a weak one.***

Response from Applicant

No objection was received from the owner of the Bosveld Restaurant which is situated close to the subject property.

It is submitted by the applicant that it is more viable to have restaurants and commercial enterprises located in proximity to each other for the following reasons:

- it makes more sense and is more feasible for restaurant patrons to go to an area which has a variety of restaurants located in proximity to each other and encourages clients to return to the area rather than a single standalone restaurant which is remotely located;
- many restaurants in proximity to each other attract a wider range of clientele from different areas who collectively also spend money in surrounding establishments such as shops and sleep at overnight

accommodation which would contribute towards the enhancement of the tourism industry;

- the proposed restaurant is of high architectural integrity and will encourage other property owners to make necessary improvements and renovations to properties which would serve as a catalytic force towards the improvement of the built environment in De Kelders in the long term.

Response from Town Planner

Employment opportunities is vital in the current economic climate no matter how minimal the amount of opportunities is created. It is further a basic principle in terms of economics that similar commercial entities are grouped in close proximity as the entities gain access to a variety of customers. Further, the community also gains the benefit of having in a variety of facilities in close proximity.

- 8. Ten (10) parking bays are indicated on plan 3, however on page 8 it is stated that 11,4 parking bays are required. Further, with the flat it amounts to 12,9 and you show 13 parking bays are being provided which is contradictory with the plan provided and do not comply with the required regulations. Where will the extra parking bays be provided in Cove Street or Main Road? Which will lead to congestion and lower property values.**

Response from Applicant

The plan clearly indicates thirteen (13) parking bays are provided and not ten (10), sufficient parking bays are provided.

Response from Town Planner

Parking bays and manoeuvring space as per the proposed SDP is regarded as sufficient.

- 9. The bakery as mentioned also sells everyday goods to residence and visitors, further the CBD is only 2,3km away.**

Response from Applicant

The produce of the bakery is not disputed, and while the CBD isn't far away, a variety of options are beneficial to the surrounding property owners.

Response from Town Planner

The subject property was designated as a commercial property within a commercial node since the development of the De Kelders Township. It stands to reason that a variety of different commercial uses will be developed in the commercial node in order to make optimal use of the zoning and to attract the desired clients.

The commercial and mixed-use facilities will be closer to the existing De Kelders suburb which will be a benefit to the surrounding property owners and the property owners who live further away from the CBD area.

10. What type of liquor will be sold for off site consumption? What are the trading hours?

Response from Applicant

Off-consumption site sale of liquor will not exceed the times of 08:00 to 20:00 Monday to Sunday while the on-consumption site will be from 08:00 to 20:00 Monday to Sunday. The operations will be bound to the Liquor Authority Regulations. A variety of liquor will be sold on the property and may change as demand changes.

Deli's and restaurants do not lead to high noise levels as generated by places of entertainment and therefore it is projected not to change the character of the area.

Response from Town Planner

As stated by the applicant the operations and the sale of liquor will be bound to the Liquor Authority Regulations. It should however be noted that the sale of alcohol will be limited to the operation of the restaurant and therefore should the restaurant's kitchen close then the sale of alcohol must also end.

11. This is not a huge business and therefore employment will be minimal.

Response from Applicant

The restaurant and deli will employ approximately ten (10) people who have an average of two (2) to three (3) dependants, this will make a huge difference. Despite what the objector is describing. The lapa bar will be conducted as a part of the restaurant.

Response from Town Planner

As stated prior, any employment opportunities is vital in the current economic climate no matter how minimal the amount of opportunities is created.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See aforementioned.

9. MUNICIPAL ASSESSMENT OF COMMENTS

All relevant departments provided positive comments.

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 can be motivated in terms of the principles in the following manner:

Spatial Justice

The subject property was established with the development of De Kelders Extension No 1 Township in 1946. The application is therefore on an existing property in De Kelders and therefore it does not apply to this principle.

Spatial sustainability

The application will have no impact on the conservation status of the subject property or the area. The impact on the biophysical environment will also be kept to a minimum. The property will be utilised in line with the zoning as established with the development of the township.

Efficiency

The removal of the title deed conditions will allow the property owner to develop commercial and mixed-use facilities closer to the existing De Kelders suburb which will allow the property owners to travel shorter distances in order to gain access to the facilities. Further, the property owner will be able to develop a higher density which will allow for the optimal use of the existing property.

Spatial Resilience

The development of the property will be in synchrony with the relevant spatial planning policies.

Good administration

The application followed the required planning procedures to ensure that land use activity is in line with Municipal By-Laws and the public 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)

Same as 10.2 above.

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

The application is in line with the Overstrand Spatial Development Framework, 2006 (SDF) as the property is situated in a commercial node indicated for commercial use and the proposed application will not change the use.

The SDF, in line with Provincial and National Government Planning Policies, encourage densification within the urban edge thereby making more efficient use of erven and mixed-use developments. The Title Deed originally allowed for mixed use development on the property. The applicant seeks to remove the restrictions which will enable the property owner to intensify the use of the property while adhering the spirit of the Title Deed and acting in line with the vision of the SDF and spatial planning policies.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

See aforementioned.

10.6 Impact on Municipal engineering services

The existing services are available.

The subject property will have road access from Cove Street.

10.7 Outcomes of investigations/applications i.t.o. other legislation

The subject property was established with the development of De Kelders Extension No 1 Township in 1946. The development of the property will therefore be in line with the original land use and settlement pattern as originally demarcated. No new erven or zoning will be created.

10.8 Existing and proposed zoning comparisons and considerations

The zoning of the subject property will remain Business Zone 3: Local Business in terms of the Overstrand Municipality Zoning Scheme 2013. Application is made to remove restrictive conditions which are inserted in the Title Deed which restricts the use of the property more strictly than the Zoning Scheme. Further, the property owner seeks to gain consent from the Municipality to operate a restaurant from the property and to develop a flat on the ground floor.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

As stated in the motivation and earlier in this report the subject property and the surrounding commercial erven were established with the development of the original township establishment of De Kelders in 1946. In the total township of De Kelders there are only seventeen (17) erven zoned for commercial use, most of the developed commercial erven are developed with restaurants, flats, offices and shops. Given the development pattern and spatial planning policies there is a finite of available commercial erven and it is in the best interest of the community and Municipality that the available commercial erven are developed efficiently and in line with the SDF which promotes mixed use development with higher densities and intensity. To this end the applicant seeks to remove the title deed restriction which restricts that the property be developed in line with the spatial planning policies and the Land Use Scheme.

Title Deed T21764/2018 applicable to Erf 790, De Kelders contains the following restrictive conditions:

D(1)(a) – “That this erf be used for residential purposes only. This condition shall not apply to the following erven Nos. 523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866 (785, 786, 787, 788, 789, 790) which may be used for shop purposes or residential purposes and Erf No, 791 which may be used for hotel or residential purposes.”

D(1)(b) – “That not more than half the area of this erf be built upon. In place hereof the following condition shall apply to erven Nos. 523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866 (785, 786, 787, 788, 789, 790) when used for

shop purposes and Erf No. 791 when used for hotel purposes: That not more than 2/3rds of the area of this erf be built upon.”

*D(1)(c) - “That not more than one dwelling, together with the necessary outbuildings and appurtenances be erected on this erf. This condition shall not apply to erven Nos. 523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866 (785, 786, 787, 788, 789, **790**) when used for shop purposes and erf 791 when used for hotel purposes.”*

D(1)(d) - “That no building shall be erected within 15 feet of any street line which forms a boundary of this erf or within 5 feet of the boundary on any adjoining erf provided that this latter restriction shall not apply to the common boundary or erven held as one under consolidated title.”

In view of the above being stated the following directly relates to Section 39(5) of LUPA, 2014 (Act 3 of 2014):

Will 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 vest in the person as the owner of a dominant tenement?

The restrictive conditions as listed under D(1)(a) - (d) are enforceable by De Kelders Syndicate Limited and the owner of any erf in the township and their successors in title. The De Kelders Syndicate does no longer exist, and the Municipality has acquired its functions in terms of the Title Deed. The retention of the current condition does not hold a value to the Municipality as the Land Use Scheme and the spatial policies of the municipal determine the development parameters of the property and the other properties in the suburb. Further, removal of similar conditions was supported by the Municipality in the past.

Although the conditions are enforceable by the owner of any erf in the township, it will be more desirable for the owners of the specific township that the property is developed which in turn will add value and facilities in the township, this will stimulate the economy of the area and allow property values to increase.

The personal benefits which accrue to the holder of rights in terms of the restrictive condition:

The Municipality gains no benefits in keeping the restrictive condition neither does the property owners of the suburb. Further, the Municipality has the mandate to consider land use applications and development in terms of SPLUMA, 2013 and LUPA, 2015 and its relevant By-Law and Zoning Scheme.

The personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended:

The property owner will be enabled to develop the property in line with the relevant Zoning Scheme which allows for additional uses such as a restaurant, more than one (1) dwelling unit/flat and offices to name a few. The development parameters will change as tabled below:

Building lines	Title deed	Land Use Scheme
Street	4,72m	0m
Side	1,75m	0m
Rear	1,75m	3m
Coverage	2/3rds (66,66%)	75%

From the above it is evident that the property owner will receive additional benefits which will allow the property to be developed in line with the Zoning Scheme which is less restrictive than the Title Deed.

The social benefit of the restrictive condition remaining in place in its existing form and the social benefit of the removal, suspension or amendment of the restrictive condition:

Considering the fact that similar applications have been approved in the past and due to the Overstrand Municipality's SDF which promote mixed use development and intensification of land uses in the Gansbaai (De Kelders suburb) area, there will be no social benefit should the conditions remain in place.

The social benefit that will be retained or generate is employment for the local community, additional commercial rates and service charges will be applicable, and thereby ensuring the improvement of service delivery.

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

It is proposed to remove all conditions which relate to the development of the property and therefore includes four (4) restrictive conditions. The Municipality retains its rights in terms of the relevant Zoning Scheme and other legislation. Further, the rights enjoyed by the adjacent property owners and the suburb is retained in terms of the relevant Zoning Scheme and other legislation. The zoning of the property will remain unchanged and the rights obtained will be subservient to the zoning and other legislation applicable in the Overstrand municipal area. Considering the aforementioned, the rights of the adjacent property owners will remain as per the current legislative framework.

Given the abovementioned evaluation the opinion is held that if the restrictive condition is removed as proposed, it will allow the property owner to in future develop his property in line with the forward planning documents of the Overstrand Municipality and the Zoning Scheme parameters. The opinion is further held that the proposal is sufficiently evaluated in terms of Section 39(5) of LUPA, 2014 (Act 3 of 2014).

