

4.2

ERF 5473, 13 17TH AVENUE, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION, REZONING, CONSENT USE AND DEPARTURE: MESSRS WRAP PROJECT OFFICE ON BEHALF OF DE BROEDER INVESTMENTS (PTY) LTD

5473 HVK

File Ref: 4088/2022

P Roux

22 December 2022

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 14 March 2021 from Messrs WRAP Project Office on behalf of De Broeder Investments (PTY) Ltd in terms of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) applicable to Erf 5473, Hermanus, for the following:

- ❖ **removal of restrictive title deed condition** in terms of Section 16.(2)(f) of the By-Law in order to remove restrictive Condition III.D.(c) contained in Title Deed T9341/2014;
- ❖ **rezoning** in terms of Section 16.(2)(a) of the By-Law in order to rezone the property from Residential Zone 1: Single Residential to Business Zone 3: Local Business to allow business related uses on the property (offices);
- ❖ **consent use** in terms of Section 16.(2)(o) to accommodate a flatlet on the ground floor of a business premises, and
- ❖ **departure** in terms of Section 16.(2)(b) to relax the western building line from 3m to 2,68m to accommodate the proposed offices and the southern building line from 3m to 2,48m to accommodate the proposed flat.

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 T9341/2014 is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

Erf 5473 is situated on the corner of Seventeenth Avenue and Seventh Street and is developed with dwelling. The subject property measures 832m² in extent, is zoned Residential Zone 1: Single Residential. The property owner seeks to rezone the property to Business Zone 3: Local Business in order to allow business related uses on the property and to apply for consent use to retain a small flatlet on the ground floor.

4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation for the application is summarised as follows:

Rezoning

- The subject property is zoned Residential Zone 1: Single Residential and it is proposed to rezone the property to Business Zone 3: Local Business in order to allow for offices such as medical consulting rooms.
- The property owner bought the property in 2014 and utilised the dwelling to practice a home occupation on the subject property. As the years progressed the home occupation was practised successfully and expanded, without them knowing the expansion surpassed the allowable parameters as contained in the new policies and schemes.
- The property owner retired, and she ceased to practice the home occupation from the property. Due to the history of the property, it is proposed to sell the property for offices purposes and in more particular for a professional practice.
- Office is defined as – *“means property used for conducting an enterprise primarily concerned with administrative, clerical, financial or professional duties and includes medical consulting rooms.”*
- The parking for the office can be accommodated on site as per the SDP.

Removal of restrictive title deed condition

It is also intended to remove a restrictive title deed condition that prohibits the applicant from operating a place of business on the subject property.

- The Title Deed T9341/2014 contains title deed conditions which restrict the land use on the property. This is Condition III.D.(c) *“No canteen, hotel, shop, factory industry or any place of business whatsoever shall be opened or conducted on the said property except with the consent of the Transferor Company.”*
- The property was used for the operation of a professional office over the past few years. The applicant has the vision to allow a business enterprise to continue operating on the subject property. The proposal to rezone is being restricted by the condition mentioned above and therefore requires removal.
- The restrictive condition was originally intended to protect the residential character, but the intention is to create a unique professional office space within a continually diversifying area.
- The area currently allows for “small individual localised business activities” as stated by the OMSDF and the proposal is to have a small professional office space. The tile deed condition restricts this intended used and what is proposed by the OMSDF. Voëlklip is no longer just a residential neighbourhood as businesses are scattered around the neighbourhood.

The removal of the title deed condition is further motivated in terms of Section 39(5)(a-f):

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.

No person or entity will be affected financially by the removal of the restrictive title deed condition.

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

No person is directly benefitting from this condition as the condition only restricting the application.

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 applicant will be gaining from the removal of the restrictive conditions as it will allow him to utilise his property to its full extent.

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.

There is no social benefit should the condition remain in place.

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

There is not specific beneficiary of the condition, and no person or entity will be affected if these are removed.

Consent use

Consent is also requested to retain the flat on the property which is located on the ground floor.

- The proposed zoning for Business Zone 3: Local Business allows for a flat (on ground floor) with consent from the Overstrand Municipality. A flat is defined as “a unit containing one or more inter-leading rooms with adequate sanitary facilities and a kitchen, used for the accommodation and housing of a single family, and may be included in or separate from the main building on the property.”
- This additional use will add value to the subject property as it will retain a residential character to the area.

Departure

To retain the existing structure as is it is proposed to depart from the building lines as contained under the Business Zone 3: Local Business zoning.

- relax the western building line from 3m to 2,68m to accommodate the proposed offices;
- relax the southern building line from 3m to 2,48m to accommodate the proposed flat.
 - With the change in zoning the land use parameters will change from a 2m lateral building line to 3m as the zoning abuts other zonings which are not the same as the proposed zoning.
 - The building, as built, complies with the current zoning parameters but will transgress the proposed zonings parameters.
 - These are small scale encroachments of existing structures.

General

- The applicant states that the Overstrand Municipal Spatial Development Framework 2020 regarding commercial activities in Voëlklip – “*Small localised business enterprises could be considered consistent with the status quo (i.e., a limited scale on public transport routes where services infrastructure is available).*”
- The subject property is located within a unique position on the edge of Voëlklip, on the R43 and across the previous De Mond caravan park, where the proposed business zoning will not be intrusive or create a disturbance as it will only be offices (medical practice).
- All services are already connected, and access will be gained from 17th Avenue.
- The proposal does not trigger any listed activities in the National Environmental Management Act.
- The proposal is motivated to be in line with the planning principles.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local Newspaper	Yes	15 July 2022	19 August 2022
Gazette	Yes	15 July 2022	19 August 2022
Notices (possibly affected property owners)	Yes	15 July 2022	19 August 2022
Notices (persons mentioned in title deed)	No	N/A	N/A
Internal Departments	Yes	15 July 2022	19 August 2022
Ward councillor	Yes	15 July 2022	19 August 2022
Total comments	Twenty-seven (27) comments were received of which three (3) letters of support and twenty-four (24) letters of objection.		
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?			N/A

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

Name	Date received	Summary of comments
Building Control	15/07/2022	No objection. The building plan application must comply with all applicable law.

Traffic Department	18/07/2022	No objection.
Waste Management	18/07/2022	No objection. Note that all medical waste generated will need to be collected by a registered healthcare risk waste company and disposed of at an approved facility as per the undertaking provided in the attached email (dated 18/07/2022).
Fire Department	19/07/2022	No objection subject to compliance with the provisions of SANS 10400 A: 2016, 10400T: 2020 and the By-law relating to community safety.
Engineering Services	22/09/2022	Annexure G.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Twenty-seven (27) comments were received of which three (3) letters of support and twenty-four (24) letters of objection.

Objection
<u>NEIGHBOURHOOD</u>
<p><u>Mrs N Ralph</u> <i>"The subject property is within an upmarket residential area. Therefore, by allowing offices will negatively affect this."</i></p>
<p><u>Dr J and Mrs C de Villiers</u> <i>"In contrast, allowing the proposed rezoning hold the real risk of permanently altering the character of the immediate neighbourhood with unknown economic consequences."</i></p>
<p><u>Mrs T Guthrie</u> <i>"Voëlklip should remain a residential area only, and the building lines should not be reduced - this will prevent business creep and encroachment that disadvantages neighbours and the nature of the area."</i></p>
<p><u>Mr R Oosthuizen & Mrs E Swanepoel</u> <i>"The subject property is within an upmarket and well-established residential area. Therefore, by allowing offices will negatively affect this upmarket residential area..."</i></p>
<p><u>Mrs S van Ryneveld</u> <i>"I wish to lodge an objection to the approval of business rights on this property and request it remain a residential plot in keeping with the area.</i></p> <p><i>Whilst we understand that it has been used for a small business practice, the sale of the plot with business rights does not guarantee that the new owners will continue a low-key operation."</i></p>
<p><u>Mr A de Villiers</u> <i>"Voëlklip is a residential area and its charm and attraction come from this zoning. In particular, it is a quiet suburb that attracts tourists and holiday goers, benefitting the</i></p>

region at large. Having another commercial property (not a work from home or home business establishment), in my opinion, will detract from the nature of the area in a negative way.”

Mrs S Peloi

“I am not sure of the perimeters of the new zoning mentioned, please explain what is the extend of Zone 3 business rights. As a house owner in the area (320, 8th street) we enjoy the quietness of the neighbourhood, and we would like to see it stay like that for the years to come. Our family owns the house from the early 1980's and we are the longest owners of property in that area.”

“Further down in 7th street there is a cafe with takeaways and a liquor license, and there is open space around that premises as there are always traffic and elements hanging out there. And the last thing I want to see is that our neighbourhood property gets devalued because of that. Our property already has been devalued because the uncertainties and the state of the caravan park.”

Mr & Mrs Coetzee

“We, Carl and Uta Coetzee as residents of Voëlklip at 305 9th Str, Hermanus, strongly object to the application to rezone any area of Voëlklip for Business rights.”

Mrs R Beukes

“The rezoning will change the character of the area which was the main driver for us purchasing a property in this area.”

Mrs E de Kock

“I hereby want to object to the rezoning of Erf 5473 to be zoned as business premises. There are sufficient businesses and petrol stations servicing Voëlklip. As ratepayer and owner of the property 317 De Mond this is a quiet neighbourhood and should be preserved as such.”

Mrs V Thom

“I wish to object to the rezoning of private dwelling of cnr 7th street and 17th Avenue, Voëlklip.”

Mr and Mrs Bourne

“The Voëlklip area is residential; the use of the existing property as a place of business beyond what was allowed was not then approved and it should not now be approved.”

Mrs L Vernon

“4. Over time, this could cause the decay of the residential character of Voëlklip.”

SM Turpin

“Voëlklip (and specifically this part) is a quiet residential area; people buy property and live here for that reason. Starting to give additional business rights to one property (specifically an office) will put the quiet nature of the neighbourhood at risk.”

Mr B Lamprecht

“The part of Voëlklip and Hermanus is particularly charming to people who want to appreciate the nature and get away from cities and town centres.”

Prof S Scott

"My property is on the corner of 10th Street and 3rd Avenue and the property on the other corner used to have commercial rights. For close on 35 years, we had endless problems of various natures with the owners, tenants and sublessees of the property. We had to bring court applications and I had endless discussions with Ms Van der Stoep to get the municipality to intervene, which they never did. Only when Mr Marcus Jooste, in desperation about the conditions on the property, bought it, our problems stopped. You cannot allow this kind of commercial development in a residential area as it infringes on the rights of other owners in the area."

Mr L Swanson

"As a trustee representing The Three G's Trust, the owners of 232 9th Street, Voëlklip I wish to raise our objection to the proposed changing in the zoning of the property situate on the corner of 7th Street and 17th Avenue, Voëlklip to allow for the establishment of offices and business rights. This detracts from the residential character of the area and is unacceptable."

Mr I Cason

"Dit sal ook 'n negatiewe uitwerking hê op die huislike karakter van Voëlklip."

Mrs G Hartman

"I have first-hand experience of houses being rented out around me and on this basis oppose this application."

"When it is not a home, there is constantly movement and noise of public persons with no regard for neighbours in close proximity. This is very evident as our erfs are relatively small. Some businesses will also be active on Sundays and public holidays, which is totally unacceptable."

"The proposal is out of character of the residential area."

"The proposed rezoning will impact your property negatively as the pure residential land use will now be jeopardised."

Response from applicant on comment and objections

"The property is located on the outskirts of Voëlklip and cannot be considered surrounded by residential properties. Each of the properties that have a business zoning in Voëlklip has this unique position within the area.

Voëlklip cannot be considered purely residential anymore as there are several businesses within the area and the proposal is not considered out of character.

The property owner is aware of the sensitive nature of the property and area and is not proposing to change the site drastically. There are several businesses in Voëlklip and as indicated within the motivation report the Spatial Development Framework makes provision for isolated businesses such as the OK minimart, Lizette's, Caltex, Hopside Down, Dutchies, Greeff Offices.

Voëlklip is not proposed to have a dedicated business node and a professional medical office is not considered to be out of character or a nuisance business. The desirability of a medical office is also that it provides access to these services without the need to travel great distances into the CBD.

A nuisance business is an enterprise which creates noise, pollutants, or any other negative impacts on the area.

The businesses being proposed are office/consulting type of work and are not a source of noise or other nuisances. The existing building is also not out of character and falls within the design style of a single residential house. Should the operations not be to the satisfaction of the surrounding area, the municipality have an appointed compliance officer that will investigate any concerns that the objectors may have.

Response from town planner

It is noted that the majority of the erven in Voëlklip is zoned for residential use. What is further noted is that the existing commercial erven was historically established prior to the adoption of the Hermanus SDF. Further, some of the commercial erven have also been rezoned and/or altered to accommodate residential dwellings/units due to the lack of commercial demand in the area.

- OK minimart indicated was approved in 1985;
- Lizette's was approved post 1999;
- Caltex indicated on the 1974 zoning map;
- Hopside Down indicated on the 1999 zoning map however approval pre-dates this map 1999;
- Greeff Offices – old postal office which have been subdivided and a portion of the property have been rezoned to Single Residential Zone 1;
- Baleens Guest House – indicated on the 1999 zoning map;
- De Mond Caravan Park – indicated on the 1974. It is true that there is a proposal to develop De Mond caravan, however these developments will relate to tourist activities as per the resort zoning as per the title deed conditions.

Considering the above there isn't a lot of commercial erven in Voëlklip. Further, the land use rights are historical in nature. Any new commercial erven will have to be coherent with the current trend and development proposals for the area and spatial planning best practices. The current proposal is a piece meal solution based on an activity which was done under the guise of a primary use.

Objection

COMPLIANCE / ENFORCEMENT

Mrs N Ralph, Mr R Oosthuizen & Mrs E Swanepoel

"Once rights for 'office use' have been granted, virtually any business can be operated and stated as an 'office' and the "unique professional office space" quoted by the applicant cannot be guaranteed."

Mrs S Peloi

"I stay in Bellville and use the Hermanus property as a breakaway over holidays and weekend, any rezoning will open the opportunity for future business. Now it may be explained as an office development, but the property can be resold and then with rezoning in place it would be out of our control what the new owners will be developing there."

Response from applicant

The application is currently being evaluated and should approval for the application be

received, the Overstrand Municipality's Town Planner and decision-making Authority will impose conditions of approval.

These conditions will be limiting and very specific to the type of businesses that may be operated on Erf 5473 - Hermanus. In addition, these conditions may also be registered in the title deed and should any owner in the future not comply with these conditions the municipality has a mechanism to enforce compliance.

Response from town planner

It is true that a condition of approval can be inserted in order to limit the use of the property. Should such a condition be imposed it must be done in a sensible and practical manner.

Objection

HISTORIC BUSINESSES

Mrs N Ralph, Mr R Oosthuizen & Mrs E Swanepoel

"The historical business properties alongside the Main Road (7th Street) are historical occurrences. They are also 'Low key' and have not changed in character for many years."

Mrs S van Ryneveld

"We are ERF 4134 and many years ago got our view obstructed by the development of Baleens which is an unattractive development blocking our front view."

Response from applicant

The comment is noted This application is site-specific; however, the objector does make the statement that historic existing businesses are considered "low-key".

The objector does not quantify what is "low-key" and if the existing Caltex filling station, Lizette's, the OK Mini mart considered as "low-key"?

It could be suggested that professional offices are even more "low-key" than the existing businesses.

- In response to Mrs. van Ryneveld, this application is not on the scale of Baleens, and it is not expected to negatively affect her property.

No views are proposed to be obstructed.

Response from town planner

It is agreed with the objector that the commercial properties in the area have historic rights and people in the area have adopted the historic uses as part of the character of the area. Although the application is not the scale to that of the Baleens it will be a commercial activity in terms of office space. It should be noted that in terms of the Overstrand Municipality Land Use Scheme, 2022 home occupation is a primary right. Home occupation is defined as – *"means the practising of a non-residential use conducted from a dwelling provided that the dominant use of the dwelling concerned shall remain the accommodation of a single family, provided that the use and property complies with the requirements contained in this land use scheme for home occupation."*

It should therefore be noted that the due to the scale of the proposed business it cannot comply with the primary use and therefore the proposed rezoning of the property. Thus, changing the primary use of the property and becoming predominantly commercial use as opposed to residential.

Objection

PRECEDENT BEING CREATED

Mrs N Ralph, Mr R Oosthuizen & Mrs E Swanepoel

"The rezoning of Erf 5473 will create a precedent, which will ultimately result in many applications along this line. Voëlklip residents do not want our residential suburb to be marred by the bastardisation of residential homes into businesses, which will jeopardise the value of our area & therefore property values will also be negatively affected."

Mrs L Vernon

*"1. Any change to the residential zoning sets a precedent that can further be leveraged or exploited by others (existing or those buying) in the area.
2. There is no critical reason for allowing this rezoning request.
3. If OM were to approve this rezoning request; OM could find it difficult not to allow others in the area to rezone their properties 'in future'."*

Mr and Mrs Malan

"Although we are always sympathetic to anyone wanting to make an income, we would have to object to the rezoning of the said property. We feel this will set a bad precedent and is not right for this area.

Our suggestion is to rather try to assist this couple with affordable accommodation in the business district of Hermanus to start their business."

Prof S Scott

"The reasons advanced for such lifting can be applied to most residential erven in the area. This is purely a moneymaking endeavour and, if allowed, sets a precedent for other residential owners to turn their properties into commercial properties.

Furthermore, the biggest danger lies in the precedent you are setting. You are opening up the possibility for other owners to develop their properties."

Mrs G Hartman

"The rezoning of Erf 5473 Hermanus will create a precedent."

Response from applicant

These comments are noted, and the proposal cannot create a precedent, as town planning is a site-specific process and the notion that if one property is rezoned is not motivation enough to approve the rezoning of another property.

Each application is evaluated individually and site specific and considered if deemed fit to approve the rezoning.

The Overstrand Municipality is required to consider various factors that may influence their consideration of the proposed rezoning.

Response from town planner

When a property is rezoned for commercial use, it must be well thought out and correlate with the placement other commercially zoned erven. From a planning point of view, it is desirable to cluster commercial activities certain areas to regulate growth and traffic flow.

If ad hoc rezoning is allowed, it could set a precedent in the area where any property can be developed as a commercial property which will lead to the fragmentations of the residential character and could lead to a linear commercial corridor as found in Kleinmond where line shops have opened along the main road.

Objection

PROPERTY VALUE

Mrs N Ralph, Mr R Oosthuizen & Mrs E Swanepoel

"The rezoning of Erf 5473 will create a precedent, which will ultimately result in many applications along this line. Voëlklip residents do not want our residential suburb to be marred by the bastardisation of residential homes into businesses, which will jeopardise the value of our area & therefore property values will also be negatively affected."

Mr and Mrs Pedersen

"Our property's will lose their value, during covid a lot of residents worked from home, we had delivery trucks up and down our road at high speeds, it wasn't at all pleasant. I vote against it. Why can't they move into an industrial area?"

SM Turpin

"Apart from disturbing the peaceful nature of the neighbourhood, residential property values will be negatively affected."

Mr I Cason

"My erf, 7355, grens direk aan die genoemde erf tussen 7de en 6de straat. Die toekenning van besigheidsregte sone 3 kan die markwaarde van my huis negatief beïnvloed:"

Response from applicant

These comments are noted, it is however not predicted to have a negative effect on the property values.

These comments are not being supported by any factual statements and are only opinions of property owners that are concerned. Most of the properties of the objectors are not located in close proximity to the subject property and it is not expected that it could have an impact on their property values.

The property owner and any potential buyers will be required to still be considered as a reasonable neighbour and will be required to adhere to any applicable legislation which includes the Overstrand Municipality's regulations and by-laws.

The property is located on the main distributor in and out of Hermanus and there is easy access from the R43, which does not necessitate entering the residential area by any visitors or for deliveries to the premises.