12. THE DESIRABILITY OF THE PROPOSAL

The subject property is situated within an identified commercial node as per the OMGMS and SDF. In addition, the SDF promotes a balanced land use mix. The zoning of the property will be retained as Business Zone 3: Local Business and developed as such. The removal of the title deed restrictions is to allow the property owner to develop the property will less restrictive parameter and to allow for a greater variety of land uses in the commercial node.

In the current commercial node, there are already the following commercial uses approved which are indicative of the mixed-use character of the area, land use comprises guest house(s), a shop, offices, self-catering apartments, restaurant and various tourism businesses. Therefore, the removal of title deed restrictions and the proposed consent uses of a restaurant and ground floor flat will not detract from the character and appearance of the surrounding area, given the location of the property in a commercial node in an area with a mixed character. The proposal is considered desirable and not to unacceptably detract from the residential amenity of the adjoining properties.

Considering the aforementioned it is supported that the restrictive conditions in the Title Deed relating to usage of the property be removed.

A building plan approved in 2019 for the subject property complies with the development parameters as depicted in the Title Deed however, the applicant proposes to develop a lapa/storage area on the street- and lateral boundary of the property and therefore requires the removal of the title deed restrictions. Development on the property will default back the development parameters as stipulated in the relevant Zoning Scheme. The Overstrand Municipality Zoning Scheme Regulations, 2014 specifies a coverage restriction of 75%, 3m rear building line and, 0m street- and lateral building line.

It stands to reason that should a development be done on the property that the developer will seek to be maximise the development in line with the development parameters. It should be noted that due to the size and parking requirements the property developer will be hard pressed to fully develop the property to the maximum of 75% with conventional designs. The current proposal as indicated on the SDP has a coverage of 22,6%. Most of the property will be developed to allow for adequate parking and manoeuvring space.

The 3m rear building line in the Zoning Scheme is more restrictive than the 1,75m lateral building line in the Title Deed. The Zoning Scheme will allow for 0m street- and lateral building lines thus which is less restrictive than the 4,75m street- and 1,75m lateral building lines in the Title Deed. As stated earlier similar restrictions have been removed from Title Deeds in the area and several properties have been allowed to develop onto the lateral- and street building lines, therefore the character of the area in the specific node has changed over the years. Other legislative requirements (such as fire safety) will influence the design and planning on the property. It should be noted that the Title Deed does allow for a 0m lateral building line where two (2) adjoining erven are held in consolidated title which the property may do in future as the property owner owns both Erf 787 and the adjoining property Erf 790, De Kelders.

Considering the aforementioned it is supported that the restrictive conditions in the Title Deed relating to development parameters be removed, and the consent to utilise the property for a restaurant and flat, which will enable the property owner to develop in line with the zoning parameters and in line with the SDP as submitted.

It is noted that none of the directly affected property owners objected to the application at hand.

13. RECOMMENDATION

1. that the comments received be noted;
2. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of restrictive title deed conditions with reference to Clauses D(1)(a), D(1)(b), D(1)(c), D(1)(d) as contained in Title Deed T21764/2018, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(o) of the By-Law received from Messrs WRAP on behalf of Hippomania (Pty) Ltd applicable to Erf 790, De Kelders for consent use in order to accommodate a restaurant and a flat on ground floor on the property, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the decisions in paragraph 2. and 3. be subject to the following conditions:
 - (a) that the approval is only for the development and utilisation of the property as indicated on the Site Development Plan (*Plan No 3, file number 19/126*), as submitted with the application;
 - (b) that the conditions in the Services Report (attached as Annexure F), be complied with;
 - (c) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation, and
 - (d) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
5. that the applicant and persons 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 with regard to the above conditions of approval.

14. REASONS FOR RECOMMENDATION

- ❖ The application has followed due procedure.
- ❖ None of the relevant departments have any objection.
- ❖ There are other properties in the commercial node which are developed with mixed use land uses and which are developed onto boundaries, and the removal of these restrictions would therefore not impact on the character of the area.
- ❖ The Overstrand Zoning Scheme Regulations have sufficient control measures when it comes to land use, coverage and building line controls.
- ❖ The removal of the restrictions will be beneficial to the De Kelders Community.
- ❖ The proposal will not negatively impact on existing/vested rights of adjoining property owners.
- ❖ The proposal is in line with the Municipality's SDF.

15. ANNEXURES

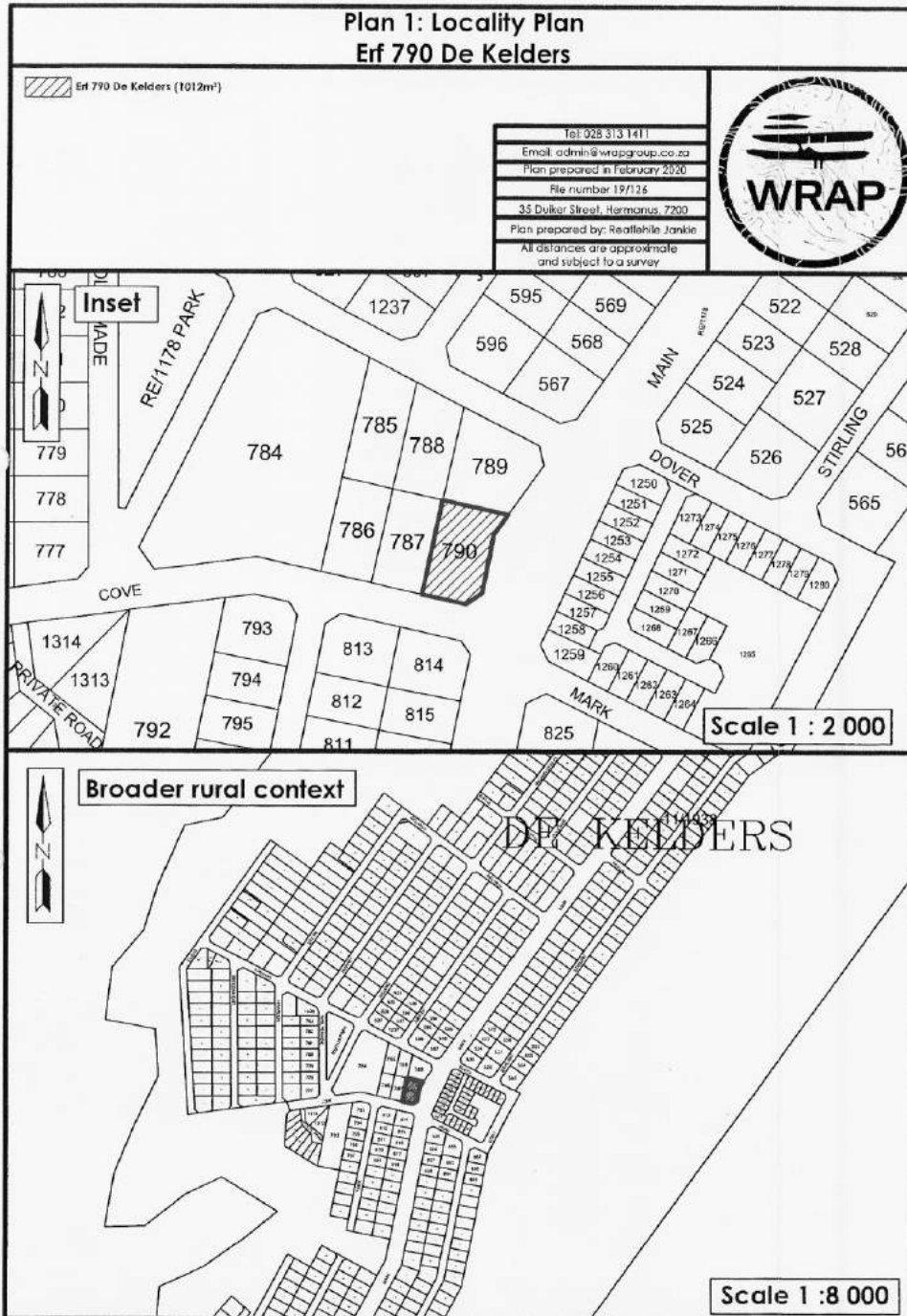
Annexure A: Locality Plan
Annexure B: Motivation Report
Annexure C: Site development Plan
Annexure D: Title Deed T21764/2018
Annexure E: Comment: Fire Services
Annexure F: Services Report
Annexure G: Objections received
Annexure H: Applicant's comment on objections

SIGNATURES**AUTHOR**

Name : **P ROUX**
SACPLAN Reg No: **A/2246/2015**
Signature : _____
Date: _____

REGISTERED PLANNER:

Name: **S VAN DER MERWE**
SACPLAN Reg No: **A/1850/2014**
Signature: _____
Date: _____





MOTIVATION

1. ABBREVIATIONS

OMZS	Overstrand Municipality Zoning Scheme, 2013
SDF	Overstrand Municipality Spatial Development Framework, 2006
OM	Overstrand Municipality
OM By-Law	Overstrand Municipality By-Law on Municipal Land Use Planning, 2015
SDF	Overstrand Spatial Development Framework, 2006
OMGMS	Overstrand Municipal Growth Management Strategy, 2010
LUPA	Land Use Planning Act, 2014
DEADP	Western Cape Department of Environmental Affairs and Development Planning
SDP	Site Development Plan
B3	Business Zone 3: Local Business

2. SUMMARY OF STATUS QUO PROPERTY DETAILS

Property description	Erf 790 De Kelders (refer Plan 1)
Registered owner	Hippomania (Pty) Ltd
Consultant	WRAP Project Office
Restrictive title deed conditions	D (1) (a), D (1) (b), D (1) (c) and D (1) (d)
Property extent	1012m ²
Current zoning	B3

3. BACKGROUND

3.1 Rationale for the submission of the proposal

The applicant bought the subject property in 2018 with the intent of improving it in line with its zoning, which will include a restaurant, deli (shop) and a flat on the ground floor. The intended uses can be summarised as follow:

3.1.1 Restaurant

The restaurant is intended to serve meals and alcoholic beverages to seated patrons.

3.1.2 Deli

The deli is intended to sell food, alcoholic and non-alcoholic beverages to customers who will consume the products on an alternative site.

3.1.3 Flat on the ground floor.

The flat on the ground floor is intended to be used for the residence of the manager.

The title deed contains restrictive title deed conditions which prohibit a restaurant on the subject property for which the removal thereof will be sought. The B3 primary rights which are applicable on the subject property do not permit a restaurant or a flat on the ground floor, hence the application for consent uses. The deli (shop) is permitted as a primary right in the B3 zoning.

3.2 Background to the restrictive title deed conditions

The restrictive title deed conditions contained in title deed T21764/2018 were incorrectly inserted in the title deed upon first transfer of the erf. Voster and Steyn Attorneys was appointed to rectify the error in terms of Section 4 (1) (b) of the Deeds Act and to replace



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the incorrect conditions with the correct conditions and per the conditions of establishment of the Township (refer **Annexure C**). This motivation report therefore makes reference to the corrected title deed conditions in accordance with the conveyancer's certificate and affidavit.

4. DEVELOPERS INTENT

In order for the property owner to obtain the most appropriate land use rights to establish a restaurant, deli and a flat on the ground floor, approval of the following applications is required:

4.1 Removal of the following restrictive title deed conditions

- 4.1.1 D (1) (a)** "That this erf be used for residential purposes only. This condition shall not apply to the following erven Nos.523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866 (785, 786, 787, 788, 789, **790**) which may be used only for shop purposes or residential purposes and erf No 731 which may be used only for hotel or residential purposes"
- 4.1.2 D (1) (b)** "That not more than half the area of this erf be built upon. In place hereof the following condition shall apply to erven Nos.523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866 (785, 786, 787, 788, 789, **790**) when used for shop purposes and erf No.791 hotel purposes: That not more than 2/3rds the area of this erf be built upon"
- 4.1.3 D (1) (c)** "That not more than one dwelling, together with the necessary outbuildings and appurtenances be erected on this erf. This condition shall not apply to erven No. 523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866 (785, 786, 787, 789, 789, **790**) when used for shop purposes and erf No.791 when used for hotel purposes."
- 4.1.4 D (1) (d)** "That no building shall be erected within 15 feet of any street line which forms a boundary of this erf or within 5 feet of the boundary of any adjoining erf provided that this latter restriction shall not apply to the common boundary or erven held as one erf under consolidated title."

The restrictive title deed conditions listed above prohibit the land use rights which are sought by the owner of the subject property hence the request for the removal thereof. These restrictive title deed conditions were inserted in 1943 when the commercial land use rights which were prevalent in small towns were shops, offices and hotels. Commercial land uses in small towns have evolved from 1943 to date to accommodate a greater variety of options such as restaurants, other commercial land uses and flats on the ground floor which create a mixed-use environment. This affords residents and visitors a greater degree of choice which was not the prevailing development pattern in 1943. Considering the shift in development patterns and allocation of land uses which have occurred in this period in De Kelders, the removal of these restrictive title deed conditions is justified to bring this proposal in harmony with prevailing and accepted land use patterns. Section 6 of this motivation report will elucidate the rationale for the removal of the restrictive title deed conditions.

4.2 Application for a consent use for a restaurant.

4.2.1 The OMZS defines a restaurant as follow:

"restaurant" means a licensed business in which mainly meals and beverages are primarily sold to seated patrons, and includes the on-site consumption of liquor but does not include premises used exclusively as a bar, a pub or tavern"



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The applicant envisages establishing a deli and a restaurant on the subject property since there are limited food premises in De Kelders with most being concentrated in the Gansbaai CBD. This coincidentally leads to residents of De Kelders having to travel to Gansbaai to access restaurants, food premises and alcoholic beverages which increases the pressures on the networks of movement and traffic. The subject property is located in a commercial node of De Kelders which is underutilised as most of the erven in the node are vacant and only one bakery exists in the node. This proposal for a restaurant and deli is therefore ideal in this location and will contribute to providing residents in De Kelders with a variety of choice and accessing a variety of commercial land uses. WRAP is also appointed to compile and submit an on- and off consumption liquor license for the deli/restaurant.

4.3 Application for a consent use for a flat on the ground floor.

4.3.1 The OMZS defines a flat as follow:

"flat" means a building containing three or more dwelling units, together with such outbuildings as are ordinarily associated therewith; provided that in those zones where flats are permissible, less than three dwelling units shall also be permitted;

The manager will reside permanently in the flat on the ground floor as that would be additional surveillance of the premises after working hours. The flat constitutes 18,9% of the footprint of the entire building and is not visible from the two streets. This proposal therefore maintains the dominance of the commercial land uses on the subject premises and the visual appearance of the dominance of the commercial land uses. The tenant/manager seeks to reside on the subject property to avoid incurring transport costs to work. A flat on the ground floor which is subservient to the commercial land use can be regarded as compatible with the commercial character of the area.

4.4 The deli is a shop which is defined as follow.

4.4.1 *"shop" means a property or part of a property used for the retail sale of goods, items and services to the public, including a retail concern where goods which are sold are manufactured and repaired; provided that the floor space relating to such manufacture or repair shall not exceed 50% of the floor space of the shop; "shop" does not include an industry, service trade, motor repair garage, service station, restaurant, adult entertainment business or sale of alcoholic beverages, and if such uses are included on the property they shall be regarded as separate uses subject to such separate development rules as may be determined by Council"*

The proposed deli complies with the definition of shop which is a primary right in the zoning of B3. The rationale for the proposal for a deli is to afford residents in De Kelders with an option of purchasing consumer goods in proximity, without having to travel to the Gansbaai CBD.

4.5 Considering the above, application is made for the following:

- 4.5.1** **Removal of the restrictive title deed conditions** D (1) (a), D (1) (b), D (1) (c) and D (1) (d) from title deed number T21764/2018 in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015;
- 4.5.2** **Consent use** for a restaurant in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015; and
- 4.5.3** **Consent use** for a flat on the ground floor in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015.



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5. LAND USE FABRIC

The subject property is located in one of two small commercial nodes in De Kelders which have a zoning of B3. The commercial zoning conferred on the subject property by the town planners who initially planned the settlement illustrates that the subject property and the commercial node has always been intended to dominantly be used for commercial purposes. This proposal aimed at unlocking additional commercial land use rights for a restaurant on the subject property is in harmony with the initial intent of the subject property and the commercial character of the node where the subject property is located.

6. RESTRICTIVE TITLE DEED CONDITIONS PROPOSED FOR REMOVAL

The removal of the restrictive title deed conditions which is a relevant consideration in terms of Section 35 of the OM By-Law, is motivated as follows:

6.1 Restrictive title deed condition

D (1) (a) *"That this erf be used for residential purposes only. This condition shall not apply to the following erven Nos.523, 524, 525, 526, 527, 825, 826, 827, 864, 565, 866 (785, 786, 787, 788, 789, 790) which may be used only for shop purposes or residential purposes and erf No 731 which may be used only for hotel or residential purposes"*

6.1.1 Rationale for the removal

The restrictive title deed conditions permit the proposed deli (shop) and residential land uses however does not permit a restaurant. This restrictive title deed condition is proposed for removal to permit the restaurant land use right which is sought by the property owner.

6.1.2 Background

This restrictive title deed condition was inserted into the title deed in 1943 when the prevailing settlement pattern of small towns was separated monofunctional land uses which allowed very limited land use rights. This form of planning has widely been accepted as being inefficient as it created distance between the different monofunctional land uses which increased transportation costs and contributed to congestion in networks of traffic and movement.

6.1.3 Current development trends

The monofunctional and separated land uses as upheld by the title deed restriction are no longer the prevailing method of settlement planning due to the inefficiencies highlighted in Section 6.1.2 which was prevalent in 1943. The current prevailing principles of settlement planning promote a mixture of complementary land uses to create settlement which enable inhabitants to "sleep, work and play". This reduces the need to travel extended distances to access land uses as that is the case with De Kelders residents who need to travel to Gansbaai to access a greater variety of restaurants and food premises due to limited availability in De Kelders.

6.2 Restrictive title deed condition

D (1) (b) *"That not more than half the area of this erf be built upon. In place hereof the following condition shall apply to erven Nos.523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866 (785, 786, 787, 788, 789, 790) when used for shop purposes and erf No.791 hotel purposes: That not more than 2/3rds the area of this erf be built upon"*



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6.2.1 Rationale for the removal

The proposed building does not exceed 2/3rds of the subject property, however this title deed condition is proposed for removal as it contradicts 75% permissible coverage under the zoning of B3. The restrictive title deed condition also limits the coverage of a shop and hotel with no reference to a restaurant land use right which is sought, which justifies the removal thereof.

6.2.2 Background

This restriction on the coverage of buildings which inserted in 1943 when the prevailing model of development was suburban sprawl characterised by low density development.

6.2.3 Current development trends

The current development trends are compaction coupled with densification in response to urbanisation and the growing population. This development trend therefore necessitates the relaxation of the of tight coverage restrictions to more relaxed ones as enabled in the modern OMZS. The removal of the coverage restrictive title deed condition will enable the property owner to increase coverage on the subject property in the future in response to changing conditions and pressures as enabled by the OMZS.

6.3 Restrictive title deed condition

D (1) (c) "That not more than one dwelling, together with the necessary outbuildings and appurtenances be erected on this erf. This condition shall not apply to erven No. 523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866 (785, 786, 787, 789, 789, **790**) when used for shop purposes and erf No.791 when used for hotel purposes."

6.3.1 Rationale for the removal

The title deed condition allows more than 1 dwelling unit when the subject property is used for shop and hotel purposes. The land use rights of a restaurant which is sought is not referred to in this condition which informs the basis of the proposed removal of the restrictive title deed condition.

6.3.2 Background

This restrictive title deed condition was inserted in the title deed when the suburban model of development entailed a dwelling which accommodated a single family and where commercial and residential land uses were separated. This was in response to low density development promoted at the time.

6.3.3 Current development trends

The increased rates of urbanisation coupled with the growing population does not make this model of development feasible due to the need for additional residential units within the urban edge. The proposed flat on the subject property is also intended to enable a mixed land use environment on the subject property which is generally synonymous with commercial nodes.

6.4 Restrictive title deed condition

D (1) (d) "That no building shall be erected within 15 feet of any street line which forms a boundary of this erf or within 5 feet of the boundary of any adjoining erf provided that this latter restriction shall not apply to the common boundary or even held as one erf under consolidated title."



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6.4.1 Rationale for the removal

The alcohol storage area, lapa and bar encroach on the side and street building line which justifies the removal of this restrictive condition.

6.4.2 Background

This restrictive title deed condition was inserted when the prevailing development model was for buildings to be offset from the street and side boundary as that created a peculiar suburban form.

6.4.3 Current development trends

Considering that the subject property is zoned for commercial purposes, the prevailing development trend is for commercial land uses to sometimes be located close to the street boundary. This is due to commercial land uses having higher parking requirements which reduces space available for buildings and requires less onerous building line restrictions for the commercial land uses to be viable.