Response from town planner
Even though the subject property is situated alongside the R43, the rezoning does not correlate to the placement of existing and vested commercial uses.
Objection
<u>LUPA SECTION 39(5)</u>
<p><u>Mrs N Ralph, Mr R Oosthuizen & Mrs E Swanepoel</u> <i>"With regard to the Motivation statements (LUPA, Section 39(5) (a-f), my concerns are as follows;</i></p> <p>a) <i>"No person or entity will be affected financially by the removal of the restrictive title deed condition".</i></p> <p><i>Ultimately all Voëlklip property owners will be financially affected, as our property values as prime residential will be negatively impacted.</i></p> <p>b) <i>"No person is directly benefitting from this condition as the condition is only restricting the applicant".</i></p> <p><i>The property owners of Voëlklip are benefitting from this condition as it protects their suburb as a residential area, without the negative impact of additional potentially disruptive activities, noise, deliveries, unnecessary extra traffic etc., which will harm the peaceful, residential atmosphere.</i></p> <p>c) <i>"The applicant will be gaining from the removal of the restrictive condition as it will allow him to utilise his property to its full extent".</i></p> <p><i>This motivational statement invalid, as the property is residential and using it to its 'full extent' has nothing to do with running a business from the property. However, the applicant will definitely benefit financially from the removal of the restrictive condition, as he will be selling a business property with income potential.</i></p> <p>d) <i>"The applicant will be gaining from the removal of the restrictive condition as it will allow him to utilise his property to its full extent".</i></p> <p><i>The restrictive condition definitely does have a social benefit in that it protects the residents of Voëlklip from disruptive business activities.</i></p> <p>e) <i>"The applicant will be gaining from the removal of the restrictive condition as it will allow him to utilise his property to its full extent".</i></p> <p><i>The owner of Erf 5473 Hermanus is the beneficiary and will benefit financially from the removal of the restrictive condition, as he will be selling a business property with income potential."</i></p> <p><u>Mr and Mrs Bourne</u> <i>"Contrary to the assertion that no financial benefit will accrue or detract from any property, the proposed rezoned ERF 5473 will be hugely more valuable to the existing owner and it appears he/she will sell the property - there will be a significant financial benefit to the existing owner if the property obtains rezoning rights for a business with</i></p>

up to three practitioners.”

Response from applicant

“a)” – This is noted, but however this is not backed by any factual evidence and it a mere statement.

“b)” – This is noted. It is however not predicted that the rezoning will have adverse effect on the surrounding area. The proposed use has been in operation over the past 10 years and the proposal is to ensure compliance with the regulations set out by the Overstrand Municipality. Refer to Section 4.2 for the motivation of the business property.

“c)” – LUPA Section 39(5)(c) states :

“(c) 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 motivation is clear, the property owner wants to remove the restriction to rezone the property to utilise the property for a business.

“d)” – This is a vague statement that is not backed by any motivation. There is no social impact applicable.

“e)” – This was stated numerous times throughout the motivational report. The property owner’s mother who operated the physiotherapy centre retired and after which the owner intended to sell the property. To ensure the property may be sold as a business property it is required to be rezoned.

- Response to the comment from Mr. and Mrs. Bourne:

This was never hidden, and the motivation stated that the property owner is attempting to sell the property.

Response from town planner

The property is currently being marketed as a five-bedroom house, however it is noted that the description of the advertisement reads as follow:

Proud Sole Mandate - this Modern practice is ideal for professionals such as: doctors, vets, attorneys or architects’ offices. An immaculate and spacious residence with stunning mountain views, situated on a large stand on the corner of Main Road and 17th Avenue in sought-after Voëlklip. Within close proximity to our popular beaches and scenic cliff paths.

The property offers: a welcoming reception area, five rooms and two bathrooms plus a lovely kitchen, two garages and ample off-street parking. An added bonus: a one-bedroom apartment perfect to generate a rental income. Neat, irrigated garden and more. Please contact me to arrange a viewing.


Although the property has been used for home occupation in the past it cannot be sold or marketed as a commercial property as the primary right and the zoning is for residential use. Any home occupation must be compliant with the parameters of the land use scheme. The rezoning is therefore used to market the property for

commercial use such as offices for *doctors, vets, attorneys, or architects*. It should be noted that the land use application is not clear whether it is specifically a rezoning for a doctor's office, and it seems like the rezoning is to allow for any type of office use. Thus, the fact that the property was used as a physiotherapy centre in the past is not relevant as attorneys, vets, or architects can utilise the property as they respective sees fit. Each type of practice has their own character and operational methods which could negatively impact the surrounding area and are not in line with how the property was used in the past.


It will however be a benefit to the property owner to sell the property with business rights as it can be marketed better without having to make alterations to the building. The removal of the title deed restriction is therefore advantageous for the property owner who will certainly benefit from the proposed application.


The comment from the objector is therefore agreed with.

CHAS EVERITT INTERNATIONAL PROPERTY GROUP
R3,900,000
5 2 2 Land Size 832m²




SOLE MANDATE Web Ref CWSC-6140





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R3,900,000
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Modern Practice / Residence in Voelklip

Proud Sole Mandate - This Modern practice is ideal for professionals such as: Doctors, vets, attorneys or architects offices. An immaculate and spacious residence with stunning mountain views, situated on a large stand on the corner of Main Road and 17th Avenue in sought-after Voelklip. Within close proximity to our popular beaches and scenic cliff paths.

The property offers: a welcoming reception area, five rooms and two bathrooms plus a lovely kitchen, two garages and ample off street parking. An added bonus: a one bedroom apartment perfect to generate a rental income. Neat, irrigated garden and more. Please contact me to arrange a viewing.

Image taken from website dated 16 November 2022

Objection
<u>DEVELOPMENT PARAMETERS (HEIGHT)</u>
<p><u>Mrs N Ralph</u> <i>"The increase in building height which will be put into place with this rezoning, will have a negative impact on my property. It will also result in a more 'built up' feel, as opposed to the residential atmosphere of Voëlklip."</i></p>
<p><u>Dr J and Mrs C de Villiers</u> <i>"In addition to this, the increased allowed building height under the proposed rezoning will have a direct negative affect on the adjoining properties, both with regards to shade, view and aesthetics."</i></p>
<p><u>Mr I Cason</u> <i>"Indien daar meer verdiepings opgerig word, sal dit ook my see-uitsig belemmer."</i></p>
<p><u>Mrs G Hartman</u> <i>"0.5m in building height increase from 8m to 8.5m will have a negative impact on your sea views if the rezoning is approved."</i></p>
<p><u>Mrs T Robinson</u> <i>"What is the high restriction on this property if zoning is changed as proposed?"</i></p>
Response from applicant
<p>The current zoning (Residential Zone 1: Single Residential) allows a maximum height of 8,0m over two storeys.</p> <p>The proposed zoning (Business Zone 3: Local Business) will have a maximum height of 8,5m over two storeys.</p> <p>This is a small 0,5m difference.</p> <p>It should however be stated that no additions or alterations are being proposed for the property. As stated in Section 4.2 of the motivational report.</p> <p>If it is considered detrimental to the application it may be considered that the Overstrand Municipality's Town Planner or decision-making authority make it a condition of approval that the maximum height remains 8,0m.</p> <p>The property owner is not seeking any additional development parameters in terms of height.</p>
Response from town planner
<p>Should the application be approved the structure's height will be limited to the same height of a Residential Zone 1: Single Residential. It is however noted that the property has very little additional space for parking and should the footprint increase; the property will have to be redeveloped in order to allow for more parking on site.</p>

Objection
<u>EXISTING USE / HISTORIC ACTIVITIES</u>
<p><u>Mrs N Ralph, Mr R Oosthuizen & Mrs E Swanepoel</u> <i>"It is questionable that this rezoning is based on an existing land use. If the existing land use of Erf 5473 was approved, surely the Title Deed restrictions should have already been addressed for the previous 'business' which operated there? I therefore question whether the current land use is legal. Therefore, the motivation is to legalise an existing illegal use or a use that contradicts the land use restrictions prescribed in the Title Deed to increase the property value to the detriment of the character of the residential Voëlklip area."</i></p> <p><u>Dr J and Mrs C de Villiers</u> <i>"The subject property was previously allowed to be used for the operation of a professional office by the resident owner.</i></p> <p><i>It is therefore argued that "temporary deviation of use" would be the appropriate avenue in law that will protect both the long-term residential character of the property and the right of its resident owner to practicing his or her profession."</i></p> <p><u>Mrs G Hartman</u> <i>"The motivation for the rezoning is based on an existing land use that is questionable. If the existing land use of Erf 5473 Hermanus was approved surely the Title Deed restrictions should have been addressed with a former application. An assumption can therefore be made that the current land use is illegal, and that the application should have included an application for an administrative penalty as well."</i></p> <p><i>"The motivation is therefore to legalise an existing illegal use or a use that contradicts the land use restrictions prescribed in the Title Deed to increase the property value to the detriment of the character of the residential Voëlklip area."</i></p>
Response from applicant
<p>Refer to Section 3 of the motivational report that indicates the history of the property. It is not the intention of this application to legalise any alleged past contravention. The activities have been halted and the physiotherapy offices have been closed down.</p> <p>This section was included to ensure the entire history is addressed and the new proposal for professional offices is not trying to legalise what had occurred but to ensure the property is compliant in the future.</p>
Response from town planner
<p>It is clear that from the objector's view that the history of the property was used to motivate the rezoning. This also seems to be the case with some of the responses to the comments. In the application it is also state that the property owners want to sell the property with a business zoning due to the history of the building. It is not wrong to motivate the application in such a manner; however, the objectors are questioning this. The applicant also not hiding the fact that the rezoning it to market the property. What is of concern is that the property will be utilised by other professionals such as vets, doctors or attorneys these uses have their own methods of operation which cannot be compared to a physio practice.</p>

Objection
<u>REMOVAL OF RESTRICTIVE CONDITIONS</u>
<p><u>Dr J and Mrs C de Villiers</u> <i>"The original intent of the restrictive title deed condition was to protect the residential character of the Voëlklip area. This has not change."</i></p>
Response from applicant
<p>The title deed condition was inserted 1937 and times have changed significantly, and the entire dynamic of businesses and residential properties have seen dramatic change over the past few years.</p> <p>Mixed use urban areas are becoming more prolific and stating that Voëlklip is only a residential area is also not correct. Several businesses exist within Voëlklip and having a medical facility located close by should be seen as progressive.</p> <p>It is however not proposed that Voëlklip be over developed with businesses only that these uses are able to co-exist.</p>
Response from town planner
<p>The existing commercial erven have historical land use rights, the placement of these land uses where not done with current best land use practices and therefore are not clustered together. This will be noted and form part of the evaluation.</p>
Objection
<u>DEPARTURES</u>
<p><u>SM Turpin</u> <i>"I also object to the application to relax any building restrictions. This neighbourhood has broad sidewalks to which we all adhere for the sake of the character of the neighbourhood. In other words, starting to relax the building lines will negatively affect the character of the neighbourhood."</i></p>
Response from applicant
<p>The objector may have been mistaken as no departure of the street building line is being proposed. No parking or sidewalks will be affected.</p>
Response from town planner
<p>The building lines applicable to this application are only the lateral building lines. It should be noted that in terms of the proposed commercial zoning the street building line will change to 0m which is in contrast to the residential area where structure must respect a 4m street building line.</p>
Objection
<u>DE MOND</u>
<p><u>Mrs S Pelloi</u> <i>"With many uncertainties regarding the De Mond Caravan Park and its current state we would highly oppose any further new developments and rezonings."</i></p> <p><u>Mr and Mrs Bourne</u></p>

"There is an exciting proposal to develop the De Mond caravan site currently out on tender. This development will offer good opportunities for employment, tourism and commerce. The tender document stipulates that whatever is proposed, it must be sensitive to the residential nature of Voëlklip and be minimally disruptive or encroaching. The rezoning of the ERF 5473 which is right across the road from the caravan park will contradict this need to be sensitive and it may encourage further rezoning applications from other properties nearby.... "well if they could do it, why not me"."

Response from applicant

The proposal was submitted before the tender process for De Mond was advertised and did therefore did not consider the caravan park.

The businesses proposed to be operated on the subject property have nothing to do with the tender process. The medical offices will however be able to accommodate any patients from the caravan park.

Response from town planner

This application will be evaluated on its own merit. It should be noted that De Mond caravan park's primary use right is resort zoning and not commercial.

Objection

TRAFFIC & PARKING

Mrs R Beukes

"The rezoning will increase the traffic levels in the very calm part of the neighbourhood which is detrimental."

Mr and Mrs Bourne

"That no neighbour objected previously to the property being used by a single practitioner before is most likely due to the low traffic impact of that business. With a number of practitioners operating a business on the property, this will definitely be more disturbing and detract from the peaceful residential nature of the neighbourhood. What if the proposed business is wildly successful, with queues lining up outside, spilling out of the carpark, down the road and onto the verges?"

SM Turpin

"Increased traffic due to business reasons brings along an additional safety risk. Safety is a big concern to the many retired people living in the neighbourhood."

Mrs T Robinson

"What is the parking/ volume of cars expectation for the proposed business"

Response from applicant

There is adequate parking on-site to accommodate the clients of the proposed business. The property has been used as a professional practice before and there were never any complaints or objections.

The application will also be circulated to the Traffic- and Engineering Department for comment and should any comments be made, or concerns raised it will be addressed accordingly.

The property is located on the main distributor road into and out of Hermanus which will allow traffic to keep flowing. It is understood that there could be a parking concern, however, a doctor's offices have appointments which will limit the number of cars/patients at a single time on the property.

Response from town planner

The amount of activity generated via a commercial property and a residential property is very different and business generated activity is much more frequent. The size of a home occupation, the type of uses and the amount of people employed at a home occupation is limited; this aids in limiting the impact of home occupation in residential areas. By rezoning the property these limitations are removed which will increase the activity on the site. The concern of the objector is therefore noted.

Objection

PUBLIC RESPONSE

Mrs L Vernon

"Further, It has to be said that 'probably' 99% or so of the Home Owners in Voëlklip invested in their properties here as HOMES, as it is a well set out Residential Suburb.

In the absence of a formal survey, it is very likely that this same very high percentage of Homeowners want the area to remain Single Use - Residential. Please respect these, Home Owners!"

Response from applicant

The standard public participation procedure was followed and the timeframe to submit comments has closed. The objectors cannot make assumptions and speak on behalf of other property owners that did not provide their feedback.

Response from town planner

The application was advertised, and all affected property owners could give their input on the application. The property owners directly adjacent to the site was notified via registered mail and provided an opportunity to voice their concerns.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See paragraph 7.

9. MUNICIPAL ASSESSMENT OF COMMENTS

All the 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 proposal will not further perpetuate historic spatial imbalances.

Spatial sustainability

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

Efficiency

Although the application discourages urban sprawl, the proposed development is not considered efficient from a spatial point of view as the location of the proposal is well located to other/similar commercial activities (or in other word clustered together). From a spatial planning point of view the clustering of commercial activities are encouraged. This is due to the following benefits, which are localised traffic, optimal concentration of commercial activities and limiting non-residential uses to localised point instead of spreading them through a suburb or residential area.

Spatial Resilience

The property is located in the Overstrand municipal area and is therefore guided by the Overstrand Municipality's Spatial Development Framework and Integrated Development Plan.

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

Overstrand Municipal Spatial Development Framework

In terms of the SDF (Overstrand Municipal Spatial Development Framework, 2020), the property is indicated as a residential property. As motivated by the applicant the following is sated in the SDF - *Small individual localized business enterprises could be considered consistent with the status quo (ie. a limited scale on public transport routes where services infrastructure is available)*. The applicant uses this to motivate the proposed rezoning however fails to link the SDF with the GMS (Growth Management Strategy, 2010) which is a policy document of the Municipality.

The wording used in the SDF refers to "localized" in terms of the New Shorter Oxford English Dictionary, localized means: Confined to or concentrated in a

particular place or part; that has been localized. This relates to the GMS which identified key spatial areas for the development of commercial erven. The GMS identified the spatial areas due to the character of the area and the central location of the residential suburb. And as stated earlier by allowing ad hoc development of commercial a precedent will be created which will cause the fragmentation residential area and character.

Further by localizing business to a certain demarcated area will lessen the impact of the business activity on transport and infrastructure. The SDF does not promote the spread of commercial activities throughout the residential area or along the main road.

Lastly the applicant failed to address the specific zoning as demarcated in the SDF, which is residential, therefore the application is considered a deviation of the SDF and should have been addressed as such.

Considering the abovementioned it is considered that there is an oversight in the motivation which were not made clear to the relevant stakeholders.

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

N/A

10.6 Impact on Municipal engineering services

The existing services are available.

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

Erf 5473 is zoned Residential Zone 1: Single Residential. The property owner seeks to rezone the property to Business Zone 3: Local Business in order to allow business related uses (offices) on the property and to apply for consent use to retain the existing dwelling units on the ground floor.

11. REMOVAL OF TITLE DEED RESTRICTIONS

Title Deed T9341/2014 applicable to Erf 5473, Voëlklip contains the following restrictive condition being proposed for removal:

Condition III.D.(c) "No canteen, hotel, shop, factory industry or any place of business whatsoever shall be opened or conducted on the said property except with the consent of the Transferer Company."

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

The financial or other value of the rights

The applicant states that no person or entity will be affected financially by the removal of the restrictive title deed condition. This statement is not agreed with as the removal will increase the use rights of the property and allow for the property to be marketed as a business property with rights for office space. There by the property owner will be able to increase the asking price for the property, or in an indirect manner; if the land use is obtained, the property owner will not be required to alter the office space back to residential use.

Should the property be rezoned the municipality can benefit financially due to the increase in rates and taxes on the property. However, the direct impact on properties adjacent will be negative due to the adjoining properties being zoned residential and not commercial. The aim of the title deed restriction would have been to protect where certain commercial activities may take place.

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

There is no personal benefit for the holder of the rights (the municipality).

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 personal benefit would be that the removal will facilitate the operation of a business on the property, further the property owner will be allowed to market the property and gain a relevant market related price. Further, the property owner will then not be required to make changes to the structure in order to revert it back to a dwelling.

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

The social benefit of the restrictive conditions remaining in place is that the character of the area will remain unchanged. It is of concern as noted by the objector's that the removal will impact the character of the area negatively.

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

Application is only made for removal of some restrictive conditions, namely condition III.D.(c) pertaining to business rights on the property. The support for the removal of the restrictive condition will be depended on whether the rezoning of the property is supported as discussed below.

12. THE DESIRABILITY OF THE PROPOSAL

Erf 5473 is situated on the corner of Seventh Street and Seventeenth Avenue and is developed with a single dwelling and a second dwelling. The subject property measures 832m² in extent. The main dwelling was converted into a physio practice. It is noted that the operation of the business was ceased and is currently vacant. The property owner seeks to gain permanent land use rights to develop professional

office space on the property in order to market and sell the property as developed. The application contains three aspects namely rezoning of the property, consent use and departure application this evaluation will concentrate on the rezoning of the property. The consent use and departure are a result of parameters of the proposed zoning to Business Zone 3: Local Business being different to that of a Residential Zone 1: Single Residential zoning.

Rezoning

The property owner seeks to rezone the property to Business Zone 3: Local Business in order to allow business related uses (offices for professionals). Although the property started out as a home occupation there were several issues which were communicated to the property owner regarding the home occupation in the past which were never addressed.

Considering this, there was always a concern that the use of the property would become more business dominant and not remain residential. The property owner is now struggling to sell the property because the use of the property and how the property was developed is not in line with the land use rights therefore it will be advantageous for the owner to gain the rezoning and land use rights.

The property is currently being marketed as a five-bedroom dwelling; however, it is noted that the description of the advertisement reads as follow:

Proud Sole Mandate - This Modern practice is ideal for professionals such as: doctors, vets, attorneys or architects' offices. An immaculate and spacious residence with stunning mountain views, situated on a large stand on the corner of Main Road and 17th Avenue in sought-after Voëlklip. Within close proximity to our popular beaches and scenic cliff paths.

The property offers: a welcoming reception area, five rooms and two bathrooms plus a lovely kitchen, two garages and ample off-street parking. An added bonus: a one-bedroom apartment perfect to generate a rental income. Neat, irrigated garden and more. Please contact me to arrange a viewing.

Although the property has been used for home occupation in the past it cannot be sold as a commercial property as the primary right and zoning is for residential use. Any home occupation must be compliant with the parameters of the land use scheme. The rezoning is therefore used to market the property for commercial use such as offices for doctors, vets, attorneys or architects. It should be noted that the land use application is not clear whether it is specifically a rezoning for a doctor's office, and it seems like the rezoning is to allow for any type of professional. Thus, the fact that the property was used as a physiotherapy centre in the past is not relevant as attorneys, vets, or architects can utilise the property for their use. Each type of practice has their own character operational methods which could negatively impact the surrounding area.

It will however be a benefit to the property owner to sell the property with business rights as it can be marketed better without having to make alterations to the building. The removal of the title deed restriction is therefore advantageous for the property owner who will certainly benefit from the proposed application, it is maintained that the proposal lead to a precedent being created and will lead to the fragmentation of the residential suburb.

It is noted that there are business zoned erven in Voëlklip. However, these erven were developed prior to modern forward planning documentation such as the Overstrand Municipal Spatial Development Framework in 2006 (now the SDF 2020) and the 2010 Growth Management Strategy. Any new commercial erven will have to be coherent with the current trend and development proposals for the area. The current proposal made in this application is a piece meal solution based on an activity which was done under the primary use of the residential zoning. Further as stated under section 10.4 of this report:

In terms of the SDF (Overstrand Municipal Spatial Development Framework, 2020), the property is indicated as a residential property. As motivated by the applicant the following is stated in the SDF - Small individual localized business enterprises could be considered consistent with the status quo (ie. a limited scale on public transport routes where services infrastructure is available). The applicant uses this to motivate the proposed rezoning however fails to link the SDF with the GMS (Growth Management Strategy, 2010) which is a policy document of the Municipality.

The wording used in the SDF refers to "localized" in terms of the New Shorter Oxford English Dictionary, localized means: Confined to or concentrated in a particular place or part; that has been localized. This relates to the GMS which identified key spatial areas for the development of commercial erven. The GMS identified the spatial areas due to the character of the area and the central location of the residential suburb. And as stated earlier by allowing ad hoc development of commercial a precedent will be created which will cause the fragmentation residential area and character.

Further by localizing business to a certain demarcated area will lessen the impact of the business activity on transport and infrastructure. The SDF does not promote the spread of commercial activities throughout the residential area or along the main road.

Lastly the applicant failed to address the specific zoning as demarcated in the SDF which is residential, therefore the application is considered a deviation of the SDF and should have been addressed as such. Considering the abovementioned it is considered that there is an oversight in the motivation which were not made clear to the relevant stakeholders.

Considering the above mentioned and the information contained in this report the proposal to rezone the property is not supported due to the following:

- The proposed use is in stark contrast to the residential character of the area of the area,
- The Overstrand Growth Management Strategy, 2010 clearly indicated an area in Voëlklip which is earmarked for Economic Opportunity (local). This area is central in Voëlklip and ideally located for commercial/business activities to cluster. Therefore, the Municipality's view is to centralise and cluster business activities together and not allow for the dispersion of business activities throughout the residential suburb or along the R43. A precedent will be created of ad hoc commercial erven which will lead to the fragmentation of the residential suburb.
- The motivation does not address the deviation of the Overstrand Municipal Spatial Development Framework, 2020 or of the Overstrand Growth Management Strategy, 2010.

- The objections received are noted and the concern that the proposed use will change the character of the area is agreed with. It should be noted that the land use application is not clear whether it is specifically a rezoning for a doctor's office and it seems like the rezoning is to allow for any type of professional. Thus, the fact that the property was used as a physiotherapy centre in the past is not relevant as attorneys, vets, or architects can utilise the property for their use and in different ways. Each type of professional practice has their own operational methods which could negatively impact the surrounding area. Further, even though it will be costly for the property owner to revert the structure back to a dwelling any new professional practise will have to develop the structure for its specific use.

In addition to the rezoning of the property from Residential Zone 1: Single Residential to Business Zone 3: Local Business the property owner also applies for a consent use to retain the existing dwelling unit on the ground floor. This is due to the difference in land use parameters between the two zonings. Should the rezoning not be approved then the application for a consent use is not required as a second dwelling is allowed for on a Residential Zone 1 erven.

Lastly, application is made to depart from the building line parameters applicable to a Business Zone 3: Local Business zoned property. It is noted that the proposed departures will be for the retention of the existing structure and that no new structure will be developed. The existing structure is compliant with the building line parameters and therefore, should the rezoning not be approved then the application to depart from the building line is not required.

Considering the abovementioned evaluation, the proposed application is not supported.

13. RECOMMENDATION

1. that the comments/objections received be noted;
2. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 (By-Law) applicable to Erf 5473, Hermanus for removal of Condition III.D(c) of Title Deed T9341/2014, to accommodate offices and a professional practice, **not be approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the applications in terms of the By-Law applicable to Erf 5473, Hermanus, for the following
 - ❖ **rezoning** in terms of Section 16.(2)(a) of the By-Law in order to rezone the property from Residential Zone 1: Single Residential to Business Zone 3: Local Business to allow business related uses on the property (offices);
 - ❖ **consent use** in terms of Section 16.(2)(o) to accommodate a flatlet on the ground floor of a business premises, and
 - ❖ **departure** in terms of Section 16.(2)(b) to relax the western building line from 3m to 2,68m to accommodate the proposed offices and the southern building line from 3m to 2,48m to accommodate the proposed flat.

not be approved in terms of the provisions of Section 61 of the By-Law;

4. that the applicant and persons who commented be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above conditions of approval.

14. REASONS FOR RECOMMENDATION

- The proposed use is in stark contrast to the residential character of the area of the area.
- The Overstrand Growth Management Strategy, 2010 clearly indicated an area in Voëlklip which is earmarked for Economic Opportunity (local). This area is central in Voëlklip and ideally located for commercial/business activities to cluster. Therefore, the Municipality's view is to centralise and cluster business activities together and not allow for the dispersion of business activities throughout the residential suburb or along the R43 (Seventh Street). A precedent will be created of ad hoc commercial erven which will lead to the fragmentation of the residential suburb and line development along the R43 (Seventh Street).
- The motivation does not address the deviation of the Overstrand Municipal Spatial Development Framework, 2020 or of the Overstrand Growth Management Strategy, 2010.
- The objections received are noted and the concern that the proposed use will change the character of the area is agreed with. It should be noted that the land use application is not clear whether it is specifically a rezoning for a doctor's office and it seems like the rezoning is to allow for any type of professional. Thus, the fact that the property was used as a physiotherapy centre in the past is not relevant as attorneys, vets, or architects can utilise the property for their use and in different ways. Each type of professional practice has their own operational methods which could negatively impact the surrounding area.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Title Deed
Annexure E:	Objections
Annexure F:	Comment on objections
Annexure G:	Services Report

SIGNATURES

REGISTERED PLANNER

AUTHOR

Name: **P ROUX**

SACPLAN Reg No: **A/2246/2015**

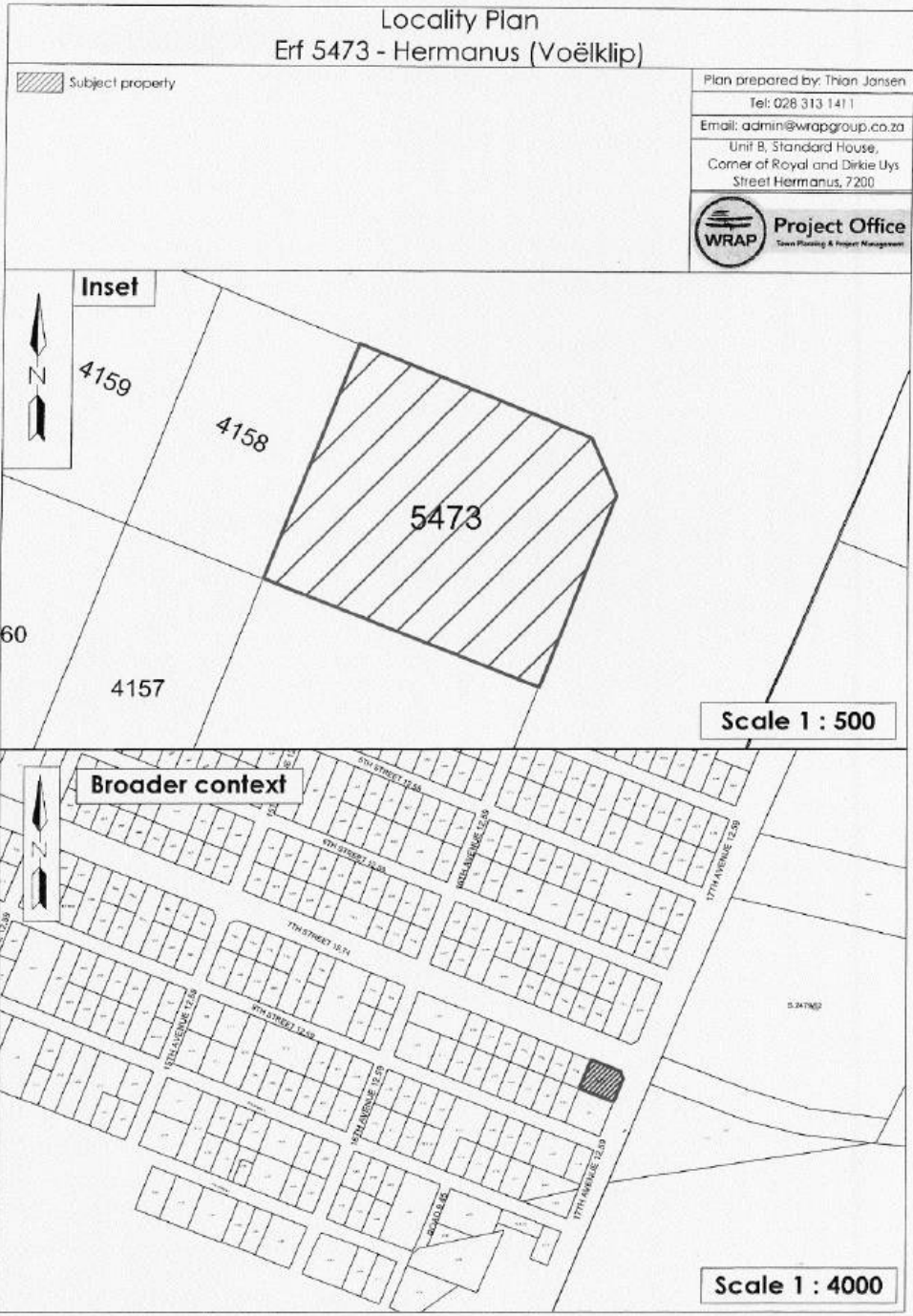
Signature: _____

Date: _____

REGISTERED PLANNERName: **SW VAN DER MERWE**SACPLAN Reg No: **A/1850/2014**

Signature: _____

Date: _____





MOTIVATION

1. ABBREVIATIONS

OM	Overstrand Municipality
OMLUS	Overstrand Municipality Land Use Scheme, 2020
BY-LAW	Overstrand Municipality By-Law on Municipal Land Use Planning, 2015, as amended
PSDF	Western Cape Provincial Spatial Development Framework, 2014
LUPA	Western Cape Land Use Planning Act, 2014.
MSDF	Overstrand Spatial Development Framework, 2020
SR1	Residential Zone 1: Single Residential (SR1)

2. PROPERTY DETAILS

Consultant	WRAP Project Office
Erf Number	5473 Hermanus
Extent	832m ²
Zoning	Residential Zone 1: Single Residential (SR1)

3. BACKGROUND AND INTENT

Erf 5473 Hermanus, hereafter referred to as the subject property is owned by De Broeder Investments (Pty) Ltd hereafter referred to as the applicant. The applicant has a vision to rezone the subject property to allow the property to be used as offices (for example medical consulting rooms).

The subject property is located on the corner of 17th Avenue and 7th Street on the edge of Voëlklip (Refer **Plan 1 – Locality Plan**). The applicant bought the property in 2014 to be utilised as a dwelling house and to allow his mother to practice a home occupation on the subject property. As the years progressed, the home occupation was practised successfully and expanded, without them knowing, the expansion occurred past the allowable limit as a result of new policies and schemes that were implemented by the Overstrand Municipality.

The applicant's mother retired, and she ceased to practice her occupation from the property. With the history of the property being used as a physiotherapy practice, it is the intention of the applicant to sell the property zoned for offices purposes and in more particular for a professional practice. To ensure the property has an appropriate zoning, the applicant appointed WRAP Project Office to submit this application.

In addition to the rezoning application, an application for the removal of a restrictive title deed condition that prohibits the applicant from operating a place of business on the subject property, is also submitted.

There is also a flat on the subject property that is located on the ground floor which will require a consent use in terms of the OMLUS. (Refer **Annexure A – Power of Attorney**)



MOTIVATION

4. PROCEDURE TO ACHIEVE THE APPLICANT'S INTENT

The following is proposed:

4.1 Removal of a restrictive title deed condition in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

There is a title deed condition that prohibits the applicant to utilise his property to its full extent as described in Section 3 and the rationale for the removal of these conditions are discussed below:

Restrictive Title Deed Conditions
Condition III.D.(c) "No canteen, hotel restaurant, shop, factory industry, or any place of business whatsoever shall be opened or conducted on the said property except with the consent of the Transferor Company."

The rationale for the removal of the restrictive title deed condition is to enable the applicant to achieve the development intent highlighted in Section 3 and not be restricted in the future. The title deed condition is more restrictive than what is allowed in terms of the OMLUS.

The rationale for the removal of these restrictive title deed conditions will be discussed in detail in Section 7 of this report.

4.2 Rezoning of Erf 5473 Hermanus from Residential Zone 1: Single Residential (SR1) to Business Zone 3: Local Business (B3) in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The applicant has the vision to sell the property with a business zoning due to the history of the use of the building. The building has over the years been altered to accommodate physiotherapy practice and it would be illogical and costly to return the property into a dwelling house.

The proposal is to rezone the subject property to align with the intended use and ensure the rights are in place for the new owners. The proposal is to allow the new owners to operate offices from the subject property that will be aligned with the layout of the existing building.

Offices are defined in terms of the OMLUS as:

"property used for conducting an enterprise primarily concerned with administrative, clerical, financial or professional duties and includes medical consulting rooms"

The property will be able to accommodate the parking requirements refer Plan 4 – SDP. The total GLA calculated for the proposed business is 140,5 which requires 5,62 parking bays. The SDP illustrates the location of the consulting rooms/office that may be utilised for business purposes.



MOTIVATION

No additional additions are proposed, and the proposal is to utilise the existing building for the proposed business premises.

4.3 Consent Use to allow a flat (on the ground floor) in terms of Section 16(2)(c) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The subject property currently has a flat on the premises, which the applicant wants to retain when the property is rezoned to Business Zone 3. This requires a consent use to be approved as it is located on the ground floor.

The proposed zoning (B3) allows for a flat (on the ground floor) with consent from the OM. A flat is defined as: 'a unit containing one or more inter-leading rooms with adequate sanitary facilities and a kitchen, used for the accommodation and housing of a single family, and may be included in or separate from the main building on the property'. This additional use will add value to the subject property as it will retain a residential character to the area.

4.4 Permanent Departure from the western building line from 3m to 2,68m in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

Permanent Departure from the southern building line from 3m to 2,48m in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The subject property is currently zoned as Single Residential Zone 1. The current side building line is 2m and the street building line is 4m as determined by the OMLUS.

The proposed zoning of Business Zone 3's development parameters are as follows:
"The side building line is 0 m, provided that where any Business Zone 3 abuts another zone, the side building line is 3,0m."

With the subject property abutting two SR1 properties on the southern and western boundaries, 3m building lines will be required. The existing building was developed in line with the SR1 building lines. Due to the proposal to rezone, the existing building will be encroaching on both side building lines. See Figure 1 and 2 that illustrates the building line encroachments:



MOTIVATION

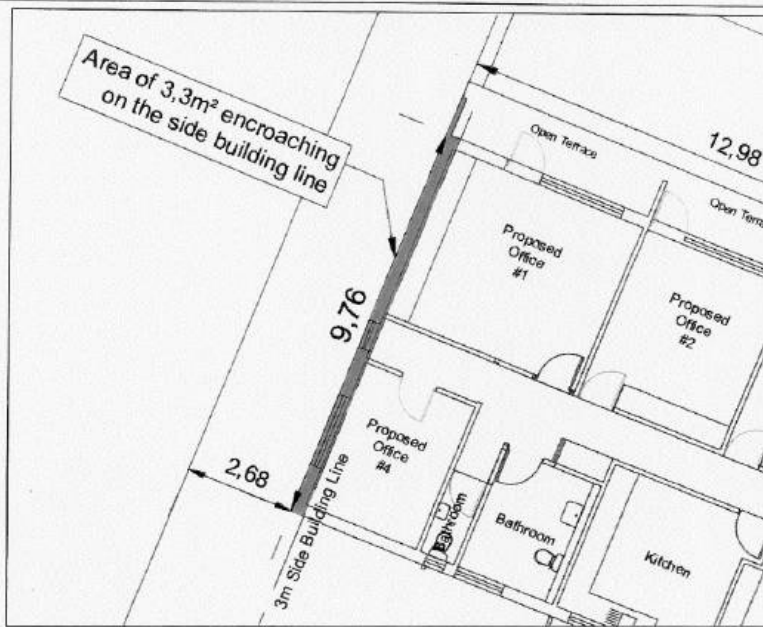


Figure 1: Proposed western boundary encroachment.

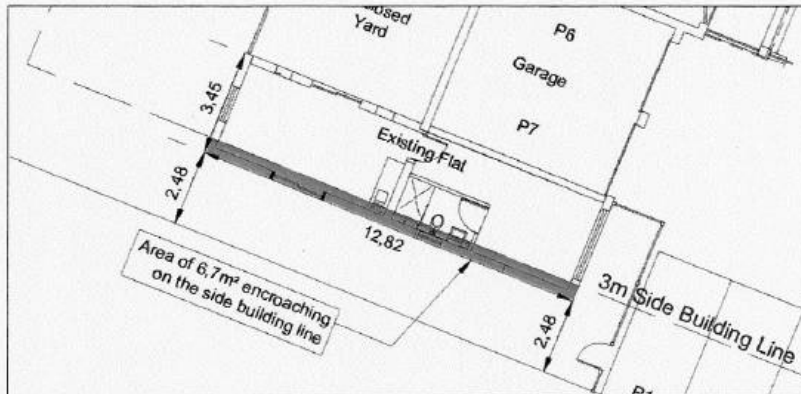


Figure 2: Proposed southern boundary encroachment.



MOTIVATION

The figures above illustrate the small-scale encroachments that are proposed. The proposed encroachments are only 6,7m² and 3,3m².

The applicant would like to ensure the building line is appropriately relaxed in terms of what is required by the Overstrand Municipality.

5. APPLICATION

Considering the above, application is made for the following:

- 5.1 Removal of a restrictive title deed condition** in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.2 Rezoning** of Erf 5473 Hermanus from Residential Zone 1: Single Residential (SR1) to Business Zone 3: Local Business (B3) in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.3 Consent Use** to allow a flat (on the ground floor) in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.4 Permanent Departure** from the western building line from 3m to 2,68m in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and
- 5.5 Permanent Departure** from the southern building line from 3m to 2,48m in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

6. LAND USE ENVIRONMENT

The properties surrounding the subject property are predominantly zoned Residential Zone 1: Single Residential. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan).

7. TITLE DEED

Title deed T9341/2014 (refer **Annexure B**) was perused and there is a restrictive condition that was inserted into the original title deed and transferred into the current title deed. This title deed condition prohibits that the applicant's intent with the subject property can be realised.

Title deed restriction

Condition III.D.(c) "No canteen, hotel restaurant, shop, factory industry, or any place of business whatsoever shall be opened or conducted on the said property except with the consent of the Transferor Company."



MOTIVATION

Motivation

The rationale for the proposed removal

The subject property was used for the operation of a professional office over the past few years. The applicant has the vision to allow a business enterprise to continue operating on the subject property. The proposal to rezone is being restricted by the condition mentioned above and therefore requires removal.

Title deed condition background

The restrictive title deed condition was originally intended to protect the residential character of the Voëlklip area, but the intention of the land owner is to create a unique professional office space within in a continually diversifying area.

Status quo

The area currently allows for "Small individual localized business enterprises" as stated by the OMSDF and the proposal is to have a small professional office space. The title deed condition restricts what is proposed by the OMSDF and the changes that have been experienced over the past few years. The applicant has a vision and plans to expand beyond these conditions.

The current and future development of the property is being restricted by the above-mentioned title deed condition. The condition made sense when Voëlklip was only a residential area, but times have however changed and Voëlklip has businesses scattered around the neighbourhood. With the current restriction the applicant is not able to utilise his property to its full extent.

In terms of the requirements of LUPA, the following information is addressed in terms of Section 39(5)(a-f):

LUPA, Section 39(5) (a-f)	
(a) 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 vest in the person as the owner of a dominant tenement;	No person or entity will be affected financially by the removal of the restrictive title deed condition.
(b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;	No person is directly benefitting from this condition as the condition is only restricting the applicant.
(c) 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 applicant will be gaining from the removal of the restrictive condition as it will allow him to utilise his property to its full extent.
(d) the social benefit of the restrictive condition remaining in place in its existing form;	This restrictive condition does not have a social benefit.



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(e) the social benefit of the removal, suspension or amendment of the restrictive condition; and	
(f) 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 is no specific beneficiary of the condition, and no person or entity will be affected if these are removed.