7. REQUIREMENTS FOR THE AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE CONDITIONS

Section 35(4) of the Overstrand By-Law on Municipal Land Use Planning, 2015, highlights the relevant Municipal considerations for the removal, suspension or amendment of restrictive title deed conditions. Herewith are the relevant considerations assessed in conjunction with this proposal:

7.1 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 personas of the owner of a dominant tenement.

This restrictive condition does not have a beneficial financial or other value for the property owner or anyone else.

7.2 The personal benefits which accrue to the holder of rights in terms of the restrictive condition.

There are no personal benefits which accrue to the holder of these restrictive title deed conditions.

7.3 The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if removed.

7.3.1 The property owner will be able to derive an income from the proposed commercial enterprise; and

7.3.2 The proposed commercial establishment will provide the property owner with a sense of purpose.

7.4 The social benefit of the restrictive condition remaining in place.

There is no social benefit if the restrictive conditions remain in place.

7.5 The social benefit of the removal of the restrictive condition.

7.5.1 The removal of the restrictive title deed conditions will unlock employment opportunities as restaurants and delis are labour intensive;

7.5.2 Restaurants and delis attract people from different socio/economic and cultural backgrounds which leads to strengthening communal ties and accelerating societal integration which is of benefit to the society.



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

There are no rights which are enjoyed by any member of the society and the removal of these restrictive conditions do not constitute a deprivation of rights.

8. ZONING

The following zoning parameters were assessed in conjunction with the B3 zoning as this is a relevant consideration in terms of Section 66 (1) (q) of the OM By-Law:

Business Zone 3: Local Business (B3)			
	Parameters	Proposal	Comply/ deviate
Primary use	shops, flats (above ground floor), offices	Deli (shop)	Comply
Consent use	bottle store, business premises, clinic, conference facility, flats (on ground floor) , town housing, guest house, hotel, informal trading, institution, place of assembly, place of entertainment, place of instruction, place of worship, recreational facilities, residential building, restaurant , rooftop base station, sale of alcoholic beverages, service station, service trade, transmission tower.	<ul style="list-style-type: none"> • Consent use for a restaurant; and • Consent use for a flat on the ground floor. 	Comply
Land Use Restrictions			
Coverage	The maximum coverage for all buildings on the land unit is 75%. The definition of coverage is the following: "Coverage" means the total area or percentage area of a land unit which may be covered by buildings and covered by a roof.	22,6%	Comply
Floor factor	The maximum floor factor is 1.5 (1518m ² permissible)	229,3m ² proposed.	Comply
Height	(i) The maximum height of a building measured from the base level to the top of the roof is 8,5 m; (ii) The maximum number of storeys is 2; and (iii) Earth banks and retaining structures shall comply with 16.6.	(i) 7,2m; (ii) 1 storey; and (iii) N/A	Comply
Setback	(i) Council may require that all buildings and structures on the property are set back at least 6,5 m from the centre line of the street; (ii) Where special circumstances exist, Council may require a wider setback; and (iii) The general provisions of 16.2 apply.	(i) Subject to the request of Council; (ii) Subject to the request of Council; and (iii) Comply	Comply



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Building lines	<p>(i) The street building line is 0 m; provided that a 3,5 m building line applies where fuel pumps are erected;</p> <p>(ii) The side building line is 0 m provided that where any Business Zone 3 abuts another zone, the side building line is 3,0 m;</p> <p>(iii) The rear building line is 3,0 m; provided that where any Business Zone 3 abuts another zone, the rear building line is 4,5 m;</p> <p>(iv) Provided that Council may require more restrictive building lines in the interests of public health or safety or the environment or in order to enforce any applicable law or right; and</p> <p>(v) The building line exemptions in 16.1 apply.</p>	<p>(i) 0m;</p> <p>(ii) 0m;</p> <p>(iii) N/A as the subject property has two side building lines; and;</p> <p>(iv) Subject to the request of Council; and</p> <p>(v) Comply</p>	Comply
Window and door placement	<p>(i) Where a 0 m building line applies and where a wall of a building is erected 1,0 m or less from the side or rear building line, no door or window shall be permitted in the wall concerned; and</p> <p>(ii) Any portion of the building which contains a door or window onto a side or rear boundary, shall be placed at least 1,5 m away from such boundary. The portion of the building that is required to be set back shall include the door or window, together with such additional length of wall as is required to make up a total of 3,0 m.</p>	Comply; and Comply.	Comply
Parking and access	<p>Flats 1,5 bay per 1-bedroom dwelling unit;</p> <p>Restaurant and shop 1 bay per 100m² GLA.</p>	<p>1,5 parking bay is required for the flat on the ground floor.</p> <p>The GLA is 190,4m² and 11,4 parking bays are required.</p> <p>A total of 12,9 parking bays are required and 13 are provided.</p>	Comply
Loading Bays	<p>Loading bays must be provided on the land unit in accordance with 17.2. The minimum off-street parking loading requirements are 1 bay per 500m² for the first 1 000 m² of GLA, thereafter 1 bay per 1 000 m².</p>	<p>The subject proposal does not reach the threshold of 500m² therefore no loading needs to be provided.</p>	Comply



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Screening	(i) The Council may require screening in accordance with 16.7; and (ii) Where a Business Zone 3 abuts a residential zone, Council may require a suitable wall of no less than 1,8 m in height to be erected on the common boundary.	(i) N/A; and (ii) N/A.	Comply
Site development plan	Council may require that a site development plan be submitted for approval in accordance with 16.3.	Submitted with the proposal.	Comply

9. SERVICES

The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and can be illustrated as follows:

9.1 Solid waste

Solid waste is collected by the OM on a weekly basis in De Kelders and the proposal will derive the same benefit.

9.2 Electricity

The proposed building will connect to the existing electricity network in De Kelders.

9.3 Water

The proposed building will connect to the existing reliable potable network operated by the OM in De Kelders.

9.3.1 Sewage

Sewage will be disposed of by means of a conservancy tank.

9.4 Access and egress

Vehicular access is proposed to be gained from Main Street and Pedestrian access is proposed to be gained from Cove Street.

10. NEED AND DESIRABILITY

The need and desirability for the approval and implementation of this proposal will be illustrated in accordance with Section 66 (1) (c) of the OM By-Law and DEADP Provincial Support Document on Relevant Considerations, 2015. The purpose of addressing the desirability of this proposal is to place the decision maker in a position to consider whether any positive advantages will accrue to the area or community by approving this application.

10.1 Need and desirability

Desirability also refers to two components where need refers to "time" and desirability refers to "place". In other words, is it the right time and is it the right place for locating the type of land use/activity being proposed? The location of a restaurant and deli is ideal at this "time" due to the limited availability of the land uses in De Kelders. The location of the proposed commercial land uses in a commercial node of De Kelders is ideal as it is in harmony with the prevailing commercial zonings of the area.



MOTIVATION

10.2 Impact on views, sunlight and character of the area

The subject property is currently vacant and the vegetation on it is not pruned which leads to the property being visually unattractive. The proposal for a building of high architectural integrity on the subject property would transform the derelict and unsightly site to a property which contributes to the aesthetic appeal of the neighbourhood.

10.3 Economic impact

A restaurant and deli are projected to contribute to unlocking employment opportunities and contribute to the reduction of poverty which is a positive economic impact.

10.4 Impact on heritage

None of the provisions in the National Heritage Resources Act, 1999 are triggered by this proposal.

10.5 Environmental impact

No listed activities in terms of the National Environmental Management Act are triggered by this proposal.

11. SPLUMA MOTIVATION REQUIREMENTS

This application as a relevant consideration in terms of Section 42 (c) of SPLUMA is motivated as follows:

11.1 Public interest

The approval and implementation of this proposal will lead to additional rates and taxes being paid to the OM and SARS which will be used for service delivery and public expenditure. The approval and implementation of this proposal is therefore in the public interest.

11.2 Constitutional transformation imperatives of the state

The constitutional transformation imperative of the state includes creating an enabling environment for the private sector to establish and expand commercial enterprises and contribute to economic growth in De Kelders. The approval of this proposal would enable the owner of the subject property to implement the constitutional transformation imperative prescribed by the state.

11.3 Social impact

The subject restaurant and deli will provide residents from different socio, economic and cultural backgrounds with an opportunity to interact with one another. This will contribute to social cohesion which is a positive social impact.

11.4 Impact on safety, health and wellbeing of the surrounding community

The additional people who will enter and egress the subject property will be additional surveillance in the community which is projected to enhance the wellbeing of the community due to the decrease in crime which is projected.

11.5 Opportunity costs

The approval and implementation of this proposal will not result in an unacceptable opportunity cost for other property owners in De Kelders.



MOTIVATION

11.6 Respective rights and obligations of all those affected

The land use rights and obligations of all those affected will be maintained if this proposal is approved. This proposal also acknowledges the mutual rights of neighbours to freely use and enjoy respective properties for commercial purposes on the one hand and for the proposed restaurant and deli to not unduly infringe on the rights which neighbours enjoy. The proposed establishment of a restaurant and deli within a commercial node and a flat on the ground floor cannot be regarded as infringing on the rights of affected parties due to the compatibility of this land use right sought with the surrounding. Restaurants unlike places of entertainment do not emit excessive noise and do not lead to neighbours occupying respective properties in comfort.

12. SPATIAL PLANNING POLICIES

The consistency of this proposal with all relevant spatial planning policies was investigated. This is a relevant consideration in terms of Section 66 (1) (h), (i) (u) (k) and (l) of the OM By-Law:

12.1 PSDF

The aim of the PSDF is to communicate the governments' sound spatial development intentions to the private sector and civil society. Policy proposal in the PSDF which are pertinent to this proposal are recorded below.

12.1.1 The PSDF promotes the protection and enhancement of the prevailing sense of place and settlement patterns.

The prevailing sense of place within proximity of the subject property are residential and commercial land uses/zonings which makes the location of the subject property characterised by a high degree of mixed land uses in De Kelders. The land use rights for a restaurant, deli and flat on the ground floor sought in this application are in harmony with the prevailing mixed-use sense of place prevalent in the area.

12.1.2 Accessibility at all scales is promoted.

The subject property enjoys vehicular access from Main Street and pedestrian access from Cove Street. The proposed restaurant and deli will be promoted on a website which can be accessed to make bookings. This therefore makes the services on the subject property accessible to all and is aligned with the PSDF principles of promoting accessibility at all scales.

12.1.3 The promotion of an appropriate land use mix in a settlement is highlighted as integral.

This proposal entails an appropriate mixture of commercial and a subservient residential land use which enhances land use mixes in a settlement as prescribed by the PSDF.

12.2 SDF

The SDF identifies areas where growth and changes are projected and contains policy proposals which ensure that this occurs to the benefit of the inhabitants of the area. Policy proposal in the SDF which are pertinent to this proposal are recorded below.