8. ZONING

The following zoning parameters were assessed in conjunction with the SR1 & B3 OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (q) of the OM By-Law:

Residential Zone 1: Single Residential		
Land Use Restrictions		
	Development Parameters	Current Use
Primary uses	Crèche, Dwelling House, Guest Rooms, Home Occupation, Second Dwelling Unit and Self-Catering.	Dwelling house and home occupation.
Consent uses	Day Care Centre, Green House, Guest House, House Shop, Institution, Place of Instruction, Place of Worship, Residential Building and Intensive Horticulture.	Not applicable



MOTIVATION

PROPOSED ZONING - BUSINESS ZONE 3: LOCAL BUSINESS (B3)			
Land Use Restrictions			
Primary use	Parameters	Proposal	Comply/ deviate
	Shops, Dwelling Unit (above ground floor) in accordance with 6.3.2, Flats (above ground floor), Offices , Restaurant, Caretaker's Accommodation and Self-Catering.	Offices	Applied for and motivated
Consent use that may be applied for	Bottle Store, Business Premises, Clinic, Conference Facility, Dwelling Unit (on ground floor) in accordance with 6.3.2, Flats (On Ground Floor) , Town Housing in accordance with 6.3.2, Tourist Accommodation, Hotel, Institution, Place of Assembly, Place of Entertainment, Place of Instruction, Place of Worship, Recreational Facilities, Residential Building, Sale of Alcoholic Beverages, Service Station, Service Trade and Transmission Apparatus (subject to the provisions of chapter 16.10)	Flat (on ground floor)	Applied for and motivated
Coverage	Development parameters The maximum coverage for all buildings on the land unit is 75% . 31,10%		
Floor Factor	The maximum floor factor is 1.5.	0.31	Comply



MOTIVATION

Height	<p>i. The maximum height of a building, measured from the base level to the top of the structure, is 8,5 m. ii. The maximum number of storeys is 2.</p>	<p>i. The building is not higher than 8.5m. ii. 1 Storey</p>	Comply
Setback	<p>i. The Municipality 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, the Municipality may require a greater setback.</p>		Comply
Building Lines	<p>i. The street building line is 0 m, provided that a 5,0 m building line applies where fuel pumps are erected; ii. The side building line is 0 m, provided that where any Business Zone 3 abuts another zone, the side building line is 3,0m; iii. The rear building line is 3,0 m, provided that where any Business Zone 3 abuts another zone, the rear building line is 3,0m; and Provided that the Municipality 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.</p>	<p>i. No fuel pumps are proposed ii. Applied for a 2,48m side building line (Southern building line). Applied for a 2,68m side building line (Western building line). iii. & iv. – N/A</p>	Applied for and motivated.
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.</p>	N/A	Comply



MOTIVATION

Parking and access	ii. Any portion of the building which contains a door or window onto a side or rear boundary shall be at least 1,5 m away from such boundary.		
Loading Bays	According to section 17.1 of the OMLUS: Office Four bays per 100m ² GLA Flats 1.5 for a one-bedroom flat	Parking requirements: Office: GLA - 140.5m ² 5.62 Parking bays required. Flat: 1.5 Parking bays are required. 2. Parking Bays are provided	Comply
	The minimum off-street loading must be provided to the satisfaction of the Engineering Department.	To be determined	



MOTIVATION

9. SERVICES

The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is herewith illustrated.

Electricity

The existing buildings are connected to the electricity network in the Voëklip area.

Water

The existing building is connected to the reliable water network provided by the OM in the Voëklip area.

Sewage

The existing building is connected to sewage network provided by the OM in the Sandbaai area.

Solid Waste

The owners will collect and dispose of solid waste at an OM waste treating facility.

Access and egress

Vehicular access and egress to the subject property is gained from 17th Avenue and the approval and implementation of this application will not alter this.

10. NEED AND DESIRABILITY

The need and desirability of the approval and implementation of this proposal in accordance with Section 66 (1) (c) of the OM By-Law can be illustrated as follow:

Need and desirability

The need for the development arose from the applicant's vision to increase the value of the subject by aligning the zoning with the existing building's functionality. Creating a space where job opportunities are created.

The desirability is more often a personal feeling of the applicant that may in the future benefit others, such as creating a property where businesses may operate, and jobs may be created. This in turn will impact on economic activity of the Hermanus area.

To achieve their desire, the applicant appointed WRAP Project Office to submit this application, to ensure the application is in line with the relevant policies and legislation. The physiotherapy practice has been in operation for years and has not felt out of character for the area and, opportunities to create jobs in the area should not be discouraged.

Impact on views, sunlight and character of the area

No physical changes to the subject property are proposed and no new construction will take place. The current building as indicated above in Section 8 proves that the subject site complies with the proposed zoning's development parameters. The buildings are not impeding on the views, sunlight and character of the surrounding area.



MOTIVATION

There have never been complaints from surrounding property with regard to views, sunlight and character of the area.

Economic impact

The proposed establishment that will be operated on the subject property will have a positive impact on the economy as it creates a space where employment opportunities are created. The alignment of the zoning and the function of the existing building will stimulate further economic growth to occur within the surrounding area and ensure that Voëlkop makes further economic contributions to the greater Hermanus area.

Opportunity cost

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or foregoing of valued land use rights of interested and affected parties when an application is approved. The development will not affect the property values of surrounding properties.

Impact on heritage

The subject property is not listed in the OM Heritage Register. None of the provisions in the National Heritage Resources Act, 1999 are triggered by this proposal.

Environmental impact

The subject property is not located within an environmentally important area.

11. POLICIES AND REGULATIONS

11.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

The subject property is located within the 'Protected Area Buffer' EMOZ. The purpose thereof is to protect the integrity of National, Provincial and Municipal Nature Reserves from negative external pressures/impacts while reducing pressure on core areas and to assist in preserving their value to the eco-cultural tourism economy of the Overstrand through alignment of appropriate land use and regulation.

To ensure compliance with the guidelines set out in the EMOZ the application was evaluated in terms of the provisions of Schedule A & B of the Environmental Management Overlay Zone 2020:

SCHEDULE A PROHIBITED ACTIVITIES IN OVERSTRAND ENVIRONMENTAL MANAGEMENT OVERLAY ZONES		
Prohibited Activity	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Agricultural practices within this EMOZ which may cause water logging and siltation.	X	N/A



MOTIVATION

Planting or harbouring of declared emerging weeds on properties within and adjacent to this EMOZ.	X	N/A
Development or agriculture on slopes steeper than 1:4.	X	N/A
Establishment of informal settlements or Temporary Relocation Areas.	X	N/A
No land user within this EMOZ may utilise the vegetation in a vlei, marsh or within the flood area of watercourse in a manner that may cause the deterioration or damage to the natural agricultural resources.	X	N/A
Placement of religious symbols or memorabilia.	X	N/A
Harvesting /collection of kelp / seaweed in municipal designated "no-fake" zones.	X	N/A
Harvesting, collection, moving, loading drying of kelp /seaweed, with a valid Seaweed Harvesting Permit or an exemption in terms of Section 81 or the MLRRA issued by the DAFF.	X	N/A
Stockpiling, drying, processing or loading of marine resources beyond areas designated, demarcated and signposted by the Municipal Council for such purposes.	X	N/A
Modification of the littoral active zone / functional dune systems in absence of approved management plans.	X	N/A
Feeding, disturbing / pursuit of fauna.	X	N/A
Disturbance, modification or destruction of the environment or species within special management areas designated, demarcated and signposted by the Municipal Council from time to time.	X	N/A
Defacing/damaging / removing of any notice, sign, barrier building or other infrastructure.	X	N/A
Playing or tampering with any rope, float, buoy, vessel, shelter or similar life-saving device.		N/A
Staying overnight.	X	The entire subject property is located within the zone. There is a flat on the subject property.
The discharging of domestic effluent / grey water into all natural systems.	X	N/A
Tampering with security / surveillance infrastructure.	X	N/A

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MOTIVATION

Defacing of rocky outcrops and placement of memorial plaques, religious symbols or structures on natural features.	X	N/A
Graffiti, vandalism or damaging of municipal infrastructure.	X	N/A
Littering	X	N/A
Disposal of cigarette butts, ash or other hazardous materials in any place or manner other than a receptacle designated for such items	X	N/A
Dog walking / exercising of dogs in non-designated zones.	X	N/A

SCHEDULE B ACTIVITIES ONLY PERMITTED WITH COUNCIL CONSENT IN OVERSTRAND ENVIRONMENTAL OVERLAY ZONES		
A) Activities Only Permitted With Council Consent	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Permission for the utilization of access routes to permitted kelp / seaweed harvesting sites.		N/A
Removal or destruction of vegetation which is protected and/or of conservation concern.	X	N/A
Dune maintenance on private land as per approved dune maintenance management plans.		N/A
Excavation and destruction or removal of substrate (soil, substrate, rock, shellgrit, dune sediment, mineral deposits).	X	N/A
Discharging of pool backwashing or untreated grey water or the channelling of storm water into open spaces without the necessary approval from the Municipality.	X	This is noted and will not occur on the subject property.
B) Permit Upon Approval By Delegated Authority and / Receipt of Tariff	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Installation of conservancy tanks or biological treatment plants within 50 metres from the edge of a watercourse / wetland.	X	N/A
Access from private properties to open spaces, including the removal of vegetation and the establishment of paths, structures and infrastructure.	X	N/A

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AMENDED MAY 2022
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Commercial filming.	X	N/A
Construction or placement of any temporary object, building, shelter, path or structure.	X	N/A
Use of engine or motor driven vehicles, remotely piloted aircraft or any other means of transport or other conveyances beyond designated, demarcated and signposted areas.	X	N/A
Launching of vessels at registered launch sites.		N/A
C) Council Authorisation Pending Consent Use Application / Lease Agreement / Applicable Tariffs as applicable	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Buildings / Structures associated with: Taking of water, storing of water, impeding or diverting flow, stream flow reduction, altering the bed, banks, course characteristics, outflow structures or discharge pipes.	X	N/A
Application for the designation of industrial sites and activities associated with the seaweed harvesting, collection, drying, transport and processing fishery.	X	N/A
Encroachment of private buildings, structures, infrastructure, access routes.	X	The entire proposed development is within the zone.
Commercial Harvesting/collection and removal of any natural resource.	X	N/A
Construction or placement of any permanent object, building, shelter, pathway or structure.	X	The entire proposed development is within the zone.

11.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The subject property is not located within the Heritage Protection Overlay Zone.

11.3 Spatial Planning Policies

The consistency and inconsistency of this proposal with the applicable spatial development policies will herewith be illustrated. The spatial policies which are pertinent to the submitted proposal are the following:

PSDF

The PSDF is a product of a provincial inter-departmental and inter-governmental collaboration under the guidance of the inter-departmental steering committee in collaboration with the private sector, academia, and non-governmental organisations.



MOTIVATION

This broad participatory process has created a shared spatial vision that is intended to inform spatial development patterns in urban and rural areas in the province.

Throughout the PSDF economic development is a widespread term used and focussed on. Economic development is an aspect that is important to ensure the Provincial economy has a large impact on the National economy.

The continual growth of the Provincial economy means that economic activity should be stimulated in other spheres of the government. This application to provide for the business uses are in line with the proposal to add economic value to the Voëlklip area which in turn will have a positive impact on the Overstrand Municipality.

The application then relates to the development of economic activity which is in line with the PSDF.

MSDF

The MSDF's purpose is to ensure compliance with national, provincial and municipal legislation policies and principles. The SDF aims to provide sufficient guidance regarding what constitutes appropriate spatial development land uses and direction within the urban edge. The SDF was drafted after considering input from other state departments and the public and provides a shared spatial vision which the development proposal should ideally attempt to synchronise with.

To ensure compliance with the principles and objectives set out by the PSDF and the National Development Plan the MSDF was synthesised through the influence of these policies and frameworks.

Ensuring economic development take place in the OM would ensure sustainable growth of the municipal area.

The area where the subject property is located, falls in a unique category where businesses are not promoted to be clustered, but rather be spread out across Voëlklip.

The MSDF states the following in terms of commercial activities in Voëlklip:

"Small individual localized business enterprises could be considered consistent with the status quo (ie. a limited scale on public transport routes where services infrastructure is available)."

The subject property is located within a unique position on the edge of Voëlklip, on the R43 and across the previous De Mond caravan park, where the proposed business zoning will not be intrusive or create a disturbance as it will only be offices (medical practice). The offices proposed are intended to be used by professionals that will aid in creating jobs and having a positive economic impact on the surrounding area.



MOTIVATION

12. PLANNING PRINCIPLES

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

Spatial justice

Spatial justice refers to planning proposals which do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal for a business premises would encourage economic growth that in turn could employ less fortunate and not add to the perpetuate apartheid spatial development imbalances.

Spatial sustainability

Spatial sustainability refers to planning proposals which result in communities that are viable. This proposal is intended to increase the economic power of the Voëlklip area in the OM. This will aid that the Voëlklip area is staying in contact with the ever-changing greater Hermanus area.

Efficiency

This proposal is intended to maximise the usage of the subject property, which is proposed as the new zoning would unlock more options of economic development.

Spatial resilience

This proposal is not in conflict with any spatial planning policies or other OM regulations which is a hallmark of resilience.

Good administration

The OM has a credible track record of good administration regarding the method of public participation which accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications.



RECOMMENDATION

13. EVALUATION

The rationale for the removal of the restrictive title deed condition and the rezoning is a method to obtain the additional land use required for the applicant to be able to sell the subject property with a zoning that will match the existing building's functionality as being utilised as offices, previously utilised as a physiotherapy practice.

The proposal for the rezoning, consent use and departures are in harmony with all relevant spatial planning policies which illustrates that the applicants had due consideration for relevant spatial planning policies.


The title deed also is not restricting the proposal and the history of the use of the property should be considered. Since 2014, there has been no complaints or objections against the use of the property as professional practice from any of the surrounding property owners.

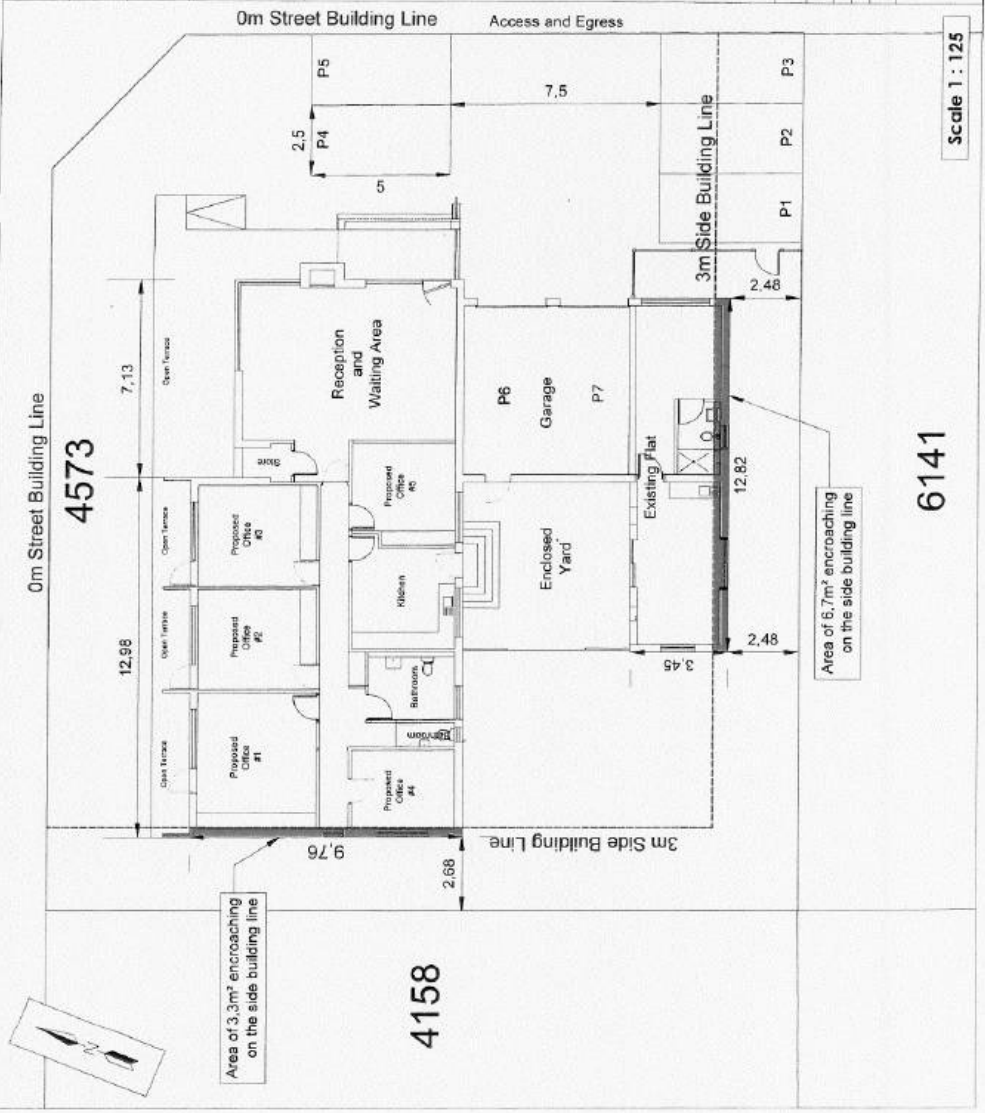
14. RECOMMENDATION

Based on the abovementioned motivation, it is recommended that the following be approved:

- 14.1 Removal of a restrictive title deed condition** III.D.(c) in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 14.2 Rezoning** of Erf 5473 Hermanus from Residential Zone 1: Single Residential (SR1) to Business Zone 3: Local Business (B3) in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 14.3 Consent Use** to allow a flat (on the ground floor) in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 14.4 Permanent Departure** from the western building line from 3m to 2,68m in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and
- 14.5 Permanent Departure** from the southern building line from 3m to 2,48m in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

Annexure C

Site Development Plan Erf 5473 - Hermanus (Voëlkip)	
Coverage	Existing - 278m ² / 31,10%
GIA	Proposed Business - 140,5m ²
Parking	Proposed Business - 5,6 Parking Bays Dwelling Unit - 1,5 Parking Bays 7 Parking Bays Provided
Plans prepared by: Ithon Jansen All dimensions are approximate and subject to a survey. Tel: 028 313 1411 Email: ijd@iwdpro.co.za Unit 8, Standard House, Corner of Royal Road and Nibla Lys Street, Hermanus, 7200	
 Project Office Survey Planning & Project Management	



2114

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DYKES VAN HEERDENSLABBERT
 HOPKINS
 Eenhede E4/2a Edward IV 120-122
 Edwardstraat
 Bellville 7530, Suid-Afrika

Purchase price/Value		Amount	Discount
R.	1350	00,00	900,00

Opgestel deur my

TRANSPORTBESORGER
 MAGNUS DANIEL STEENKAMP

DATA / VERIFY

06 MAR 2014

NCAP/LINDA

TRANSPORTAKTE

T000009341/2014

HIERBY WORD BEKEND GEMAAK DAT

LISE COETZEE

voór my verskyn het, REGISTRATEUR VAN AKTES te Kaapstad, hy die genoemde komparant synde behoorlik daartoe gemagtig deur 'n Volmag aan hom verleen deur

JOAN JUDITH GELDENHUYS
 Identiteitsnommer 390625 0032 088
 Ongetrou

geteken te HERMANUS op 16 JANUARIE 2014

DATA / CAPTURE

04 MAR 2014

NGCNGWANA PENELOPE

En genoemde Komparant het verklaar dat sy prinsipaal, op 2 Desember 2013, wettig en wettiglik verkoop by Privaat ooreenkoms, en dat hy, in sy voorgenoemde hoedanigheid hierby, sodeer en transporteer aan en ten gunste van

DE BROEDER INVESTMENTS EIENDOMS BEPERK
 Registrasiënommer 2011/145134/07

diese Opvolgers in titel of Regverkrygendes, in volkome en vrye eiendom

ERF 5473 HERMANUS,
 IN DIE OVERSTRAND MUNISIPALITEIT
 AFDELING CALEDON
 PROVINSIE WES-KAAP

GROOT: 832 (AGT HONDERD TWEE EN DERTIG) Vierkante Meter

OORSPRONKLIK GEREГИSTREER kragtens Sertifikaat van Verenigde Titef Nr. T26606/1972 met Kaart Nr. 6636/1972 daaraan geheg en **GEHOU** kragtens Transportakte Nr. T35840/1985

I. **WAT BETREF** die figuur A f g E op Kaart Nr. 6636/1972 -

ONDERHEWIG aan die voorwaardes waarna verwys word in Transportakte Nr. T12886/1970.

II. **WAT BETREF** die figuur f B C D g op Kaart Nr. 6636/1972 -

ONDERHEWIG aan die voorwaardes waarna verwys word in Transportakte Nr. T23853/1970.

III. **WAT BETREF** die hele eiendom -

A. **ONDERHEWIG** aan die spesiale voorwaarde genoem in gewysigde Grondbrief gedateer 22 November 1904 (Caledon Erfpagte Boekdeel 10 nr. 19) naamlik:-

"The land thus granted being further subject to all such rules and regulations as either are already or shall in future be established respecting lands granted on similar tenure."