12.2.1 Promote tourism development

The establishment of a restaurant and deli is complementary to the tourism as tourists visit the establishments. The approval and implementation of this proposal will therefore contribute to the promotion of tourism development.



MOTIVATION

12.2.2 Restrict development within the well-defined urban edge

The subject property is located within the well-defined urban edge as prescribed by the SDF.

12.2.3 Maintain the unique character of the village

The proposed buildings are within the architectural scale and character of the surrounding buildings and will therefore maintain the unique village character of the area.

12.2.4 Spatial proposal plan

The subject property is designated for commercial purposes and the commercial land uses which are sought by the property owner are in harmony with this designation.

12.3 OMGMS

The OMGMS aims to guide a process which would institute the enhancement of the quality and efficiency of the built environment. Policy proposal in the SDF which are pertinent to this proposal are recorded below:

12.3.1 Support the development of integrated living environments

The proposal for a restaurant, deli and a flat on the ground floor promote integrated living environments.

12.3.2 Ensure that development proposals are in harmony with the immediate surrounding scale and character.

The height, scale, bulk and architectural styling of the subject property is in harmony with the immediate surrounding character.

12.3.3 Spatial proposal plan

The subject property is designated as a local economic opportunity area in the spatial proposal plan. The proposed restaurant and deli is in harmony with this designation.

13. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains 5 uncompromisable planning principles which each development application must be guided by. Policy proposal in SPLUMA which are pertinent to this proposal are recorded below:

13.1 Spatial justice

The approval and implementation of this proposal will benefit the historically marginalised through employment creation and skills development. The proposed restaurant and deli also present an opportunity for socio-cultural integration which is a corner stone of spatial justice. The approval and implementation of this proposal will therefore play a pivotal role in addressing the spatial development imbalances of segregation caused by apartheid spatial and land use planning.

13.2 Spatial sustainability

This proposal does not entail the encroachment on agricultural land, environmentally sensitive areas or biodiversity rich areas and can therefore be regarded as spatially sustainable.

13.3 Efficiency

The proposal promotes the optimal use of energy and space on the current derelict property which has great commercial development potential. The optimal use will however be within the engineering services capacity limits of the site and promote efficiency.



Site Plan Erf 790 De Kelders (First Floor Plan)

Plan prepared by: **Reedliffe Jankie**
 based on plans by **Piniso**
 Architectural Design Office
 All distances are approximate
 and subject to a survey

35 Duiker Street, Hermanus, 72



Scale 1 : 125

08 028 313 1411
 Email: admin@wragroup.co.za
 Plan prepared in March 2008
 File number: 19/126

10 280 Boundary line
 Approved 1.8m high boundary Fence

28 500 Boundary line
 Approved 1.8m high boundary Fence

19 210 Boundary line
 Approved 1.8m high boundary Fence

28 380 Boundary line
 Approved 1.8m high boundary Fence

4.75 Building line T.D.

4.75 Building line T.D.

4.75 Building line T.D.

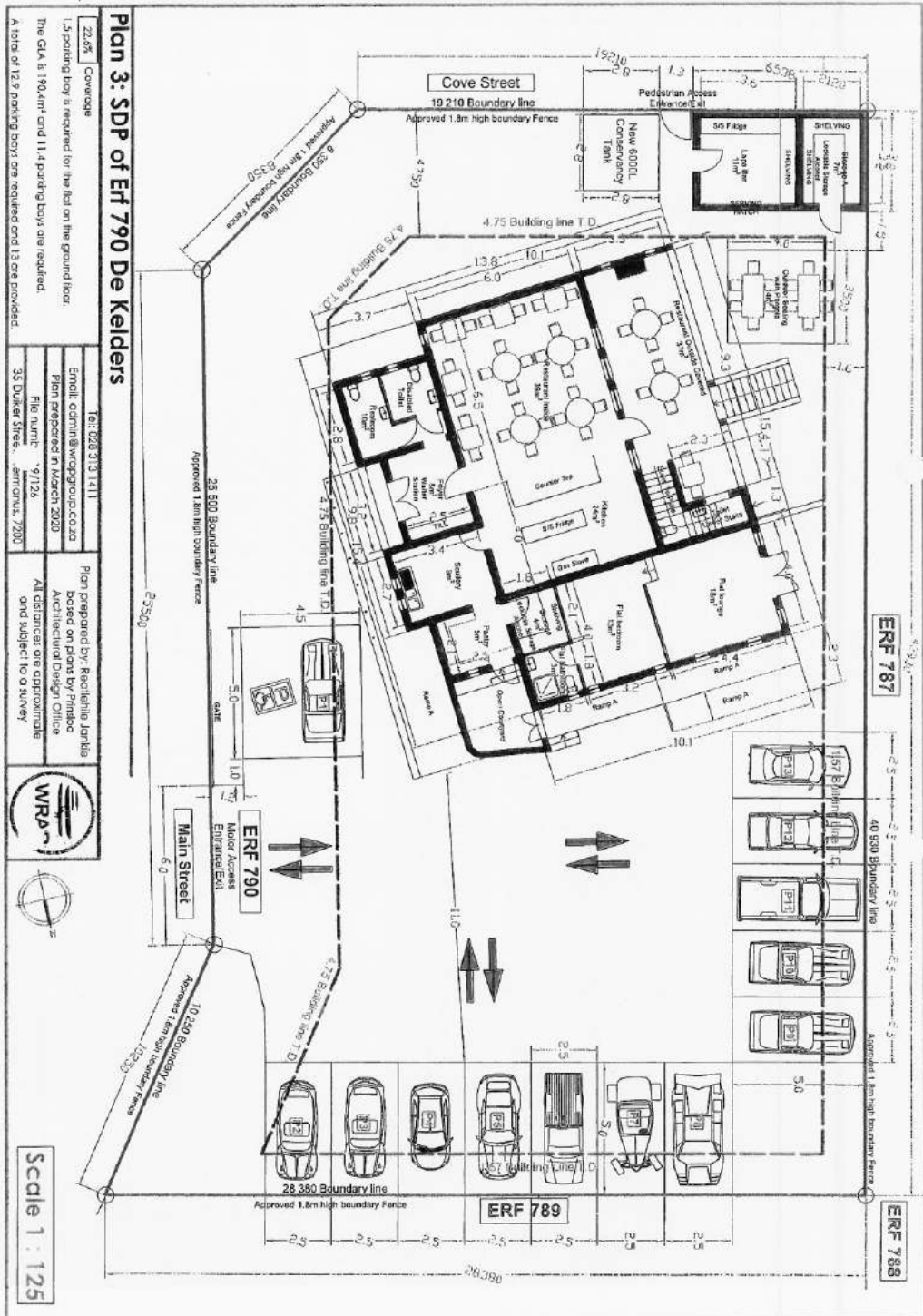
Cove Street
 19 210 Boundary line
 Approved 1.8m high boundary Fence

ERF 789

ERF 787

40 500 Boundary line
 1.57 Building Line T.D.

ERF 738
 Approved 1.8m high boundary Fence



ABDO & ABDO
33 TECOMA STREET
BEREA
EAST LONDON
5241

Prepared by me

CONVEYANCER
GRANT ANDREW BERNDT

Case No	532 000 00	530 00
Value		
Charge capital		
Charge for		
Charge		

T 000021764 / 2018

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

RONÉL ELS

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney granted to him by

The Trustees for the time being of
KUNHARDT BROTHERS TRUST
Registration Number TM 769

DATA / CAPTURE
17 MAY 2018
PHUMELELA MNAMATA

which said Power of Attorney was signed at EAST LONDON on 5 APRIL 2018

DATA / VERIFY
17 MAY 2018
WENDY FANT

Handwritten initials and marks.

Handwritten text: "SIR ENDOSSEMENTE KYK BLADS?"

Handwritten letter 'b'.

GhostConvey 16.3.5.5

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CONDITION D(1), (9), (10), (11) & (12) on page 3

WET 47 VAN 1937 OM TE LEES AMENDED IN TERMS OF SECTION 4 (1) (2) OF ACT 47 OF 1937 TO READ

SEE ATTACHED ANNEXURE

BO 00001510 / 2020

17 DEC 2019

REGISTRATEUR/REGISTRAR

17 JAN 2020

For Information

217 BIDDOSSEMENTE KYK BLADSY
OR ENDORSEMENTS SEE PAGE

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ANNEXURE

T. 21764/2018

- D. SUBJECT to and with the benefit of the following special conditions contained in said Deed of Transfer Number T2507/1943 and imposed by the Administrator when he approved of the establishment of the township in terms of Ordinance 33 of 1934, namely:-
- (1) As being also in favour of the registered owner of each erf in the township:
- (a) That this erf be used for residential purposes only. This condition shall not apply to the following erven Nos. 523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866, (785, 786, 787, 788, 789, 790) which may be used for only shop purposes or residential purposes and erf No. 791 which may be used only for hotel or residential purposes.
 - (b) That not more than half the area of this erf be built upon. In place hereof the following condition shall apply to erven Nos. 523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866 (785, 786, 787, 788, 789, 790) when used for shop purposes and erf No. 791 when used for hotel purposes:- That not more than 2/3rd the area of this erf be built upon.
 - (c) That not more than one dwelling, together with the necessary outbuildings and appurtenances be erected on this erf. This condition shall not apply to erven Nos. 523, 524, 525, 526, 527, 825, 826, 827, 864, 865, 866, (785, 786, 787, 788, 789, 790) when used for shop purposes and erf No. 791 when used for hotel purposes.
 - (d) That no building shall be erected within 15 feet of any street line which forms a boundary of this erf or within 5 feet of the boundary of any adjoining erf provided that this latter restriction shall not apply to the common boundary of erven held as one erf under consolidated title.

Page 2

And the appearer declared that his said principal had, on 14 March 2018, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

HIPPOMANIA PROPRIETARY LIMITED
Registration Number 2014/057069/07

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

ERF 790 DE KELDERS
 IN THE OVERSTRAND MUNICIPALITY
 DIVISION OF CALEDON
 PROVINCE OF THE WESTERN CAPE

IN EXTENT 1012 (ONE THOUSAND AND TWELVE) Square metres

FIRST TRANSFERRED by Deed of Transfer Number T 2507/1943 with Diagram Number 168/1943 relating thereto and held by Deed of Transfer Number T 14487/1986.