B. **GEREGTIG** op die voordeel van die serwituu't verwysing waarna op 11 Oktober 1920 endosseer is op Grondbrief gedateer 22 November 1904 (Caledon Erfpakte Boekdeel 10 nr. 19), naamlik:-

"Portion of this property has been set aside for grazing purposes as will appear from the conditions of the sale attached to a Transfer No. 12857 of 9 September 1920, of erven shown on the General Plan, M55A."

C. **ONDERHEWIG VERDER** aan die voorwaardes van verkoop, genoem in Transportakte Nr. T1129/1935, opgelê deur die **MOSSEL RIVER ESTATE COMPANY LIMITED**, nr. (iv) waarvan soos-volg lees:-

"(iv) The Company reserves to itself the sole right to all water arising on or flowing over the Company's property. There shall, however, be excluded from this reservation any water obtained by the Owner of any land within the Township by means of wells or Boreholes sunk on such land."

en nrs. (i) en (iii) waarvan betrekking het op Wette en plaaslike Reëls en Regulasies en aan paaie, rioolpype, duikslote en die afstand wat geboue en buitegeboue van enige weg of laan moet wees.

D. **ONDERHEWIG VERDER** aan die volgende voorwaarde genoem in Transportakte Nr. T8165/1940 opgelê deur en ten gunste van **HERMANUS-MOSSEL RIVER TOWNSHIP PROPRIETARY LIMITED** en sy opvolgers in titel as eienaars van die restant van die eiendom gehou kragtens Transportakte Nr. T10114/1937, naamlik:-

"(a) The said property may not be subdivided except with the consent of the Transferor Company."

10



(c) No canteen, hotel restaurant, shop, factory industry, or any place of business whatsoever shall be opened or conducted on the said property except with the consent of the Transferor Company."

E. **NIE ONDERHEWIG** aan voorwaarde E op bladsy 4 van Transportakte Nr: T35840/1985 nie, kragtens Artikel 53 van die "Mining Titles Registration Amendment Act 24 of 2003".

For Information

to



CSM

WESHALWE, die komparant afstand doen van al die regte en titel wat:

JOAN JUDITH GELDENHUYS, Ongetroud

voorheen op genoemde eiendom gehad het, en gevolglik ook erken het dat, sy geheel en al van die besit daarvan onthef en nie meer daartoe geregtig is nie en dat, kragtens hierdie akte, bogenoemde

DE BROEDER INVESTMENTS EIENDOMS BEPERK
Registrasienuommer 2011/145134/07

diese Opvolgers in titel of Regverkrygendes, tans en voortaan daartoe geregtig is, ooreenkomstig plaaslike gebruik, behoudens die regte van die Staat en ten slotte erken dit dat die verkoopprijs die bedrag van **R1 350 000,00 (Een Miljoen Drie Honderd en Vyftig Duisend Rand)** beloëp.

TEN BEWYSE WAARVAN ek, genoemde Registrateur, tesame met die Komparant hierdie Akte onderteken en dit met die ampseël bekragtig het.

ALDUS GEDOEN EN VERLY op die Kaartoor van die REGISTRATEUR VAN AKTES te Kaapstad op 2014-02-27



 d.d.

In my teenwoordigheid



REGISTRATEUR VAN AKTES

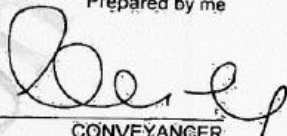
①-⑤
①

7/14

340

DYKES VAN HEERDEN SLABBERT
HOPKINS
Unit E4/2
Edward IV
120-122 Edward Road
Bellville 7530
South Africa

Prepared by me


CONVEYANCER
MAGNUS DANIEL STEENKAMP

POWER OF ATTORNEY TO PASS TRANSFER

I, the undersigned

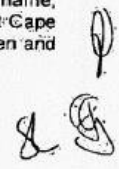
JOAN JUDITH GELDENHUYS
Identity Number 390625 0032 088
Unmarried



do hereby nominate and appoint ELANA HOPKINS and/or JACOBUS PETRUS VAN ZYL and/or LISE COETZEE and/or MAGNUS DANIEL STEENKAMP and/or ANTON LUTHER POSTRUMUS,

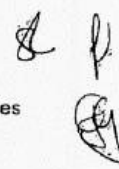
with power of substitution to be my true and lawful Attorney and Agent in my name, place and stead to appear at the Office of the REGISTRAR OF DEEDS at Cape Town or any other competent official in the Republic of South Africa and then and there to act as my Attorney and Agent and to pass transfer to:

DE BROEDER INVESTMENTS PROPRIETARY LIMITED
Registration Number 2011/145134/07

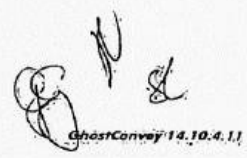


the property described as:

ERF 5473 HERMANUS
IN THE OVERSTRAND MUNICIPALITY
DIVISION CALEDON
WESTERN CAPE PROVINCE



IN EXTENT: 832 (EIGHT HUNDRED AND THIRTY TWO) Square Metres
HELD BY Deed of Transfer Number T35840/1985


GhostConvey 14.10.4.11

Page 2

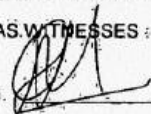
the said property having been sold by me on 2 December 2013, to the said transferee/s for the sum of R1 350 000,00 (One Million Three Hundred and Fifty Thousand Rand);

and further cede and transfer the said property in full and free property to the said Transferee; to renounce all right, title and interest which the Transferor heretofore had in and to the said property; and generally, for effecting the purposes aforesaid, to do or cause to be done whatsoever shall be requisite, as fully and effectually, to all intents and purposes, as the Transferor might or could do if personally present and acting therein; hereby ratifying, allowing and confirming all and whatsoever the said Agent/s shall lawfully do or cause to be done in the premises by virtue of these presents.

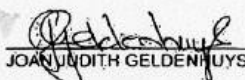
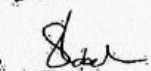
Signed at Heerwyd on 16 January 2014
in the presence of the undersigned witnesses.

AS WITNESSES:

1.



2.


JOAN JUDITH GELDENHUYLS



Transfer Duty Declaration **TDREP**

Reference Details

Transfer Duty Reference Number: TDE0095C10

Details			
Transfer Duty Reference Number	TDE0095C10		
Transaction Reference of Related Exchange Transaction			
Transfer Duty Reference Number	Total Fair Value: R		
Any Other Consideration	R		
Transaction Type			
Transaction Type Purchased	INDIVIDUAL		
Details of Seller / Transferor / Time Share Company			
Nature of Person	INDIVIDUAL	Full Name	JUAN JUDITH
Surname / Registered Name	QJEDENHUYIS	Initials	JJ
ID Number	990829002088	Date of Birth (CCYYMMDD)	1953-08-25
Passport Number		Income Tax Number	0380124924
Natural Person	YES	Fixed Period (years)	
Connected Person to the Purchaser	NO	Share Percentage	100.00
Gender	FEMALE	Marital Status	NOT MARRIED
Passport Country		Date Property acquired by seller	1953-08-30
Original Purchase Price	R 0.00	Effective Date of Transaction	2013-12-02
Details of Purchaser / Transferee			
Nature of Person	PRIVATE_CO	Deeds Number	
Full Name		Surname / Registered Name	DE BROEDER INVESTMENTS PTY LTD
Income Tax Number	6431172171	Annual Income from all sources	R
Company / CC / Trust Reg No.	201114513407	Natural Person	NO
Fixed Period (years)		Connected Person to the Seller	NO
Share Percentage	100.00	Gender	
Effective Date of Transaction	2013-12-02		
Details of Conveyancer / Attorney			
Conveyancing Firm	DYKES VAN HEERDEN SLABBERT HOPKINS	Name of Conveyancer	MAGNUS DANIEL STEENKAMP
Business Telephone Number	X000000000	Fax Number	
Contact Email	STUREL@DVHSLAW.ZA		
Details of Estate Agent			
Commission Payable on this Transaction	R X00000000000000	Business Telephone Number	
Fax Number		Surname	COETZEE
Cell Number		Initials	C
Income Tax Number	075735145		
Details of the Property			
Is the property an enterprise asset for VAT purposes?	NO	Was any input tax claimed in respect of the property?	NO
Date of Transaction/Acquisition (CCYYMMDD)	2013-12-02	Is the Property?	IMPROVED
Bought by	PRIVATE TREATY	How was property used?	PRIMARY RESIDENCE
Nature of property	PRIMARY RESIDENCE	For what purpose will the property be used?	PRIMARY RESIDENCE
Are the provisions of Section 35A of the Income Tax Act 1962 applicable?	NO	Amount of bond	R
Local Authority Valuation (Urban Properties)	R 195,700.00	Monthly Rental Value	R
Value of property	R	Occupational Rent/Lease/ Paid or Payable	R
Land Value	R	Selling Price	R -1350000.00
Improvement Value	R 1350000.00	Any Other Consideration Payable	R
Total Fair Value	R 1350000.00	Total Consideration	R 1350000.00

11/14



Transfer Duty Declaration

TDREP

Transfer Duty Reference Number: TDE0095C1D

Receipt

Receipt Details

Transfer Duty Reference Number	TDE0095C1D	Receipt No.	1200115834
Receipt Amount	R. 29500.00		

Declaration by Conveyancer / Attorney

I certify that this is a true copy of the transfer duty declaration / receipt / exemption certificate drawn from the SARS eFiling site, which will be retained by me for 5 years from the date of registration of transfer.

Please ensure you sign over the 2 lines of 'X's above

1086346242236440796c
181105 1 90 1643062

Date
(CCY/MM/DD)

2011/11/14

For enquiries go to
www.SARS.gov.za or call
0800 00 SARS (7777)

For Information



OVERSTRAND LOCAL MUNICIPALITY

CLEARANCE CERTIFICATE FOR MUNICIPAL SERVICES, SURCHARGES ON FEES, PROPERTY RATES,
OTHER MUNICIPAL TAXES, LEVIES, DUTIES ON TRANSFER OF PROPERTY

Authority is hereby granted in terms of section 118 of
the Local Government Municipal Systems Act, 2000 (32 of 2000),
for the registration of the transfer of the property/ies mentioned herein.

Certificate Nr.: 10282769

Date: 12/02/2014

Valid Until: 13/05/2014

Conveyancer Ref Nr: D3077/SL

Transfer from: JOAN JUDITH GELDENHUYS Id. Nr: 3906250032088

Transfer to: DE BROEDER INVESTMENTS PROPRIETARY LIMITED Id. Nr: 2011/145194/07

Erft/Farm portion: 5473 0 Township: HERMÁNUS /Farm:

Council: Overstrand Local Municipality

Declaration By Conveyancer:

MAGNUS DANIEL STEENKAMP

acting on behalf of

DVHS - Bellville

herby certify that this is a true copy of the rates
clearance certificate drawn from GhosConvey.

Signature:

Date:

12 February 2014

Ms E. Hoonberg

for: Director: Finance
Manager: Revenue

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Page 1 of 1
GhosConvey: 14.0.0.5/1.1.6

4

PROD DEEDS REGISTRATION SYSTEM - CAPE TOWN DATE : 20140224 TIME : 11:32:17.7 PAGE : 1
PREPARED BY : DRS08231 - MADAMA LITHA

TRACK NUMBER : 88005645979

BLACK-BOOKING ENQUIRY ON NAME : GELDERHUIS JOAN BLOITH
ID NUMBER : 3906250932088
BIRTH DATE : 19390625
MARITAL STATUS : UNMARRIED
Maiden Name :
TYPE OF PERSON : PRIVATE PERSON

PERSON HAS NO CONTRACTS/INTERDICTIONS

PLEASE NOTE: THE INFORMATION APPEARING ON THIS PRINTOUT IS FURNISHED FOR PURPOSES OF INFORMATION ONLY.
FOR MORE DETAILED INFORMATION, PLEASE REFER TO THE REGISTERED SOURCE DOCUMENTS.

END OF REPORT



6

PROD DEEDS REGISTRATION SYSTEM - CAPE TOWN DATE : 20140214 TIME : 11:32:31.3 PAGE : 1
PREPARED BY : DRS08231 - MADAM LITHA

TRACK NUMBER : 88005645979

PROPERTY DETAILS: FRONT FOR PORTION 0
 REF. NO 9473
 TOWNSHIP HERMANUS
 REG. DIV. CALEDON RD.

PROVINCE WESTERN CAPE
 PREV DESCRIPTION REF. R/E 4155; R/E 4154
 DIAGRAM DEED NO 126686/972
 EXTENT 832 SQM
 CLEARANCE HERMANUS MUN

NO INTERDLCTS.

DOCUMENTS HOLDER & SHARE AMOUNT O/P/A SCAN/MICROFILM REF MPOD
 V47190/2007 135840/1985 0900 20871819151815 0905

OWNER DETAILS

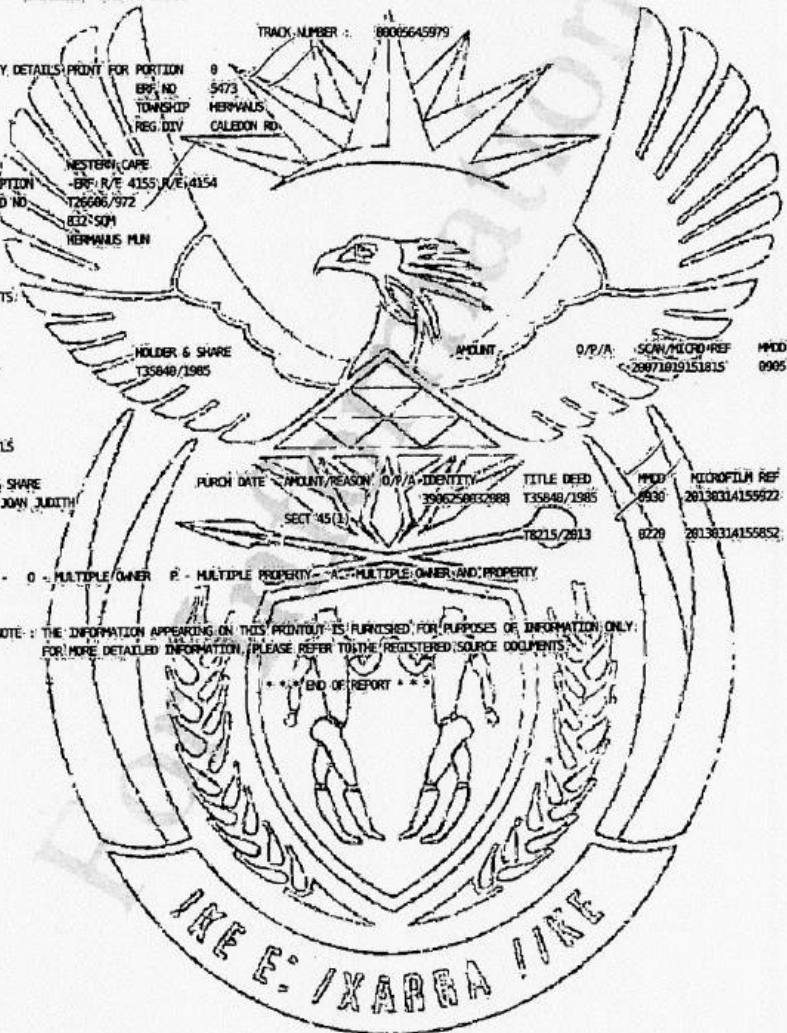
FULL NAME & SHARE	PURCH DATE	AMOUNT/REASON	O/P/A IDENTITY	TITLE DEED	MPOD	MICROFILM REF
GELDENHUIS JOAN JUDITH				135840/1985	0900	20130314155822
				78215/2013	0220	20130314155852

SECT 45(1)

* O/P/A - 0 - MULTIPLE OWNER P - MULTIPLE PROPERTY - A - MULTIPLE OWNER AND PROPERTY

** PLEASE NOTE : THE INFORMATION APPEARING ON THIS PRINTOUT IS FURNISHED FOR PURPOSES OF INFORMATION ONLY.
 FOR MORE DETAILED INFORMATION, PLEASE REFER TO THE REGISTERED SOURCE DOCUMENTS.

*** END OF REPORT ***



REP E: IXABBA IINE

A Conradie

From:
Sent: Friday, 19 August 2022 21:34
To: A Conradie
Cc:

Subject: RE: Erf 5473 Voelklip



FILE NO.	EF 5473
	VNK ✓
SCAN NO.	Felicia
COLLABORATOR NO.	1734382

DE KLERK MACLENNAN-SMITH INC.

Reg. No. 1996/001800/21

Attorneys, Executors and Conveyancers/Prokureurs, Eksekuteurs en Aktebesorgers

Registered Office 8 Magnolia Street, Hermanus, 7200
 Home 8 Willow Warbler, Hemel & Aarde Estate, Hermanus 7200
 P.O. Box 113 Hermanus 7200 RSA
 Tel: +27 28 3163411 Fax: +27 865522128
 Director/Direkteur: K.B.E. MacLennan-Smith (B.A. LLB)
 Consultant/Konsultant: A.J. Nel (B.Proc LLB MBA)

19 August 2022

Dear Alida

We act on behalf of Felicia Jordaan ("Felicia"), the previous tenant at the premises in respect of which this application is brought, and also on behalf of Felicity MacLennan-Smith and myself as previous tenants who were created by Felicia.

As has been stated, Felicia conducted a successful physiotherapy practice at the premises, and provided a valuable service to the residents of Voelklip, being the only such practice in the area.

Approving the application will not change what has been the status quo since 2014. The possibility also exists that part of the premises could be used (for example) by a medical doctor or dentist, should approval be granted, for the benefit not only of Voelklip residents but also those from Stanford and neighbouring towns on that side of Hermanus. As you are aware, the building is situated at the Eastern entrance to Hermanus.

Travelling costs in South Africa have increased substantially in the past few years. In addition, parking in and around the CBD has become a greater problem, particularly during the high seasons. By approving this application, both of these will be alleviated for nearby residents.

No building changes are required.

More than sufficient on site parking is and has been provided.

No traffic congestion will be created by reason of the location to of the premises at the entrance to Hermanus. In fact, approval will help relieve additional traffic and parking required in the CBD. Note that the entrance to the premises is not on the main road leading into Hermanus, but from a side street.

No noise or other interference of the enjoyment by adjacent residents will be created by approving the application and there will be no reduction in value of properties in the area.

19 AUG 2022

2135

No residents of Voelklip will be adversely affected by the approval. In fact, the reverse is true. Residents will retain a benefit they have enjoyed since 2014.

Felicia invested a large amount of money in upgrading the premises into an upmarket medical practice based on the Consent previously enjoyed. She stands to suffer a high loss should she or the owner be required to re-alter the premises for residential purposes only. This constitutes clear prejudice.

Granting the application will in no way further encroachment of business premises in the residential area of Voelklip. It will continue as it has been for years and retain the benefit of what the Voelklip residents have enjoyed for years.

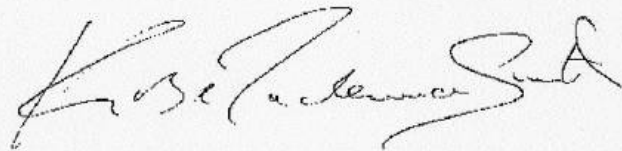
We are more than surprised at the objection by the ratepayers association and respectfully submit that the majority of residents in Voelklip will support the application.

We submit that the application should be granted.

Kindly acknowledge receipt of this email.

Thank you.

Regards



From:
Sent: Friday, August 19, 2022 8:18 PM
To:
Subject: FW: Erf 5473 Voelklip

From: Karl Pretorius
Sent: Friday, 19 August 2022 13:21

Subject: FW: Erf 5473 Voelklip

Middag Felicia en Richard

Ons hou maar duimvas. Dit sal 'n onreg wees as hulle die aansoek afkeur. Ek het 'n voorgevoel dat dit gaan slaag al sal julle maar geduldig moet wees. Sulke meule maal maar langsaam.

Groete
 Karl

From:
Sent: Friday, 19 August 2022 13:16
To: 'alida@overstrand.gov.za' <alida@overstrand.gov.za>
Subject: Erf 5473 Voelklip

3/35

A Conradie2. TP-n. /hoort
(M. Olliver)

From:
Sent: Friday, 19 August 2022 13:16
To: A Conradie
Subject: Erf 5473 Voëlklip



Geagte Alida en mnr P Roux

Ek het onlangs 'n skrywe van ene Antoinette en mnr Wridgway (dink van die Belastingbetalersvereniging) insake die aansoek om hersonering ens van Erf5473, Voëlklip ontvang.