- A. SUBJECT to such conditions as are referred to in Certificate of Townships Title Number T 1067/1940,
- B. SUBJECT to, and with the benefit of, the Servitude referred to in the endorsement dated 12th June 1939, made on Deed of Transfer Number T 3733/1920, which reads as follows:-
- "Remainder.
 Registration of Servitude.
 By Deed of Transfer Number T 5993 dd. 12.6.39; 12705 dd. 17.11.1939; No. 13657 dd. 14.12.1939 certain restrictions over the land thereby conveyed including grazing, water rights, trading and fishing, have been imposed in favour of and against the remainder held hereunder, as will more fully appear on reference to the said Deeds of Transfer."
- C. SUBJECT to the conditions contained in said Deed of Transfer Number T 2507/1943 and similar to those imposed by the restrictions referred to in the endorsement dated 20th February 1941, on Certificate of Townships Title Number T 1067/1940 which conditions are enforceable by the Transferee and his successors in title and the owners of all erven in "De Kelders Extension Number 1 Township", which conditions read as follows:
1. No fires shall be lighted on unoccupied spaces within the boundary of the lots hereby sold, save by or with the written sanction of the Transferor.





GhostConvey 16.3.5.5

Page 3

2. The Transferor reserves to itself the right at any time hereafter to the free and undisturbed passage of electric, telegraph and telephone wires over and upon any portion of the above lot or lots with further right of causing them to be affixed to any building or erection not less than 3,15 metres from the ground, with access at any time to such wires for the purpose of removal or maintenance.
 3. The Transferor reserves to itself as owner of any unsold lots in the township and as owner of any other land held by it by Deed of Transfer Number 3733 dated 30th March 1920, the sole and exclusive right to the use of all water rising on or flowing over the said lots or erven, and also to any water to which such lots or erven may be entitled as riparian property or by servitude or agreement and the Transferee and his servitude or agreement and the Transferee and his successors in title shall not be entitled to any such water, and the Transferee is hereby deprived of any rights to water as owner of land riparian to any stream flowing over or under the land.
 4. That the Transferor reserves to itself and its successors in title the right of free access at all reasonable times to this erf for the purpose of maintaining and repairing piping under any portion of the above erf or other erven, together with the right to do all such acts and things on the said land as may be necessary or desirable for the convenience of the inhabitants of this and other erven in the township and to administer such supply until a local authority is established for the township, together with the right to discontinue to supply of water to the abovementioned erven in the event of the refusal of the Transferee or any successor of his to pay such charges for the supply of water as the Transferor shall levy with the approval of the Administrator, or to prevent unnecessary waste of water.
 5. That there shall not be erected on any portion of the above lot or lots any building, the plans and specifications of which have not, prior to the commencement of building operations, been submitted to and approved by the Transferor in writing.
- D. SUBJECT to and with the benefit of the following special conditions contained in said Deed of Transfer Number T 2507/1943 and imposed by the Administrator when he approved of the establishment of the township in terms of Ordinance Number 33 of 1934, namely:-
- (1) As being in favour of and enforceable by the registered owner of each erf in the Township:-
 - (a) That this erf be used for residential purposes only;
 - (b) That not more than half the area of this erf be built upon;
 - (c) That not more than one dwelling, together with the necessary outbuildings and appurtenances be erected on this erf;
 - (d) That no building shall be erected within 4,72 metres of any street line which forms a boundary of this erf or within 1,57 metres of the boundary of any adjoining erf provided that this latter restriction shall not apply to the common boundary or erven held as one erf under consolidated title.

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Page 4

- (2) As being in favour of and enforceable by the Administrator:-
- (e) That this erf shall not be subdivided except with the consent in writing of the Administrator.
- (3) As being in favour of and enforceable by any local authority that may hereafter be constituted for the Township:-
- (f) That the owner of this erf – whether the Transferor or any future owner – shall be obliged to allow the drainage and sewerage of any other erf or erven to be conveyed over such erf if deemed necessary by the local authority that may hereafter be constituted for the township and in such manner and in such position as may from time to time be reasonably required by that authority.
- (g) That the owner of this erf – whether the Transferor or any future owner – shall be obliged without compensation to remove any septic tank installed thereon after one month's notice has been given by the local authority that may hereafter be constituted for the township.

For Information

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GhostConvey 16.3.5.5

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

**The Trustees for the time being of
KUNHARDT BROTHERS TRUST
Registration Number TM 769**

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

**HIPPOMANIA PROPRIETARY LIMITED
Registration Number 2014/057069/07**

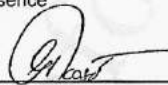
or its Successors in Title or assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R532 000,00 (FIVE HUNDRED AND THIRTY TWO THOUSAND RAND).

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

16 MAY 2018

In my presence


REGISTRAR OF DEEDS



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ANNEXURE E

File reference:	Erf 790 GDK
Admin	MM
Date:	13 August 2020



INTERNAL MEMORANDUM

From	:	Town Planning Department
Town Planner	:	P Roux (Town Planner)

TO:

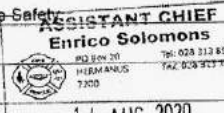
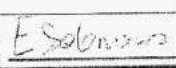
<u>Area Manager</u>	<u>Building Department</u>	<u>District Health</u>	<u>Electrical Department</u>
<u>Environmental Officer</u>	<u>Fire Department</u>	<u>Infrastructure and Planning</u>	Local Heritage Committee
<u>Operational Services</u>	<u>Traffic Department</u>	<u>Ward Councillor (R de Coning)</u>	<u>Waste Management</u>

Applicant	WRAP on behalf of Hippomania (Pty) Ltd
Property Details	Erf 790, 17 Cove Street, De Kelders
Application Description	REMOVAL OF RESTRICTIVE TITLE DEED AND CONSENT USE

ATTACHMENTS :

1. Notice	Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments.
2. Locality Plan	
3. Site & Ground Floor Plans	
4. Motivation	

YOUR DEPARTMENT'S COMMENTS:

The Fire Department have no objection, subject to compliance with provision of SANS 10400-A 2016, SANS-T: 2020 & By Law Relating to Community Fire Safety.	
 ASSISTANT CHIEF Enrico Solomons <small>202 330 2011 Tel: 028 212 8978</small> <small>HIBEMANUS FAX: 028 212 1438</small> <small>7300</small>	
Date: 14 AUG 2020	
Signature: 	Date: _____ Email: esolomons@overstrand.gov.za

Please provide your comments (with specific reference to any conditions of approval that should be imposed) in the space provided above or in a separate Memo by not later than the date stipulated below. If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the Mayoral Committee will be informed accordingly.

- Building Control Department to confirm that all structures on the properties are in accordance with the approved building plans.

COMMENTS REQUIRED BY: 18 September 2020
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**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED &
CONSENT USE: ERF 790, DE KELDERS**

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 0.9172	= R 21 973.36
Sewerage	R 16 153.00 x 0.9172	= R 14 815.53
Roads	R 7 243.00 x 6.46743	= <u>R 46 843.60</u>
TOTAL (inclusive of VAT)		= <u>R 83 632.49</u>

Note:

The above figures are estimates

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2. that the existing water connection and conservancy tank to Erf 790 shall be used to service Erf 790;
3. that only the existing, standard 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 developer's cost;
4. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 140400 – P: 2010: Drainage;
5. that on-site parking facility is provided as per the Planning Schedule, and to the satisfaction of the Department: Operational Services;
6. that any additional and / or extended vehicle entrances will be for the developer's account;
7. that stormwater be allowed to discharge through Erf 790, De Kelders, unobstructed.


DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES


DATE

Alida Conradie - KOMMENTAAR OP ERF 790 & 787 GDK

From: "Judith Barnard" <jb.dekelders@gmail.com>
To: <aconradie@overstrand.gov.za>
Date: 2020/09/14 08:04 AM
Subject: KOMMENTAAR OP ERF 790 & 787 GDK

Mun Verw: Erf 790 GDK & Erf 787 GDK

Geagte Mnr/Dame

Ons vind dit verbasend dat ons kommentaar ten opsigte van bogenoemde nou eers aangevra word, nadat die gebou alreeds dakhoogte is. WRAP se skrywes is gedateer 14 Augustus 2020 en ons het dit eers op 8 September 2020 ontvang – 'n week voor sperdatum.

KOMMENTAAR:

1. De Kelders was en is nog altyd 'n rustige woongebied. Die opening van 'n restaurant met 'n dranklisensie gaan outomaties meebring van 'n lawaai wat gaan ontstaan. Ondervinding het ons geleer dat vakansiegangers het geen respek vir die permanente inwoners met alkohol hier naby beskikbaar sal dit nog erger gaan.
2. Daar word geensins genoem van besigheidsure vir genoemde restaurant nie. Kan u asseblief dit ook bekend maak?, aangesien daar wel 'n reël is vir enige lawaai na middagag in 'n woongebied. Of gaan dit nie van toepassing wees op die restaurant nie?
3. Jubileestraat is die enigste straat wat nie spoedbrekers het nie. Stirling, Hoofweg, Ingang, Barnard en meeste ander strate in die omgewing het spoedbrekers. Heelwat verkeer gebruik alreeds Jubileestraat om die spoedbrekers te vermy en sommige ry asof dit 'n renbaan is. Met die restaurant in die area gaan dit net vererger word.
4. Met betrekking tot erf 787 word daar geen melding gemaak hoekom beperkings gelig moet word nie.
5. Ons het geen persoonlike belang in hierdie aansoeke nie.

Die uwe

S.S. & J.D. BARNARD
JUBILEESTRAAT 14
DE KELDERS
SEL NR.: 084 586 9084

Alida Conradie - COMMENTS ON ERF 790, 17 COVE STREET DE KELDERS

From: Mathilda Conradie <tilla.conradie@gmail.com>
To: <aconradie@overstrand.gov.za>
Date: 2020/09/17 10:14 PM
Subject: COMMENTS ON ERF 790, 17 COVE STREET DE KELDERS

TO WHOM THIS MAY CONCERN:

Herewith I wish to comment on the proposed removal of restrictions and business to be conducted on erf 790, 17 Conve street De Kelders.

My interest in the case and my reason for comment is that it is a business that will open in my district and very near to my residence.

1: If I look at plan 3 I have to raise my sincere concern about the Lapa Bar immediately next to the indicated pedestrian entrance. That to me is a huge no in a residential area as it is and I vote against the removal of that restriction. I have a serious problem with parking which will be a huge problem day and night in Cove Street as it is easy and quick to stop in Cove street to use the pedestrian entrance. Weekends and holidays are the times children use that road to walk to Stanfords Cove. If that entrance is open, it is a concern, especially with teenagers who will take their chances. But an even bigger concern is smaller children using that road going down to Stanfords Cove with the extra traffic moving up and down that road.

2. Since the lapa bar is also very near to a guest house which attracts a lot of visitors, the bar noise from rowdy patrons will create a problem for people that reserved a place in the guest house to have rest and quiet. The noise level from an outside lapa bar is going to have a huge effect on the visitors to the guest house. It may be to such an extent that they may lose business and would have to let staff go. An extremely negative aspect I should say which does not hold water with your motivation later in the document that employment will be created. It totally defeats the purpose to take away from 1 to help the other.

3. In a radius of about 100m there is a new Restaurant, called Bos Veld Restaurant, opening up and with regard to employment, my exact same reasoning stays. I also would like to know if they have been given the opportunity to comment? For a suburb, if you want to call it that, like the size of De Kelders, and one that especially accommodates weekend and holiday visitors it is not viable to have 2 restaurants in such a small radius. It is 2 restaurants and if you take in consideration that one can also reserve a booking to eat at Kloeks @ Home, the argument of little choice of where to eat in De Kelders is also a weak one.

I would like to know about the parking. On plan 3, 10 parking bays are indicated. As per your table outlining what they comply with, you refer to parking and access (pg 8), 11.4 parking bays are required. That, plus the parking bay for the flat amounts to 12.9 and you show that 13 parking bays are being provided. As per the plan only 10 are being provided. They thus do not comply with the necessary regulation and since they do not comply, I vote against the business opening up where they plan to. So, where will the patrons that visit the lapa bar or restaurant par? In Cove street and Main street. With the extra traffic on weekends and during holidays it will be a situation that is not acceptable for people residing in the near vicinity as it will create congestion and traffic noise that will be of a nature that could make people sell their property as it was in the days of Buitesteen being run as a pub restaurant. The outcome was that the people had to either sit with

property that they were not able to sell or to accept prices much lower than what the property was actually worth. A situation that could have been avoided and might rise again and can now be avoided.

With reference to the bakery, it is called that, but is a fully stocked provider of a lot of stock to provide in the everyday needs of residents and visitors. Also, the distance from my house to Gansbaai CBD is a mere 2,3 km. Not such a distance as the applicant tries to hold upfront.

Section 4.2.1 refers to an application for on as well as off consumption. I really have a problem with that as this is a quiet holiday town where pensioners and visitors alike stay and or come to relax and get away from the lives they lead every day. Thus having an off consumption situation, means liquor will be on sale. What will the hours of such sales be? What type of liquor will be sold? Has that been set out and discussed?

A lot about this business is a concern to me as a resident of De Kelders. I stay in Bergstreet and we have heard the traffic and cars pulling away from Buitesteen when that was still in operation. With this lapa bar on the same premises as the restaurant, there will be a lot of traffic noise down mainstreet, Bergstreet as well as the main Road to Gansbaai and other surrounds.

Section 4.5.1: Why has the building operations been started and gone so far before all the comments on the removal of restrictions were requested? I vote no for the removal of the restrictions regarding the title deed conditions.

Section 6.4 I vote against the removal of this restriction as the lapa bar is not necessary since they would like to operate a restaurant and a deli. It will cause traffic and noise problems to the surrounding guest house and residents.

Section 10.3 Since it will not be a huge business with lots of employees, I do believe the amount of employment they will provide will be minimal. And again, they only refer to the restaurant and deli, thus excluding the lapa bar so the lapa bar is not necessary.

Section 11.4 is a joke. I do not know who thought that out. It will have exactly the opposite effect. Theft out of cars, break ins during the nights as there will be money and alcohol.

So, in all. I am against the removal of the restrictions to allow building till up to the boundary line. I am against consent use as well as the building of the lapa bar. I am against the whole set up as the traffic, parking and noise has not properly been taken in consideration.

Yours sincerely,
Tilla Conradie
Bergstreet 9, De Kelders
0724417031

--
Tilla Conradie

Alida Conradie - Erf 790, Covestraat 17, De Kelders

From: Christa Bouwer <beagles.frans@gmail.com>
To: <aconradie@overstrand.gov.za>
Date: 2020/09/18 03:58 PM
Subject: Erf 790, Covestraat 17, De Kelders

Ek teken graag die volgende beswaar aan:

Enige verandering aan die huidige sonering sal lei tot groter verkeer op hierdie baie besige interseksie. Die ekstra geraas sal heelwaarskynlik 'n stoornis vir die inwoners in die omliggende area veroorsaak. Ons let daarop dat daar reeds 'n struktuur opgerig word.

Na aanleiding van die inligting rondom restaurant ontwikkelings in die area wil dit voorkom asof daar geen verkeersopname vooraf gedoen is nie. Die verkeer in die De Kelders area gaan meer raak wat parkeerprobleme gaan veroorsaak. Laat aand verkeer gaan ook hinderlik wees vir die inwoners rondom die area.

Die bogenoemde dien as ons formele beswaar teen die voorgestelde gebou en ook as versoek vir die hersonering van die titel aktes.

Vriendelike groete.

Francois Bouwer
Bergstraat 14, De Kelders
Selnommer 082 7888 005
Belastingbetaler
Rusverstoring en veiligheid van stappers



Project Office

Town Planning & Project Management

TP. n. (heat
(S. ud n. one)
P. Roux

Our Reference: 19/126
Your reference: 790 GDK

29 September 2020

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

FILE NO:	ERF 790
	De Kelders
SCAN NO:	38
COLLABORATOR NO:	1465156

Attention: Mr Petrus Roux

ERF 790 DE KELDERS: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS

Your letter dated 23 September 2020, refers.

Objections were received from:

- J Barnard;
- M Conradie; and
- C Bouwer.

Response to objections pertaining to procedural considerations.

Comment	Response to comment
"Ons vind dit verbasend dat ons kommentaar ten opsigte van bogenoemde nou eers aangevra word, nadat die gebou alreeds dakhoogte is. WRAP se skrywes is gedateer 14 Augustus 2020 en ons het dit eers op 8 September 2020 ontvang — 'n week voor sperdatum."	The existing building is constructed in accordance with the approved building plans. The application was posted by WRAP to the objector in compliance with the time frames which are prescribed by the Overstrand Municipality. The delay in the delivery of the postage is not related to the actions of WRAP.

Project Planning | Project Feasibility | Land Use Applications | Project Execution Management | Liquor Licensing
 Wright Approach Investments Unit B, Standard House, Tel: +27 (0)28 313 1411 Email: admin@wrapgroup.co.za
 136 CC Cnr Royal and Dikie Uys Street Fax: +27 0865083248 Web: www.wrapgroup.co.za
 (Reg No. 2002/060745/23) Hermanus, 7200

Established 2002

TP - 5 OCT 2020

Response to objections pertaining to the proposed location of buildings.

Comment	Response to comment
<p><i>"If I look at plan 3 I have to raise my sincere concern about the Lapa Bar immediately next to the indicated pedestrian entrance. That to me is a huge no in a residential area as it is and I vote against the removal of that restriction.</i></p> <p><i>I have a serious problem with parking which will be a huge problem day and night in Cove Street as it is easy and quick to stop in Cove street to use the pedestrian entrance. Weekends and holidays are the times children use that road to walk to Stanford's Cove. If that entrance is open, it is a concern, especially with teenagers who will take their chances. But an even bigger concern is smaller children using that road going down to Stanford's Cove with the extra traffic moving up and down that road."</i></p>	<p>The street and side building lines in the OMZS B3 zoning are 0m which the location of the lapa bar and storage comply with. The rationale for the removal of the 4,75m title deed restriction is to enable the owner of the subject property to have the same 0m building lines as other property owners who have the B3 zoning in the Overstrand Municipality.</p> <p>Although indicated "lapa bar" on the plans, the area will be used as the point of sale from waiters serving liquor to patrons of the restaurant having their meals either inside or outside the restaurant.</p> <p>The vehicular entrance and egress to the subject property will only occur in Main Street and not Cove Street. Only a pedestrian gate is proposed at Cove Street which will be used occasionally. Considering that the proposed restaurant and deli will channel most movement along Main Street and not Cove Street, the traffic concerns which are highlighted and projected by the objector are unlikely to materialise.</p>
<p><i>"Since the lapa bar is also very near to a guest house which attracts a lot of visitors, the bar noise from rowdy patrons will create a problem for people that reserved a place in the guest house to have rest and quiet. The noise level from an outside lapa bar is going to have a huge effect on the visitors to the guest house. It may be to such an extent that they may lose business and would have to let staff go. An extremely negative aspect I should say which does not hold water with your motivation later in the document that employment will be created. It totally defeats the purpose to take away from 1 to help the other.</i></p> <p><i>Section 6.4 I vote against the removal of this restriction as the lapa bar is not necessary since they would like to operate a restaurant and a deli. It will cause traffic and noise problems to the surrounding guest house and residents."</i></p>	<p>The "lapa bar" only measures 11m² and will have shelving and a fridge and will mainly be used as the point of sale from where waiters will be serving liquor to patrons of the restaurant having their meals either inside or outside the restaurant.</p> <p>Considering that no excessive noise can be projected from the approval and construction of the lapa bar, a scenario where surrounding businesses will be adversely affected is unlikely. In fact, the proposed restaurant is projected to attract people from outside of De Kelders who might need accommodation at the guest house which is cited by the objector and therefore create new clientele for surrounding guest house owners.</p>
<p><i>"Section 10.3 Since it will not be a huge business with lots of employees, I do believe the amount of employment they will provide will be minimal. And again, they only refer to the restaurant and deli, thus</i></p>	<p>The proposed restaurant and deli would employ ±10 people who have 2 or 3 dependants and will make a huge difference despite the objector describing the employment creation as minimal. As</p>



excluding the lapa bar so the lapa bar is not necessary."

mentioned earlier, the lapa area only measures 11m² which is insignificant in the context of the entire application and will mainly be used as a point from where waiters will serve patrons of the restaurant having their meals inside or outside the restaurant.

Response to objections on how the approval and implementation of this proposal will impact on the character of the area.