Ek wil dit duidelik maak dat ek nie die eienaar van die eiendom ken nie en geen persoonlike belang by die aansoek het nie. My vrou het 7 jaar gelede 'n beroerte gehad en het wel van mev Jordaan se fisiodienste by die eiendom gebruik gemaak, tot en met haar aftrede sowat 'n jaar gelede. Ons, soos vele ander persone, vind dit baie jammer dat daar nie tans sodanige diens in Voëlklip beskikbaar is nie.

Uit die skrywe wat ek ontvang het wil dit voorkom asof die Belastingbetalersvereniging die aansoek wil opponeer, wenskylik op grond van "business creep". Hulle argument het wat my betref absoluut geen meriete nie. Ek het met 'n hele aantal ander inwoners in Voëlklip gesels en hulle ondersteun die aansoek ook ten volle.

Voëlklip is by uitstek 'n residentiële area (en sal so bly), maar oor die jare het is heelwat beshede in die omgewing gevestig. Ek verwys bv na die OK Minimark, die Shell Garage en aangrensende werkswinkel, heelparty restaurante, eiendomsmaatskappye met kantore en les bes talle gastehuisse. Die fisiopraktyk wat op Erf 5473 bedryf is het geen negatiewe impak op Voëlklip en die omgewing nie. Daar is nie sprake van ekstra verkeer of enige geraas nie. Na-ure is die fasiliteit in elk geval gesluit, anders as gastehuisse wat soms 'n groot probleem is met motors op sydadjes en geraas veral oor naweke en vakansietye.

Voëlklip se inwoners is merendeels senior of afgetrede persone wat dit dikwels moeilik vind om dorp toe of verder te ry vir mediese/fisiodienste. Dit sal dus uiters voordelig wees indien so 'n praktyk weer in Voëlklip gevestig kan word.

Die aansoek wat deur WRAP namens die eienaar ingedien is, is 'n uitstekende en omvattende dokument wat beslis ondersteun moet word. My aanbeveling is dus dat die aansoek so gou as moontlik goedgekeur word.

le uwe
 Karl Pretorius
 6de straat 163, Voëlklip

FILE NO.	SF 8473
	VNK ✓
SCAN NO.	Karl
COLLABORATOR NO.	1734404

19 AUG 2022

4/85

TP- n. / Noord
B. (H. Olivier)**A Conradie**

From:
Sent: Friday, 19 August 2022 20:35
To: A Conradie
Subject: ERF 5473



Ek skryf die kommentaar in belang van 'n groot aantal inwoners van Voëlklip. Ek wil dit duidelik maak dat ek nie die eienaar van die eiendom ken nie. My eggenote en ek self het wel van mev Jordaan se fisioterapiedienste op die eiendom, gebruik gemaak. Ons vind dit baie jammer dat sodanige diens, sedert mev Jordaan se aftrede, nie meer in Voëlklip beskikbaar is nie. Ons ondersteun dus die aansoek van harte.

Nou blyk dit dat die Belastingbetalersvereniging die aansoek wil opponeer, oënskynlik op grond van "business creep". Hulle argument het m.i. weinig meriete. Voëlklip is hoofsaaklik 'n residensiële area, maar oor die jare is heelwat besighede in die omgewing gevestig. Ek lys die volgende:

- OK Minimark,
- Gastehuse
- Restaurante,
- Shell Garage met aangrensende werkwinkel,
- Eiendomsmaatskappye.

Erf 5473 is die eerste gebou wat 'n mens sien as jy die dorp uit die rigting van Stanford binnekom. Dit is 'n baie netjiese gebou en omgewing en verskaf 'n positiewe indruk van ons dorp. Verder is dit ideaal vir die aanbod van mediese dienste in 'n relatief veilige omgewing. Dit is dus in my en ander inwoners se belang dat sodanige dienste weer daar aangebied kan word.

Die aansoek wat deur WRAP namens die eienaar ingedien is, is 'n omvattende dokument wat ons ondersteuning verdien. My aanbeveling is dus dat die aansoek goedgekeur word.

Vriendelike groete.

Albert Hoek
 ewende Straat 162

FILE NO.	5473
	LNK
SCAN NO.	Hoek
COLLABORATOR NO.	1734395

19 AUG 2022

TP- n. Ahearne
(M. Quidia)
4.

5/35

A Conradie



From:
Sent: Friday, 19 August 2022 09:40
To: A Conradie
Subject: FW: Application for removal Of Restrictive Title Deed - ERF 5473 Hermanus

FILE NO. 515473
HVK
SCAN NO.
Nicola
COLLABORATOR NO.
1734407

To: Overstrand Municipality, Department of Town Planning

I hereby object to the application for the removal of restrictive title deed condition, rezoning, consent use and departure of ERF 5473, Hermanus. My concerns are as follows:

- The subject property is within an upmarket residential area. Therefore by allowing offices will negatively affect this. Once rights for 'office use' have been granted, virtually any business can be operated and stated as an 'office' and the "unique professional office space" quoted by the applicant cannot be guaranteed.
- The historical business properties alongside the Main Road (7th Street) are historical occurrences. They are also 'Low key' and have not changed in character for many years.
- The rezoning of Erf 5473, will create a precedent, which will ultimately result in many applications along this line. Voelklip residents do not want our residential suburb to be marred by the bastardisation of residential homes into businesses, which will jeopardise the value of our area & therefore property values will also be negatively affected.
- The increase in building height which will be put into place with this rezoning, will have a negative impact on my property. It will also result in a more 'built up' feel, as opposed to the residential atmosphere of Voelklip.
- It is questionable that this rezoning is based on an existing land use. If the existing land use of Erf 5473 was approved, surely the Title Deed restrictions should have already been addressed for the previous 'business' which operated there? I therefore question whether the current land use is legal. Therefore the motivation is to legalise an existing illegal use or a use that contradicts the land use restrictions prescribed in the Title Deed to increase the property value to the detriment of the character of the residential Voelklip area.

With regard to the Motivation statements (LUPA, Section 39(5) (a-f), my concerns are as follows;

- a) "No person or entity will be affected financially by the removal of the restrictive title deed condition".

Ultimately all Voelklip property owners will be financially affected, as our property values as prime residential will be negatively impacted.

- b) **"No person is directly benefitting from this condition as the condition is only restricting the applicant".**
The property owners of Voelklip are benefitting from this condition as it protects their suburb as a residential area, without the negative impact of additional potentially disruptive activities, noise, deliveries, unnecessary extra traffic etc, which will harm the peaceful, residential atmosphere.
- c) **"The applicant will be gaining from the removal of the restrictive condition as it will allow him to utilise his property to its full extent".**
This motivational statement invalid, as the property is residential and using it to its 'full extent' has nothing to do with running a business from the property. However, the applicant will definitely benefit financially from the removal of the restrictive condition, as he will be selling a business property with income potential.
- d) **"The restrictive condition does not have a social benefit"**
The restrictive condition definitely does have a social benefit in that it protects the residents of Voelklip from disruptive business activities.
- e) **"There is no specific beneficiary of the condition, and no person or entity will be affected if these are removed".**
The owner of Erf 5473 Hermanus is the beneficiary and will benefit financially from the removal of the restrictive condition, as he will be selling a business property with income potential.

Name: Mrs N Ralph
Address: 326 8th Street , Voelklip, Hermanus.
Contact details: email:
Cell:
Interest in Application: Resident & property owner in Voelklip situated opposite ERF 5473
Reason for Comments: Objection to proposed removal of restrictive title deed condition.

NB. KINDLY ACKNOWLEDGE RECEIPT OF THIS EMAIL.



Virus-free www.avast.com

A Conradie

S.



From:
Sent: Thursday, 18 August 2022 20:24
To: A Conradie; Jacques de Villiers
Cc: admin@wrapgroup.co.za
Subject: Municipal Notice No 81/2022 - OBJECTION - ERF 5473, 13 17th Avenue, Voëlkliip, Hermanus

Importance: High

TP. n/hoof
 (Cl. Olivier)

Kindly acknowledge receipt of this email.

To: Overstrand Municipality, Department of Town Planning, Mr. P. Roux

From: Dr FJ de Villiers
 Squareone Property Holdings Pty Ltd
 Erf 4148, 325 8th Street
 Voëlkliip
 Hermanus

FILE NO.	OF 5473
	LDVK ✓
SCAN NO.	
	Claudi
COLLABORATOR NO.	
	1734411

We hereby object to the application for the removal of restrictive title deed condition, rezoning, consent use and departure of ERF 5473, 13 17th Avenue, Voëlkliip, Hermanus.

We have a property, Erf 4148, in close proximity to Erf 5473 and therefore have a vested interest in the amendment of this title deed.

Our comments/concerns are as follow:

The original intent of the restrictive title deed condition was to protect the residential character of the Voëlkliip area. This has not change.

The subject property was previously allowed to be used for the operation of a professional office by the resident owner.

It is therefor argued that "temporary deviation of use" would be the appropriate avenue in law that will protect both the long term residential character of the property and the right of it's resident owner to practicing his or her profession.

In contrast, allowing the proposed rezoning hold the real risk of permanently altering the character of the immediate neighbourhood with unknown economical consequences.

In addition to this, the increased allowed building hight under the proposed rezoning will have a direct negative affect on the adjoining properties, both with regards to shade, view and aesthetics.

Vriendelike groete/Kind regards
 Jacques & Claudi de Villiers
 claudidv@gmail.com



A Conradie

G.

From:
 Sent: Thursday, 18 August 2022 15:01
 To: A Conradie
 Cc:
 Subject: OBJECTION TO APPLICATION RE ERF 5473
 Attachments: Guthrie submission to OV Municipality re ERF 5473 2022.08.18.pdf

Dear Sir /Madam

Please find attached my objection to the application regarding ERF 5473 for removal of restrictive title deed condition, rezoning, consent use and departure.

Many thanks
 Teresa Guthrie
 227 9th Street, Voelklip

TR N. /head
 (Cl. Olivia)

FILE NO.	215473
	17K
SCAN NO.	Teresa
COLLABORATOR NO.	1734418

18 AUG 2022

9/35

*Teresa Guthrie
227 9th Street
Voelklip, Hermanus,
Western Cape, South Africa.
7200*

TOWN PLANNING
OVERSTRAND MUNICIPALITY

18 August 2022

To whom it may concern

RE: OBJECTION TO APPLICATION: ERF 5473 FOR REMOVAL OF RESTRICTIVE
TITLE DEED etc.

My name is Teresa Guthrie
Address: 227 9th Street, Voelklip, Hermanus
Cell: 082-872-4694

I wish to **object to the application** regarding ERF 5473, in all aspects: removal
of restrictive title deed condition, rezoning, consent use and departure.

Voelklip should remain a residential area only, and the building lines should not
be reduced – this will prevent business creep and encroachment that
disadvantages neighbours and the nature of the area.

Many thanks for lodging my objection.

Kind regards



TERESA GUTHRIE

A Conradie

TR O. Theart
7. (H. Olivier)



From:
Sent: Thursday, 18 August 2022 12:41
To: A Conradie
Subject: Application for removal Of Restrictive Title Deed - ERF 5473 Hermanus

Importance: High
Sensitivity: Confidential

FILE NO.	Of 5473
	HNK ✓
SCAN NO.	Robert
COLLABORATOR NO.	1734425

To: Overstrand Municipality, Department of Town Planning

I hereby object to the application for the removal of restrictive title deed condition, rezoning, consent use and departure of ERF 5473, Hermanus.

My concerns are as follows;

The subject property is within an upmarket and well established residential area. Therefore by allowing offices will negatively affect this upmarket residential area. Once rights for 'office use' have been granted, virtually any business can be operated and stated as an 'office' and the "unique professional office space" quoted by the applicant cannot be guaranteed;

The historical business properties alongside the Main Road (7th Street) are historical occurrences. They are also 'Low key' and have not changed in character for many years ;

The rezoning of Erf 5473, will create a precedent, which will ultimately result in many more similar applications other Voelklip residents - especially properties along 7th Street in Voelklip area. Residents do not want our residential suburb to be marred by the bastardisation of residential homes into businesses, which will jeopardise property values of our area being negatively affected;

It is questionable that this rezoning is based on an existing land use. If the existing land use of Erf 5473 was approved, surely the Title Deed restrictions should have already been addressed for the previous 'business' which operated there? I therefore question whether the current and previous land use were legal. Therefore the motivation is to legalise an existing illegal use or a use that contradicts the land use restrictions prescribed in the Title Deed to increase the property value to the detriment of the character of the residential Voelklip area.

With regard to the Motivation statements (LUPA, Section 39(5) (a-f), my concerns are as follows;

18 AUG 2022

- a) "No person or entity will be affected financially by the removal of the restrictive title deed condition".

Ultimately all Voelklip property owners will be financially affected, as our property values as prime residential will be negatively impacted.

- b) "No person is directly benefitting from this condition as the condition is only restricting the applicant".

The property owners of Voelklip are benefitting from this condition as it protects their suburb as a residential area, without the negative impact of additional potentially disruptive activities, noise, deliveries, unnecessary extra traffic etc, which will harm the peaceful, residential atmosphere.

- c) "The applicant will be gaining from the removal of the restrictive condition as it will allow him to utilise his property to its full extent".

This motivational statement invalid, as the property is residential and using it to its 'full extent' has nothing to do with running a business from the property. However, the applicant will definitely benefit financially from the removal of the restrictive condition, as he will be selling a business property with income potential.

- d) "The restrictive condition does not have a social benefit"

The restrictive condition definitely does have a social benefit in that it protects the residents of Voelklip from disruptive business activities.

- e) "There is no specific beneficiary of the condition, and no person or entity will be affected if these are removed".

The owner of Erf 5473 Hermanus is the beneficiary and will benefit financially from the removal of the restrictive condition, as he will be selling a business property with income potential.

Kindly acknowledge receipt of my mail .

Kind Regards

Mr R. Oosthuizen (Home owner)

315,6th Street,Voelklip,Hermanus,7200

A Conradie

8.

From: Thursday, 18 August 2022 10:15
 Sent: A Conradie; ratepayers@hermanus.co.za
 To: Bev Joubert
 Cc: Application for plans re ERF5473
 Subject:



Good day.

I received correspondence regarding the proposed application for plans for ERF 5473 in Voelklip, Hermanus. I wish to lodge an objection to the approval of business rights on this property and request it remain a residential plot in keeping with the area.

Whilst we understand that it has been used for a small business practice, the sale of the plot with business rights does not guarantee that the new owners will continue a low-key operation.

We are ERF 4134 and many years ago got our view obstructed by the development of Baleens which is an unattractive development blocking our front view.

I wish to state my clear objection to these plans.

Thank you.

Regards

Susan van Ryneveld

Executor of Estate late MA Truswell & beneficiary of ERF 4134.

TP. M. (Incar)
 (I. d. Olivier)

FILE NO.	ERF 5473
	I-VK ✓
SCAN NO.	Susan
COLLABORATOR NO.	1734431

18 AUG 2022

A Conradie

9.

From:
Sent: Thursday, 18 August 2022 10:37
To: A Conradie
Cc:
Subject: Fwd: Application for plans re ERF5473



TP. n. / head
 (11. Olivia)

Hi Alida

My sister's correspondence below refers.

I stand by her and all concerned ratepayers objecting to the proposed plans

Regards
 Bev Joubert

Sent from my iPad

Begin forwarded message:

From: Sue vR <sue@ryno.co.za>
Date: 18 August 2022 at 10:14:59 SAST
To: alida@overstrand.gov.za, ratepayers@hermanus.co.za
Cc: Bev Joubert <nikabox@icloud.com>
Subject: Application for plans re ERF5473

FILE NO.	ERF 5473
	LAVIK ✓
SCAN NO.	
	Bev
COLLABORATOR NO.	
	1734478

Good day.

I received correspondence regarding the proposed application for plans for ERF 5473 in Voelklip, Hermanus.

I wish to lodge an objection to the approval of business rights on this property and request it remain a residential plot in keeping with the area.

Whilst we understand that it has been used for a small business practice, the sale of the plot with business rights does not guarantee that the new owners will continue a low-key operation.

We are ERF 4134 and many years ago got our view obstructed by the development of Baleens which is an unattractive development blocking our front view.

I wish to state my clear objection to these plans.

Thank you.

Regards

Susan van Ryneveld

Executor of Estate late MA Truswell & beneficiary of ERF 4134.

18 AUG 2022

14/35

A Conradie

10.



From: Thursday, 18 August 2022 10:02
Sent: A Conradie
To:
Subject: Fwd: Application for removal of Restrictive Title Deed Condition. Erf 5473 Hermanus

TR N. Ahoor
(M. Olie)

From: Estelle Swanepoel
Subject: Re: Application for removal of Restrictive Title Deed Condition. Erf 5473 Hermanus
Date: 17 August 2022 at 16:37:13 SAST
To: alida@overstrand.gov.za

To: Overstrand Municipality, Department of Town Planning

I hereby object to the application for the removal of restrictive title deed condition, rezoning, consent use and departure of ERF 5473, Hermanus. My concerns are as follows:

FILE NO.	ERF 5473
	LVK. ✓
SCAN NO.	Estelle
COLLABORATOR NO.	1734440

- The subject property is within an upmarket residential area. Therefore by allowing offices will negatively affect this. Once rights for 'office use' have been granted, virtually any business can be operated and stated as an 'office' and the "unique professional office space" quoted by the applicant cannot be guaranteed.
- The historical business properties alongside the Main Road (7th Street) are historical occurrences. They are also 'Low key' and have not changed in character for many years.
- The rezoning of Erf 5473, will create a precedent, which will ultimately result in many applications along this line. Voelklip residents do not want our residential suburb to be marred by the bastardisation of residential homes into businesses, which will jeopardise the value of our area & therefore property values will also be negatively affected.
- The increase in building height which will be put into place with this rezoning, will have a negative impact on the sea views from my property. It will also result in a more 'built up' feel, as opposed to the residential atmosphere of Voelklip.
- It is questionable that this rezoning is based on an existing land use. If the existing land use of Erf 5473 was approved, surely the Title Deed restrictions should have already been addressed for the previous 'business' which operated there? I therefore question whether the current land use is legal. Therefore the motivation is to legalise an existing illegal use or a use that contradicts the land use restrictions prescribed in the Title Deed to increase the property value to the detriment of the character of the residential Voelklip area.

With regard to the Motivation statements (LUPA, Section 39(5) (a-f), my concerns are as follows;

(a) "No person or entity will be affected financially by the removal of the restrictive title deed condition".

Ultimately all Voelklip property owners will be financially affected, as our property values as prime residential will be negatively impacted.

(b) "No person is directly benefitting from this condition as the condition is only restricting the applicant".

The property owners of Voelklip are benefitting from this condition as it protects their suburb as a residential area, without the negative impact of additional potentially disruptive activities, noise, deliveries, unnecessary extra traffic etc, which will harm the peaceful, residential atmosphere.

18 AUG 2022

15/35

(c) "The applicant will be gaining from the removal of the restrictive condition as it will allow him to utilise his property to its full extent".

This motivational statement invalid, as the property is residential and using it to its 'full extent' has nothing to do with running a business from the property. However, the applicant will definitely benefit financially from the removal of the restrictive condition, as he will be selling a business property with income potential.

(d) "The restrictive condition does not have a social benefit"

The restrictive condition definitely does have a social benefit in that it protects the residents of Voelklip from disruptive business activities.

(e) "There is no specific beneficiary of the condition, and no person or entity will be affected if these are removed".

The owner of Erf 5473 Hermanus is the beneficiary and will benefit financially from the removal of the restrictive condition, as he will be selling a business property with income potential.

Name: Mrs E. Swanepoel

Address: 15 Seventeenth Avenue, Voelklip, Hermanus.

Contact details: email: !

Interest in Application: Resident & property owner in Voelklip situated opposite ERF 5473

Reason for Comments: Objection to proposed removal of restrictive title deed condition.

NB. KINDLY ACKNOWLEDGE RECEIPT OF THIS EMAIL.

TP A. Sheart
(A. Olivia)

10/35

A Conradie

11.



From: Thursday, 18 August 2022 09:03
To: A Conradie
Subject: Opposition to Rezoning: Property on the corner of 7th Street and 17th Avenue

Dear Alida,

I am a resident of Voelklip staying at 13 16th Avenue. I read the article by Brian Wridgway regarding the potential rezoning of the property on the corner of 7th Street and 17th Avenue and would like to voice my objection to this.

Voelklip is a residential area and its charm and attraction comes from this zoning. In particular, it is a quiet suburb that attracts tourists and holiday goers, benefitting the region at large. Having another commercial property (not a work from home or home business establishment), in my opinion, will detract from the nature of the area in a negative way.

Thank you for listening to our concerns.