Comment	Response to comment
<p>"In a radius of about 100m there is a new Restaurant, called Bos Veld Restaurant, opening up and with regard to employment, my exact same reasoning stays. I also would like to know if they have been given the opportunity to comment. For a suburb, if you want to call it that, like the size of De Kelders, and one that especially accommodates weekend and holiday visitors it is not viable to have 2 restaurants in such a small radius. It is 2 restaurants and if you take in consideration that one can also reserve a booking to eat at Kloeks @ Home, the argument of little choice of where to eat in De Kelders is also a weak one."</p>	<p>WRAP posted the application to the owner of the property where Bos Veld Restaurant is located and no objection has been received.</p> <p>It is submitted that it is viable to have restaurants and commercial enterprises located in proximity to each other for the following reasons:</p> <ul style="list-style-type: none"> • It makes more sense and is more feasible for restaurant patrons to go to an area which has a variety of restaurants located in proximity to each other and encourages clients to return to the area rather than a single standalone restaurant which is remotely located; • Many restaurants in proximity to each other attract a wider range of clientele from different areas who collectively also spend money in surrounding establishments such as shops and sleep at overnight accommodation which would contribute towards the enhancement of the tourism value of De Kelders; and • The proposed restaurant is of high architectural integrity and will encourage other property owners to make necessary improvements and renovations to properties which would serve as a catalytic force towards the improvement of the built environment in De Kelders in the long term.
<p>"With reference to the bakery, it is called that, but is a fully stocked provider of a lot of stock to provide in the everyday needs of residents and visitors. Also, the distance from my house to Gansbaai CBD is a mere 2,3 km. Not such a distance as the applicant tries to hold upfront."</p>	<p>The stock available at the bakery was not disputed in the application. While the distance from De Kelders to Gansbaai is not long, it is beneficial for De Kelders residents to have local restaurants and delis which would provide the public with a wider variety of options.</p>



<p>"Section 4.2.1 refers to an application for on as well as off consumption. I really have a problem with that as this is a quiet holiday town where pensioners and visitors alike stay and or come to relax and get away from the lives they lead every day. Thus having an off consumption situation, means liquor will be on sale. What will the hours of such sales be? What type of liquor will be sold? Has that been set out and discussed?</p> <p>Die ekstra geraas sal heelwaarskynlik 'n stoornis vir die inwoners in die omliggende area veroorsaak."</p>	<p>The off-consumption sale of liquor will not exceed the times of 08:00 and 20:00 Monday to Sunday while the on-consumption will not exceed the times of 08:00 to 02:00 Monday to Sunday. These operation times will also be bound by Liquor Authority regulations. A variety of liquor will be sold on the premises and will constantly change based on the changing requirements and demands of consumers.</p> <p>The sale of off-consumption liquor is not projected to generate any noise. Restaurants and delis generally do not lead to the emission of noise to the same degree that places of entertainment do and therefore not projected to alter the character of De Kelders as a quiet holiday town.</p>
<p>"Section 11.4 is a joke. I do not know who thought that out. It will have exactly the opposite effect. Theft out of cars, break ins during the nights as there will be money and alcohol."</p>	<p>Crime is a problem which occurs in all neighbourhoods and the fear which the objector has is justified. What is submitted, is that land use planning applications cannot be refused based on the commercial enterprises being projected to be vulnerable to crime as that would hamstring the further economic development of towns which would be detrimental to the economy of the area.</p>
<p>"Enige verandering aan die huidige sonering sal lei tot groter verkeer op hierdie baie besige interseksie."</p>	<p>The application was not for a rezoning but for the removal of restrictive title deed conditions and consent use.</p>
<p>"De Kelders was en is nog altyd 'n rustige woongebied. Die opening van 'n restaurant met 'n dranklisensie gaan outomaties meebring van 'n lawaai wat gaan ontstaan. Ondervinding het ons geleer dat vakansiegangers het geen respek vir die permanente inwoners met alkohol hier naby beskikbaar sal dit nag erger gaan."</p>	<p>The approval and implementation of this proposal contributes towards the location of the subject property transitioning into a commercial node which is surrounded by a road on the north, east and west and abutted by an erf which is zoned Utility Zone: Utility Services which creates a buffer with the surrounding residential area. This will reduce the likelihood of surrounding property owners being exposed to nuisance activities as cited by the objector. The generalisation by the objector that all guests lack respect and behave badly when under the influence of alcohol is unfounded.</p>



"Daar word geensins genoem van besigheidsure vir genoemde restaurant nie. Kan u asseblief dit ook bekend maak, aangesien daar wel 'n reël is vir enige lawaai na midderdag in 'n woongebied. Of gaan dit nie van toepassing wees op die restaurant nie?"

The operation hours of the restaurant and deli will be determined by market needs which makes it difficult to determine before operations have commenced. The objector can be assured that no excessive noise or other nuisance will emanate from the subject property as the management will ensure that all activities are orderly.

Response to objections pertaining to parking and access related considerations.

Comment	Response to comment
<p>"I would like to know about the parking. On plan 3, 10 parking bays are indicated. As per your table outlining what they comply with, you refer to parking and access (pg 8). 11.4 parking bays are required. That, plus the parking bay for the flat amounts to 12.9 and you show that 13 parking bays are being provided. As per the plan only 10 are being provided. They thus do not comply with the necessary regulation and since they do not comply, I vote against the business opening up where they plan to. So, where will the patrons that visit the lapa bar or restaurant park? In Cove street and Main street. With the extra traffic on weekends and during holidays it will be a situation that is not acceptable for people residing in the near vicinity as it will create congestion and traffic noise that will be of a nature that could make people sell their property as it was in the days of Buitesteen being run as a pub restaurant. The outcome was that the people had to either sit with property that they were not able to sell or to accept prices much lower than what the property was actually worth. A situation that could have been avoided and might rise again and can now be avoided."</p>	<p>Plan 3 clearly illustrates that 13 parking bays are provided and not 10 as asserted by the objector. Sufficient parking space is provided which will avert parking shortage problems which are cited by the objector.</p>
<p>"Na aanleiding van die inligting rondom restaurant ontwikkelings in die area wil dit voorkom asof daar geen verkeersopname vooraf gedoen is nie. Die verkeer in die De Kelders area gaan meer raak wat parkeerprobleme gaan veroorsaak. Laat aand verkeer gaan ook hinderlik wees vir die inwoners rondom die area."</p>	<p>Considering that the application does not entail a rezoning, no traffic impact study or assessment is required. The entrance and egress of approximately 13 cars at different time intervals to the subject property cannot be projected to become a nuisance due to the small-scale nature of the proposed restaurant and deli.</p>



<p>"Jubileestraat is die enigste straat wat nie spoedbrekers het nie. Stirling, Hoofweg, Ingang, Barnard en meeste ander strate in die omgewing het spoedbrekers. Heelwat verkeer gebruik alreeds Jubileestraat om die spoedbrekers te vermy en sommige ry asof dit 'n renbaan is. Met die restaurant in die area gaan dit net vererger word."</p>	<p>It is suggested that the objector raise the concern related to the absence of speed bumps in Jubilee Street with the relevant municipal department. The minimal traffic which will be generated by the restaurant and deli will be in Main Road and not Jubilee Street which nullifies the concern raised by the objector.</p>
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Response to objections pertaining to construction work which has commenced.

Comment	Response to comment
<p>"Section 4.5.1: Why has the building operations been started and gone so far before all the comments on the removal of restrictions were requested? I vote no for the removal of the restrictions regarding the title deed conditions. Ons let daarop dat daar reeds 'n struktuur opgerig word."</p>	<p>The construction on the premises has commenced in accordance with the approved building plans. The land use changes as sought in the application will only occur upon the approval and implementation of this proposal.</p>

Response to objections not related to the submitted application.

Comment	Response to comment
<p>"Met betrekking tot erf 787 word daar geen melding gemaak hoekom beperkings gelig moet word nie."</p>	<p>The application for the removal of restrictive title deed conditions on Erf 787 De Kelders motivated that the rationale for the application is to enable the property owner to exercise the commercial primary rights when it is deemed necessary to do so and not related to Erf 790 De Kelders.</p>

Conclusion

The objections are noted, but the most relevant consideration in the application is that the subject property is located in an area where erven are zoned B3.

The area where the property is located is slowly transitioning into a commercial node due to the piecemeal commercial enterprises which are being established. This constitutes sound settlement change from a planning point of view.

The concerns relating to probable traffic and noise are unfounded as the small-scale nature of the proposed land uses is unlikely to cause nuisance.

Considering the above, it is requested that the Municipal Planning Tribunal approve the submitted proposal.



Yours faithfully

A handwritten signature in black ink, appearing to read "R Jankie", is written over a faint, illegible printed name.

R JANKIE

TOWN PLANNER (B/8392/2017)

ANNEXURE G



File reference:	Erf 790 GDK
Admin	MM
Date:	13 August 2020

INTERNAL MEMORANDUM

From	: Town Planning Department
Town Planner	: P Roux (Town Planner)

TO:

<u>Area Manager</u>	<u>Building Department</u>	<u>District Health</u>	<u>Electrical Department</u>
<u>Environmental Officer</u>	<u>Fire Department</u>	<u>Infrastructure and Planning</u>	Local Heritage Committee
<u>Operational Services</u>	<u>Traffic Department</u>	<u>Ward Councillor (R de Coning)</u>	<u>Waste Management</u>

Applicant	WRAP on behalf of Hippomania (Pty) Ltd
Property Details	Erf 790, 17 Cove Street, De Kelders
Application Description	REMOVAL OF RESTRICTIVE TITLE DEED AND CONSENT USE

ATTACHMENTS :

1. Notice	Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments.
2. Locality Plan	
3. Site & Ground Floor Plans	
4. Motivation	

YOUR DEPARTMENT'S COMMENTS:

The Fire Department have no objection, subject to compliance with provision of SANS 10400-A 2016, SANS-T: 2020 & By Law Relating to Community Fire Safety.	
ASSISTANT CHIEF Enrico Solomons <small>PO Box 33 TEL: 028 313 8970 HERMANUS FAX: 028 312 1455 7200</small>	
Date: 14 AUG 2020	
Signature: <i>E Solomons</i>	Date: _____ Email: esolomons@overstrand.gov.za

Please provide your comments (with specific reference to any conditions of approval that should be approved) in the space provided above or in a separate Memo by not later than the date stipulated below. If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the Mayoral Committee will be informed accordingly.

- Building Control Department to verify that all structures on site conform with the approved building plans

COMMENTS REQUIRED BY: 18 September 2020
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**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED &
CONSENT USE: ERF 790, DE KELDERS**

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 0.9172	= R 21 973.36
Sewerage	R 16 153.00 x 0.9172	= R 14 815.53
Roads	R 7 243.00 x 6.46743	= R 46 843.60
TOTAL (inclusive of VAT)		= R 83 632.49

Note:

The above figures are estimates

2. that the existing water connection and conservancy tank to Erf 790 shall be used to service Erf 790;
3. that only the existing, standard 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 developer's cost;
4. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 140400 – P: 2010: Drainage;
5. that on-site parking facility is provided as per the Planning Schedule, and to the satisfaction of the Department: Operational Services;
6. that any additional and / or extended vehicle entrances will be for the developer's account;
7. that stormwater be allowed to discharge through Erf 790, De Kelders, unobstructed.


DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES


DATE