Kind regards,
Andrew de Villiers

13 16th Avenue, Voelklip

FILE NO.	21 543
	1/1/K ✓
SCAN NO.	
	Andrew
COLLABORATOR NO.	
	1734442

17 AUG 2022

TP n. / heart 17/35
(H. Olivia)

A Conradie

12.

From: Thursday, 18 August 2022 07:30
Sent: A Conradie
To: admin@wrapgroup.co.za
Cc: Erf 5473 rezoning
Subject: Hermanus 1.pdf; Hermanus 2.pdf
Attachments:



Dear Madam/Sirs

I received documentation regarding rezoning Erf 5473 Voelklip Hermanus and are definitively not in favour of rezoning the mentioned property from Zone 1 (single residential) to Zone 3 .

I am not sure of the perimeters of the new zoning mentioned , please explain what is the extend of Zone 3 business rights. As a house owner in the area (320 , 8th street) we enjoy the quietness of the neighbourhood and we would like to see it stay like that for the years to come. Our family owns the house from the early 1980's and we are the longest owners of property in that area.

With many uncertainties regarding the De Mond Caravan Park and its current state we would highly oppose any further new developments and rezonings.

I stay in Bellville and use the Hermanus property as a breakaway over holidays and weekend , any rezoning will open the opportunity for future business. Now it may be explained as a office development , but the property can be re-sold and then with rezoning in place it would be out of our control what the new owners will be developing there. Further down in 7th street there is a café with takeaways and a liquor license and there are open space around that premises as there are always traffic and elements hanging out there. And the last thing I want to see is that our neighbourhood property gets devalued because of that. Our property already has been devalued because the uncertainties and the state of the caravan park.

Please acknowledge recite of my objection and that it is noted.

For any further information please contact me.

Kind regards
Sandro Peloi

FILE NO.	EF 5473
	1AVK ✓
SCAN NO.	
	Peloi
COLLABORATOR NO.	
	1734451

17 AUG 2022

18135

A Conradie

13.



From: Wednesday, 17 August 2022 21:49
Sent: A Conradie
To: locations@tlcsa.co.za
Cc:
Subject: Objection to Business rights on 7th street and 17th ave

We, Carl and Uta Coetzee as residents of Voëlklip at 305 9th Str, Hermanus, strongly object to the application to rezone any area of Voëlklip for Business rights.

Uta Coetzee
Sent from my iPad

TP. n. / theart
(H. Olivia)

FILE NO.	OF 913
	HWK ✓
SCAN NO.	Uta
COLLABORATOR NO.	1734455

17 AUG 2022

19/25

A Conradie

14.

From:
Sent: Wednesday, 17 August 2022 19:16
To: A Conradie
Cc:
Subject: APPLICATION FOR REZONING ERF 5473
Attachments: OBJECTION REZONING ERF 5473.pdf



TP. n. (heard
 (H. Olivier)

Good Day Alida

Find objection to above application attached

Kind Regards
 René Beukes

FILE NO.	5473
	VVK
SCAN NO.	
	Rene
COLLABORATOR NO.	
	1734459

17 AUG 2022

20/35

9th Street 306
Voëlklip
Hermanus
17 August 2022

To whom it may concern,

APPLICATION FOR REZONING ERF 5473

I hereby like to object against the rezoning of ERF 5743 to Business Zone 3 form Residential Zone 1 and the removal of restrictive title deed condition.

I object on the following grounds:

- The rezoning might negatively affect property value.
- The rezoning will change the character of the area which was the main driver for us purchasing a property in this area.
- The rezoning will increase the traffic levels in the very calm part of the neighbourhood which is detrimental.

Yours sincerely

René Beukes

TP. A. Heath 2135
(H. Olivia)

A Conradie

15.

From: Wednesday, 17 August 2022 17:42
Sent: A Conradie
To: re zone Voelklip
Subject:



Municipal Council

We are against the re zone of the property on cnr. of 17th and 7th. Our property's will lose there value, during covid a lot of residents worked from home, we had delivery trucks up and down our road at high speeds, it wasn't at all pleasant. I vote against it. Why can't they move into a industrial area?

Hazel and Ronald Pedersen

FILE NO.	07-513
	1/1K ✓
SCAN NO.	
	Pedersen
COLLABORATOR NO.	
	1734462

17 AUG 2022

TP. n/hoort
(M. Olivier)

22135

A Conradie

16.

From:
Sent: Wednesday, 17 August 2022 16:47
To: A Conradie
Subject: Re Rezoning of Erf 5473



Dear Sir/Madam

I hereby want to object to the rezoning of Erf 5473 to be zoned as business premises. There are sufficient businesses and petrol stations servicing Voëlklip. As ratepayer and owner of the property 317 De Mond this is a quiet neighbourhood and should be preserved as such.

Best regards

Elmien de Kock
Sent from my iPhone

FILE NO.	SF 5473
	Vmk ✓
SCAN NO.	Elmien
COLLABORATOR NO.	1734474

17 AUG 2022

A Conradie

17.



From: Wednesday, 17 August 2022 16:51
Sent: A Conradie
To: A Conradie
Subject: Objection rezoning 7th street/17th Ave, Voelklip

TP. n/thead
 (H. Olivier)

To whom it may concern

I wish to object to the rezoning of private dwelling of cnr 7th street and 17th Avenue, Voelklip.

Thanks
 Vanessa Thom
 13 13th Ave, voelklip

Sent from [Email.Avn](#) for mobile

FILE NO.	OF 523 ✓ WVK.
SCAN NO.	Thom
COLLABORATOR NO.	173 4480

17 AUG 2022

24/35

A Conradie

18.



From: Friday, 19 August 2022 10:41
Sent: A Conradie
To: admin@wrapgroup.co.za
Cc: ERF5473 1317TH AVENUE, VOELKLIP, HERMANUS: APPLICATION FOR THE
Subject: REZONING CONSENT USE & PERMANENT DEPARTURE: WRAP PROJECT OFFICE ON
 BEHSLF OF DE BROEDER INVESTMENTS (PTY) LTD

TP. O. Sheart
(H. Ollivier)

Dear Sir/Madam,

Regarding the above proposal, I object to it on the following grounds:-

1. The Voelklip area is residential; the use of the existing property as a place of business beyond what was allowed was not then approved and it should not now be approved.
2. That no neighbour objected previously to the property being used by a single practitioner before is most likely due to the low traffic impact of that business. With a number of practitioners operating a business on the property, this will definitely be more disturbing and detract from the peaceful residential nature of the neighbourhood. What if the proposed business is wildly successful, with queues lining up outside, spilling out of the carpark, down the road and onto the verges?
3. Contrary to the assertion that no financial benefit will accrue or detract from any property, the proposed rezoned ERF 5473 will be hugely more valuable to the existing owner and it appears he/she will sell the property - there will be a significant financial benefit to the existing owner if the property obtains rezoning rights for a business with up to three practitioners.
4. There is an exciting proposal to develop the De Mond caravan site currently out on tender. This development will offer good opportunities for employment, tourism and commerce. The tender document stipulates that whatever is proposed, it must be sensitive to the residential nature of Voelklip and be minimally disruptive or encroaching. The rezoning of the ERF 5473 which is right across the road from the caravan park will contradict this need to be sensitive and it may encourage further rezoning applications from other properties nearby.... "well if they could do it, why not me".

I appreciate the opportunity to submit my objections and will be happy to discuss these further if necessary.

My kind regards,

Peter Bourne and Veronica Bourne

Address 321 8th Street,

Voelklip,

Hermanus 7200

FILE NO.	ERF 5473 ✓
	WVK
SCAN NO.	Bourne
COLLABORATOR NO.	1734028

19 AUG 2022

25/35

A Conradie

19.



From: Friday, 19 August 2022 12:51
 To: A Conradie
 Subject: Re: Erf 5473 (17th Ave, Voelklip) - Rezoning Request -- OBJECTION

TP n. / heart
 (H. Olivia)

Dear OM

Please find our input on the below matter:

Re: Erf 5473 (17th Ave, Voelklip) - Rezoning Request

We are responding to your notice re the above property and its owner's request for rezoning and other actions.

We categorically **OBJECT to this request, and ask that OM rejects the request.**

Our property is at 244 7th St Voelklip. (corner of 13 Avenue and 7th St)..
 As a property owner on 7th St, our interest is fundamentally that **Voelklip should REMAIN a RESIDENTIAL Suburb**, without any compromise and any rezoning.

Our concerns and reasoning include the following:

1. **Any change to the residential zoning sets a precedent** that can further be leveraged or exploited by others (existing or those buying) in the area.
2. **There is no critical reason for allowing this rezoning request.**
3. **If OM were to approve this rezoning request, OM could find it difficult not to allow others in the area to rezone their properties in future.**
4. Over time, this **could cause the decay of the residential character of Voelklip.**

Further, It has to be said that 'probably' 99% or so of the Home Owners in Voelklip invested in their properties here as **HOMES**, as it is a well set out Residential Suburb. In the absense of a formal survey, it is very likely that this same very high percentage of Homeowners want the area remain Single Use - Residential. **Please respect these Home Owners !**

Thank you for receiving my input on this matter.

Mrs Leonie Vernon

FILE NO.	Erf 5473
	LJK ✓
SCAN NO.	Leonie
COLLABORATOR NO.	1734044

19 AUG 2022

TP. n. Shear
(H. Olivia)
20.



26/35

A Conradie

From: [redacted]
Sent: Thursday, 18 August 2022 10:45
To: A Conradie
Subject: Objection to rezoning request for Erf 5473, 13 17th Avenue

Dear Alida

The Application for Removal of Restrictive Title Deed Condition, Rezoning, Consent of Use and Departure for Erf 5473, 13 17th Avenue, Voelklip, refers.

I am a resident of 17th Avenue, and the owner of 29th 17th Avenue, and therefore consider myself an interested and affected party in this matter.

I object to this Application, based on the following grounds:

- Voelklip (and specifically this part) is a quiet residential area; people buy property and live here for that reason. Starting to give additional business rights to one property (specifically an office) will put the quiet nature of the neighbourhood at risk.
- Increased traffic due to business reasons brings along an additional safety risk. Safety is a big concern to the many retired people living in the neighbourhood.
- Apart from disturbing the peaceful nature of the neighbourhood, residential property values will be negatively affected.
- I also object to the application to relax any building restrictions. This neighbourhood has broad sidewalks to which we all adhere for the sake of the character of the neighborhood. In other words, starting to relax the building lines will negatively affect the character of the neighbourhood.

Yours sincerely
S M Turpin
Owner: 29th 17th Avenue

This message and attachments are subject to a disclaimer.
Please refer to <http://upnet.up.ac.za/services/it/documentation/docs/004167.pdf> for full details.

FILE NO.	OT 5113 ✓
	1-MK
SCAN NO.	Turpin
COLLABORATOR NO.	1734057

18 AUG 2022

27/35

A Conradie

21. 5473 HVC.



From:
 Sent: Wednesday, 17 August 2022 12:15
 To: A Conradie
 Cc:
 Subject: Fwd: Erf 5473 : Objection to rezoning to business premises

*TP. n. Ahoed
 (M. Olivia)*

- > Dear Madam / Sir
- >
- > We would like to object to the rezoning of the above property into a Business property.
- >
- > The part of Voëlklip and Hermanus is particularly charming to people who want to appreciate the nature and get away from cities and town centres.
- >
- > Kind regards
- >
- > Ben Lamprecht
- >
- > 308 9th Street

FILE NO.	Erf 5473
	HVC
SCAN NO.	Ben
COLLABORATOR NO.	1733033

17 AUG 2022

A Conradie

22.

From:
 Sent: Wednesday, 17 August 2022 11:06
 To: A Conradie
 Subject: erf 5473 Voelklip.



TP-A Theart
 (H Olivier)

Hi Alida,

My wife and I live at 17-11th Ave in Voelklip.

Although we are always sympathetic to anyone wanting to make an income, we would have to object to the rezoning of the said property. We feel this will set a bad precedent and is not right for this area.

Our suggestion is to rather try to assist this couple with affordable accommodation in the business district of Hermanus to start their business.

Pierre and Sharon Malan

FILE NO. EL 5473-HVK ✓
SCAN NO. Malan
COLLABORATOR NO.
1732976

17 AUG 2022
 Str TP

A Conradie

23. 5473 HVC

From:
 Sent: Wednesday, 17 August 2022 11:00
 To: A Conradie
 Subject: FW: Lifting of restrictive conditions

Importance: High



FP-A Theart (Holivier)

Please acknowledge receipt of this letter.

From:
 Date: Wednesday, 17 August 2022 at 10:34 AM
 To:
 Cc:
 Subject: Lifting of restrictive conditions

Dear Sir/madam

As the owner of 54 10th Street, Voëlklip I wish to express my extreme displeasure with the proposed lifting of the restrictive conditions on the residential property at the corner of 17th Avenue and 7th Street.

The reasons advanced for such lifting can be applied to most residential erven in the area. This is purely a moneymaking endeavor and, if allowed, sets a precedent for other residential owners to turn their properties into commercial properties.

My property is on the corner of 10th Street and 3rd Avenue and the property on the other corner used to have commercial rights. For close on 35 years we had endless problems of various natures with the owners, tenants and sublessees of the property. We had to bring court applications and I had endless discussions with Ms Van der Stoep (?) to get the municipality to intervene, which they never did. Only when Mr Marcus Jooste, in desperation about the conditions on the property, bought it, our problems stopped.

You cannot allow this kind of commercial development in a residential area as it infringes on the rights of other owners in the area. Furthermore, the biggest danger lies in the precedent you are setting. You are opening up the possibility for other owners to develop their properties.

Yours sincerely

Prof Susan Scott (BA LLB LLD)
 54 10th Street
 Voëlklip

FILE NO. EL 5473-HVK
SCAN NO. HVK 5473
COLLABORATOR NO. 1732968

17 AUG 2022

TS

20135

A Conradie

5478 MC 24.

From: A Conradie
 Sent: Wednesday, 17 August 2022 11:00
 To: 'Hermanus Ratepayers Association'
 Cc:
 Subject: FW: Opposition to change in Zoning



TP-A Theart (Holivier)

Dear Sirs,

As a trustee representing The Three G's Trust, the owners of 232 9th Street, Voelklip I wish to raise our objection to the proposed changing in the zoning of the property situate on the corner of 7th Street and 17th Avenue, Voelklip to allow for the establishment of offices and business rights. This detracts from the residential character of the area and is unacceptable.

Regards,

Lawrence Swanson

FILE NO. EL 5473-HWK
SCAN NO. Swanson
COLLABORATOR NO. 1732997

17 AUG 2022
TP

31/35

A Conradie

25.



From:
Sent: Friday, 12 August 2022 15:47
To: A Conradie
Subject: Hersoning van erf 5473 Hermanus

TP. A. /hooft
 (H. Olivia)

Geagte Raadslid

Na aanleiding van 'n brief wat ek ontvang het in verband met bogenoemde hersoning van n erf, wil ek graag 'n beswaar aanteken.

My erf, 7355, grens direk aan die genoemde erf tussen 7de en 6de straat. Die toekenning van besigheidsregte sone 3 kan die markwaarde van my huis negatief beïnvloed. Indien daar meer verdiepings opgerig word, sal dit ook my see-uitsig belemmer. Dit sal ook 'n negatiewe uitwerking hê op die huislike karakter van Voëlklip.

Ek sal die baie waardeer indien u dit steeds slegs as n sone 1 klassifiseer.

Baie dankie

Ivor Cason
 323 6de straat Voëlklip

FILE NO.	5473
	HVK ✓
SCAN NO.	Cason
COLLABORATOR NO.	1730772

14 AUG 2022
 TP

A Conradie

TP n. Ancoot
cc. (M. Olivia)



From:
Sent: Monday, 15 August 2022 09:51
To: A Conradie
Subject: FW: ERF 5473 Hermanus application for rezoning to Business.

To Hermanus Town Planning

Just to add to the below objections

I have first hand experience of houses being rented out around me and on this basis oppose this application.

When it is not a home, there is constantly movement and noise of public persons with no regard for neighbours in close proximity. This is very evident as our erf's are relatively small. Some businesses will also be active on Sundays and public holidays, which is totally unacceptable.

Regards

Gail Hartman

ERF 4222 Hermanus

FILE NO.	Of 5473
	LNK ✓
SCAN NO.	Gail
COLLABORATOR NO.	1730757

Dear Voelklip Friends,

Attached please find the application by the owners of the property at the end of 7th Street, opposite my property or business rights. Although this might not directly implicate you, this will set a precedent for the whole of 7th Street to do likewise & change the whole of Voelklip, from an upmarket residential area to a suburb marred with businesses lining the main road, which will definitely have a negative impact on property prices going forward.

If you realise the importance of this, kindly send a letter to the Overstrand Municipality BEFORE THE 19TH AUGUST 2022. Below, are some pointers that have been given to me by a Town Planner, who feels that this would be detrimental to the suburban element of Voelklip. Please also forward this on to any neighbours who might also be affected and wish to lodge their objection.

Our concerns are listed as follow:

- The subject property is within an upmarket residential area.
- The existing business properties alongside the Main Road (7th Street) are historical occurrences.
- The rezoning of Erf 5473 Hermanus will create a precedent.
- The proposal is out of character of the residential area.
- The proposed rezoning will impact your property negatively as the pure residential land use will now be jeopardised.

14 AUG 2022
TV

33/35

- 0.5m in building height increase from 8m to 8.5m will have a negative impact on your sea views if the rezoning is approved.
- The motivation for the rezoning is based on an existing land use that is questionable. If the existing land use of Erf 5473 Hermanus was approved surely the Title Deed restrictions should have been addressed with a former application. An assumption can therefore be made that the current land use is illegal and that the application should have included an application for an administrative penalty as well.
- The motivation is therefore to legalise an existing illegal use or a use that contradicts the land use restrictions prescribed in the Title Deed to increase the property value to the detriment of the character of the residential Voëlklip area.

A Conradie

27.

From: WRAP <admin@wrapgroup.co.za>
Sent: Friday, 29 July 2022 14:58
To: tanya@greenhygiene.co.za
Cc: A Conradie; tanyarobins@gmail.com; tracydale007@gmail.com
Subject: RE: Erf5473 13 17th Street Development Objection

Good afternoon, Ms Robinson

Thank you for contacting us.

We would be glad to answer any questions you may have. We are of opinion that the proposal will not have an impact on your property or the value thereof.

1. As per Section 8 of the motivation, the development parameters for the property are indicated.

The maximum height that is allowed for the proposed zoning is **2 storeys or 8.5m**.

2. As the motivation states, the property will be used for a medical office and the size of the building requires 7 parking bays, that is already provided on the property.

The medical office will function as any other, having patients come and go during business hours.

Additionally, no alterations are being proposed at this stage as the property was historically used for a physio therapists' office, which has recently retired.

Any future alterations will require approval of building plans and amendment of a Site Development Plan by the Overstrand Municipality.

Kind Regards,
THIAN JANSEN
PROFESSIONAL TOWN PLANNER
 Email: admin@wrapgroup.co.za
 T: +27 (28) 313 1411 | M: +27 (72) 122 7704
 Unit B, Standard House, Cnr Royal and Dirkie Uys Street
 O Box 1247, Hermanus, 7200
www.wrapgroup.co.za



From: Tanya Robinson
Sent: Friday, 29 July 2022 13:28
To: admin@wrapgroup.co.za; enquiries@overstrand.gov.za; alida@overstrand.gov.za
Cc:
Subject: Erf5473 13 17th Street Development Objection

Dear Sirs

35/35

I have recently received a document notifying me of proposed plans for Erf5473 13 17th Street Voelklip

At present I would like to fully object to these plans until I understand better the impact it could have on my property 319 8th Street as I would not want anything to compromise the value of my property or the access to my property and the aesthetic value of my property and the area.

Can someone kindly contact me to address the following concerns- but not restricted to- I have in this matter

1. What is the high restriction on this property if zoning is changed as proposed?
2. What is the parking/ volume of cars expectation for the proposed business

Yours sincerely

TANYA ROBINSON

Admin Manager

e: _____

Green Hygiene,
Unit 11 Protea Place, Prime Park
Printers Way, Montague Gardens,
Cape Town



Green Hygiene

www.greenhygiene.co.za

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Project Office

Town Planning & Project Management

TP: P. Roux
(P. Roux)

Our Reference: 22/22
Your reference: 5473 HVK

30 August 2022

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

FILE NO.	AF 5473 ✓
	Hermanus
SCAN NO.	
	HVK 5473
COLLABORATOR NO.	
	1744842

Attention: Mr P Roux

APPLICATION FOR REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION, REZONING, CONSENT USE AND PERMANENT DEPARTURE ON ERF 5473 HERMANUS

Your email dated 25 August 2022, refers.

Several comments and objections were received, which are addressed herein. With the application being submitted in English the response will also be in English even though several Afrikaans objections were received.

It should be noted that three letters of support were received which are acknowledged.

Project Planning | Project Feasibility | Land Use Applications | Project Execution Management | Liquor Licensing

Unit B, Standard House,
Cnr Royal and Dirkie Uys Street
Hermanus

P O Box 1247
Hermanus,
7200

Tel: +27 (0)28 313 1411
Email: admin@wrapgroup.co.za
Web: www.wrapgroup.co.za

20
YEARS
...2002

WRAP Group Established 2002

TP

- 8 SEP 2022



Response to objections to the Removal of Restrictive Title Deed Condition, Rezoning, Consent Use and Permanent Departure.

Objection
<u>NEIGHBOURHOOD</u>
<ul style="list-style-type: none"> • <u>Mrs N Ralph:</u> "The subject property is within an upmarket residential area. Therefore, by allowing offices will negatively affect this." • <u>Dr J and Mrs C de Villiers:</u> "In contrast, allowing the proposed rezoning hold the real risk of permanently altering the character of the immediate neighbourhood with unknown economic consequences." • <u>Mrs T Guthrie :</u> "Voëlklip should remain a residential area only, and the building lines should not be reduced - this will prevent business creep and encroachment that disadvantages neighbours and the nature of the area." • <u>Mr R Oosthuizen & Mrs E Swanepoel:</u> "The subject property is within an upmarket and well-established residential area. Therefore, by allowing offices will negatively affect this upmarket residential area..." • <u>Mrs S van Ryneveld:</u> "I wish to lodge an objection to the approval of business rights on this property and request it remain a residential plot in keeping with the area. Whilst we understand that it has been used for a small business practice, the sale of the plot with business rights does not guarantee that the new owners will continue a low-key operation." • <u>Mr A de Villiers:</u> "Voëlklip is a residential area and its charm and attraction come from this zoning. In particular, it is a quiet suburb that attracts tourists and holiday goers, benefitting the region at large. Having another commercial property (not a work from home or home business establishment), in my opinion, will detract from the nature of the area in a negative way." • <u>Mrs S Peloi:</u> "I am not sure of the perimeters of the new zoning mentioned, please explain what is the extend of Zone 3 business rights. As a house owner in the area (320, 8th street) we enjoy the quietness of the neighbourhood, and we would like to see it stay like that for the years to come. Our family owns the house from the early 1980's and we are the longest owners of property in that area." "Further down in 7th street there is a cafe with takeaways and a liquor license, and there is open space around that premises as there are always traffic and elements hanging out there. And the last thing I want to see is that our neighbourhood property gets devalued because of that. Our property already has been devalued because the uncertainties and the state of the caravan park." • <u>Mr & Mrs Coetzee:</u> "We, Carl and Uta Coetzee as residents of Voëlklip at 305 9th Str, Hermanus, strongly object to the application to rezone any area of Voëlklip for Business rights."



- Mrs R Beukes:
"The rezoning will change the character of the area which was the main driver for us purchasing a property in this area."
- Mrs E de Kock:
"I hereby want to object to the rezoning of Erf 5473 to be zoned as business premises. There are sufficient businesses and petrol stations servicing Voëlklip. As ratepayer and owner of the property 317 De Mond this is a quiet neighbourhood and should be preserved as such."
- Mrs V Thom:
"I wish to object to the rezoning of private dwelling of cnr 7th street and 17th Avenue, Voëlklip."
- Mr and Mrs Bourne:
"The Voëlklip area is residential; the use of the existing property as a place of business beyond what was allowed was not then approved and it should not now be approved."
- Mrs L Vernon:
"4. Over time, this could cause the decay of the residential character of Voëlklip."
- SM Turpin:
"Voëlklip (and specifically this part) is a quiet residential area; people buy property and live here for that reason. Starting to give additional business rights to one property (specifically an office) will put the quiet nature of the neighbourhood at risk."
- Mr B Lamprecht:
"The part of Voëlklip and Hermanus is particularly charming to people who want to appreciate the nature and get away from cities and town centres."
- Prof S Scott:
*"My property is on the corner of 10th Street and 3rd Avenue and the property on the other corner used to have commercial rights. For close on 35 years, we had endless problems of various natures with the owners, tenants and sublessees of the property. We had to bring court applications and I had endless discussions with Ms Van der Stoep.
 [?] to get the municipality to intervene, which they never did. Only when Mr Marcus Jooste, in desperation about the conditions on the property, bought it, our problems stopped. You cannot allow this kind of commercial development in a residential area as it infringes on the rights of other owners in the area."*
- Mr L Swanson:
"As a trustee representing The Three G's Trust, the owners of 232 9th Street, Voëlklip I wish to raise our objection to the proposed changing in the zoning of the property situate on the corner of 7th Street and 17th Avenue, Voëlklip to allow for the establishment of offices and business rights. This detracts from the residential character of the area and is unacceptable."
- Mr I Cason:
"Dit sal ook 'n negatiewe uitwerking hê op die huislike karakter van Voëlklip."



- Mrs G Hartman:

"I have first-hand experience of houses being rented out around me and on this basis oppose this application.

When it is not a home, there is constantly movement and noise of public persons with no regard for neighbours in close proximity. This is very evident as our erf's are relatively small. Some businesses will also be active on Sundays and public holidays, which is totally unacceptable."

"The proposal is out of character of the residential area."

"The proposed rezoning will impact your property negatively as the pure residential land use will now be jeopardised."

Response to comment and objections

The property is located on the outskirts of Voëklip and cannot be considered surrounded by residential properties. Each of the properties that have a business zoning in Voëklip has this unique position within the area.

Voëklip cannot be considered purely residential anymore as there are several businesses within the area and the proposal is not considered out of character.

The property owner is aware of the sensitive nature of the property and area and is not proposing to change the site drastically. There are several businesses in Voëklip and as indicated within the motivation report the Spatial Development Framework makes provision for isolated businesses such as the OK minimart, Lizette's, Caltex, Hopside Down, Dutchies, Greeff Offices.

Voëklip is not proposed to have a dedicated business node and a professional medical office is not considered to be out of character or a nuisance business. The desirability of a medical office is also that it provides access to these services without the need to travel great distances into the CBD.

A nuisance business is an enterprise which creates noise, pollutants, or any other negative impacts on the area.

The businesses being proposed are office/consulting type of work and is not a source of noise or other nuisances. The existing building is also not out of character and falls within the design style of a single residential house. Should the operations not be to the satisfaction of the surrounding area, the municipality have an appointed compliance officer that will investigate any concerns that the objectors may have.



Objection
COMPLIANCE / ENFORCEMENT
<ul style="list-style-type: none"> • <u>Mrs N Ralph, Mr R Oosthuizen & Mrs E Swanepoel:</u> <i>"Once rights for 'office use' have been granted, virtually any business can be operated and stated as an 'office' and the 'unique professional office space' quoted by the applicant cannot be guaranteed."</i> • <u>Mrs S Peloi:</u> <i>"I stay in Bellville and use the Hermanus property as a breakaway over holidays and weekend, any rezoning will open the opportunity for future business. Now it may be explained as an office development, but the property can be resold and then with rezoning in place it would be out of our control what the new owners will be developing there."</i>
Response to comment
<p>The application is currently being evaluated and should approval for the application be received, the Overstrand Municipality's Town Planner and decision-making Authority will impose conditions of approval.</p> <p>These conditions will be limiting and very specific to the type of businesses that may be operated on Erf 5473 - Hermanus. In addition, these conditions may also be registered in the title deed and should any owner in the future not comply with these conditions the municipality has a mechanism to enforce compliance.</p>
Objection
HISTORIC BUSINESSES
<ul style="list-style-type: none"> • <u>Mrs N Ralph, Mr R Oosthuizen & Mrs E Swanepoel:</u> <i>"The historical business properties alongside the Main Road (7th Street) are historical occurrences. They are also 'Low key' and have not changed in character for many years."</i> • <u>Mrs S van Ryneveld:</u> <i>"We are ERF 4134 and many years ago got our view obstructed by the development of Baleens which is an unattractive development blocking our front view."</i>
Response to comment
<p>The comment is noted. This application is site-specific; however, the objector does make the statement that historic existing businesses are considered "low-key".</p> <p>The objector does not quantify what is "low-key" and if the existing Caltex filling station, Lizettes, the OK Mini mart considered as "low-key"?</p> <p>It could be suggested that professional offices are even more "low-key" than the existing businesses.</p> <ul style="list-style-type: none"> • In response to Mrs van Ryneveld, this application is not on the scale of Baleens, and it is not expected to negatively affect her property. <p>No views are proposed to be obstructed.</p>



Objection

PRECEDENT BEING CREATED

- Mrs N Ralph, Mr R Oosthuizen & Mrs F Swanepoel:

"The rezoning of Erf 5473 will create a precedent, which will ultimately result in many applications along this line. Voëlklip residents do not want our residential suburb to be marred by the bastardisation of residential homes into businesses, which will jeopardise the value of our area & therefore property values will also be negatively affected."

- Mrs L Vernon:

"1. Any change to the residential zoning sets a precedent that can further be leveraged or exploited by others (existing or those buying) in the area.
2. There is no critical reason for allowing this rezoning request.
3. If OM were to approve this rezoning request; OM could find it difficult not to allow others in the area to rezone their properties 'in future'."

- Mr and Mrs Malan:

"Although we are always sympathetic to anyone wanting to make an income, we would have to object to the rezoning of the said property. We feel this will set a bad precedent and is not right for this area.

Our suggestion is to rather try to assist this couple with affordable accommodation in the business district of Hermanus to start their business."

- Prof S Scott:

"The reasons advanced for such lifting can be applied to most residential erven in the area. This is purely a moneymaking endeavour and, if allowed, sets a precedent for other residential owners to turn their properties into commercial properties.

Furthermore, the biggest danger lies in the precedent you are setting. You are opening up the possibility for other owners to develop their properties."

- Mrs G Hartman:

"The rezoning of Erf 5473 Hermanus will create a precedent."

Response to comment and objections

These comments are noted, and the proposal cannot create a precedent, as town planning is a site-specific process and the notion that if one property is rezoned is not motivation enough to approve the rezoning of another property.

Each application is evaluated individually and site specific and considered if deemed fit to approve the rezoning.

The Overstrand Municipality is required to consider various factors that may influence their consideration of the proposed rezoning.



Objection
PROPERTY VALUE

- Mrs N Ralph, Mr R Oosthuizen & Mrs E Swanepoel:
"The rezoning of Erf 5473 will create a precedent, which will ultimately result in many applications along this line. Voëlkliip residents do not want our residential suburb to be marred by the bastardisation of residential homes into businesses, which will jeopardise the value of our area & therefore property values will also be negatively affected."
- Mr and Mrs Pedersen:
"Our property's will lose their value, during covid a lot of residents worked from home, we had delivery trucks up and down our road at high speeds, it wasn't at all pleasant. I vote against it. Why can't they move into an industrial area?"
- SM Turpin:
"Apart from disturbing the peaceful nature of the neighbourhood, residential property values will be negatively affected."
- Mr I Cason:
"My erf, 7355, grens direk aan die genoemde erf tussen 7de en 6de straat. Die toekenning van besigheidsregte sone 3 kan die markwaarde van my huis negatief beïnvloed."

Response to comment and objections

These comments are noted, it is however not predicted to have a negative effect on the property values.

These comments are not being supported by any factual statements and are only opinions of property owners that are concerned. Most of the properties of the objectors are not located in close proximity to the subject property and it is not expected that it could have an impact on their property values.

The property owner and any potential buyers will be required to still be considered as a reasonable neighbour and will be required to adhere to any applicable legislation which includes the Overstrand Municipality's regulations and by-laws.

The property is located on the main distributor in and out of Hermanus and there is easy access from the R43, which does not necessitate entering the residential area by any visitors or for deliveries to the premises.



Objection

LUPA SECTION 39(5)

• Mrs N Ralph, Mr R Oosthuizen & Mrs E Swanepoel:

"With regard to the Motivation statements (LUPA, Section 39(5) (a-f), my concerns are as follows:

- a) "No person or entity will be affected financially by the removal of the restrictive title deed condition".

Ultimately all Voëklip property owners will be financially affected, as our property values as prime residential will be negatively impacted.

- b) "No person is directly benefitting from this condition as the condition is only restricting the applicant".

The property owners of Voëklip are benefitting from this condition as it protects their suburb as a residential area, without the negative impact of additional potentially disruptive activities, noise, deliveries, unnecessary extra traffic etc, which will harm the peaceful, residential atmosphere.

- c) "The applicant will be gaining from the removal of the restrictive condition as it will allow him to utilise his property to its full extent".

This motivational statement invalid, as the property is residential and using it to its 'full extent' has nothing to do with running a business from the property. However, the applicant will definitely benefit financially from the removal of the restrictive condition, as he will be selling a business property with income potential.

- d) "The applicant will be gaining from the removal of the restrictive condition as it will allow him to utilise his property to its full extent".

The restrictive condition definitely does have a social benefit in that it protects the residents of Voëklip from disruptive business activities.

- e) "The applicant will be gaining from the removal of the restrictive condition as it will allow him to utilise his property to its full extent".

The owner of Erf 5473 Hermanus is the beneficiary and will benefit financially from the removal of the restrictive condition, as he will be selling a business property with income potential."

• Mr and Mrs Bourne:

"Contrary to the assertion that no financial benefit will accrue or detract from any property, the proposed rezoned ERF 5473 will be hugely more valuable to the existing owner and it appears he/she will sell the property - there will be a significant financial benefit to the existing owner if the property obtains rezoning rights for a business with up to three practitioners."



Response to comment and objections

"a)" – This is noted, but however this is not backed by any factual evidence and it a mere statement.

"b)" – This is noted. It is however not predicted that the rezoning will have adverse effect on the surrounding area. The proposed use has been in operation over the past 10 years and the proposal is to ensure compliance with the regulations set out by the Overstrand Municipality. Refer to Section 4.2 for the motivation of the business property.

"c)" – LUPA Section 39(5)(c) states :

"(c) 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 motivation is clear, the property owner wants to remove the restriction to rezone the property to utilise the property for a business.

"d)" – This is a vague statement that is not backed by any motivation. There is no social impact applicable.

"e)" – This was stated numerous times throughout the motivational report. The property owner's mother who operated the physiotherapy centre retired and after which the owner intended to sell the property. To ensure the property may be sold as a business property it is required to be rezoned.

- Response to the comment from Mr and Mrs Bourne:

This was never hidden, and the motivation stated that the property owner is attempting to sell the property.

Objection

DEVELOPMENT PARAMETERS (HEIGHT)

- Mrs N Ralph:
"The increase in building height which will be put into place with this rezoning, will have a negative impact on my property. It will also result in a more 'built up' feel, as opposed to the residential atmosphere of Voëlklip."
- Dr J and Mrs C de Villiers:
"In addition to this, the increased allowed building height under the proposed rezoning will have a direct negative affect on the adjoining properties, both with regards to shade, view and aesthetics."
- Mr I Cason:
"Indien daar meer verdiepings opgerig word, sal dit ook my see-uitsig belemmer."
- Mrs G Hartman:
"0.5m in building height increase from 8m to 8.5m will have a negative impact on your sea views if the rezoning is approved."
- Mrs T Robinson:
"What is the height restriction on this property if zoning is changed as proposed?"



Response to comment and objections

The current zoning (Residential Zone 1: Single Residential) allows a maximum height of 8,0m over two storeys.

The proposed zoning (Business Zone 3: Local Business) will have a maximum height of 8,5m over two storeys.

This is a small 0,5m difference.

It should however be stated that no additions or alterations are being proposed for the property. As stated in Section 4.2 of the motivational report.

If it is considered detrimental to the application it may be considered that the Overstrand Municipality's Town Planner or decision-making authority make it a condition of approval that the maximum height remains 8,0m.

The property owner is not seeking any additional development parameters in terms of height.

Objection

EXISTING USE / HISTORIC ACTIVITIES

- Mrs N Ralph, Mr R Oosthuizen & Mrs E Swanepoel:

"It is questionable that this rezoning is based on an existing land use. If the existing land use of Erf 5473 was approved, surely the Title Deed restrictions should have already been addressed for the previous 'business' which operated there? I therefore question whether the current land use is legal. Therefore, the motivation is to legalise an existing illegal use or a use that contradicts the land use restrictions prescribed in the Title Deed to increase the property value to the detriment of the character of the residential Voëlklip area."

- Dr J and Mrs C de Villiers:

"The subject property was previously allowed to be used for the operation of a professional office by the resident owner."

It is therefore argued that "temporary deviation of use" would be the appropriate avenue in law that will protect both the long-term residential character of the property and the right of its resident owner to practicing his or her profession."

- Mrs G Hartman:

"The motivation for the rezoning is based on an existing land use that is questionable. If the existing land use of Erf 5473 Hermanus was approved surely the Title Deed restrictions should have been addressed with a former application. An assumption can therefore be made that the current land use is illegal, and that the application should have included an application for an administrative penalty as well."

"The motivation is therefore to legalise an existing illegal use or a use that contradicts the land use restrictions prescribed in the Title Deed to increase the property value to the detriment of the character of the residential Voëlklip area."



Response to comment and objections

Refer to Section 3 of the motivational report that indicates the history of the property. It is not the intention of this application to legalise any alleged past contravention. The activities have been halted and the physiotherapy offices have been closed down.

This section was included to ensure the entire history is addressed and the new proposal for professional offices is not trying to legalise what had occurred but to ensure the property is compliant in the future.

Objection

REMOVAL OF RESTRICTIVE CONDITIONS

- Dr J and Mrs C de Villiers:
"The original intent of the restrictive title deed condition was to protect the residential character of the Voëlklip area. This has not change."

Response to comment

The title deed condition was inserted 1937 and times have changed significantly, and the entire dynamic of businesses and residential properties have seen dramatic change over the past few years.

Mixed use urban areas are becoming more prolific and stating that Voëlklip is only a residential area is also not correct. Several businesses exist within Voëlklip and having a medical facility located close by should be seen as progressive.

It is however not proposed that Voëlklip be over developed with businesses, only that these uses are able to co-exist.

Objection

DEPARTURES

- SM Turpin:
"I also object to the application to relax any building restrictions. This neighbourhood has broad sidewalks to which we all adhere for the sake of the character of the neighbourhood. In other words, starting to relax the building lines will negatively affect the character of the neighbourhood."

Response to comment

The objector may have been mistaken as no departure of the street building line is being proposed. No parking or sidewalks will be affected.

Objection

DE MOND

- Mrs S Peloi:
"With many uncertainties regarding the De Mond Caravan Park and its current state we would highly oppose any further new developments and rezonings."



- Mr and Mrs Bourne:

"There is an exciting proposal to develop the De Mond caravan site currently out on tender. This development will offer good opportunities for employment, tourism and commerce. The tender document stipulates that whatever is proposed, it must be sensitive to the residential nature of Voëlklip and be minimally disruptive or encroaching. The rezoning of the ERF 5473 which is right across the road from the caravan park will contradict this need to be sensitive and it may encourage further rezoning applications from other properties nearby "well if they could do it, why not me"."

Response to comment

The proposal was submitted before the tender process for De Mond was advertised and did therefore did not consider the caravan park.

The businesses proposed to be operated on the subject property has nothing to do with the tender process. The medical offices will however be able to accommodate any patients from the caravan park.

Objection

TRAFFIC & PARKING

- Mrs R Beukes:

"The rezoning will increase the traffic levels in the very calm part of the neighbourhood which is detrimental."

- Mr and Mrs Bourne:

"That no neighbour objected previously to the property being used by a single practitioner before is most likely due to the low traffic impact of that business. With a number of practitioners operating a business on the property, this will definitely be more disturbing and detract from the peaceful residential nature of the neighbourhood. What if the proposed business is wildly successful, with queues lining up outside, spilling out of the carpark, down the road and onto the verges?"

- SM Turpin:

"Increased traffic due to business reasons brings along an additional safety risk. Safety is a big concern to the many retired people living in the neighbourhood."

- Mrs T Robinson:

"What is the parking/ volume of cars expectation for the proposed business?"

Response to comment and objections

There is adequate parking on-site to accommodate the clients of the proposed business. The property has been used as a professional practice before and there were never any complaints or objections.

The application will also be circulated to the Traffic- and Engineering Department for comment and should any comments be made, or concerns raised it will be addressed accordingly.

The property is located on the main distributor road into and out of Hermanus which will allow traffic to keep flowing. It is understood that there could be a parking concern, however, a doctor's offices have appointments which will limit the number of cars/patients at a single time on the property.



Objection
PUBLIC RESPONSE
<ul style="list-style-type: none"> • <u>Mrs L Vernon:</u> <i>"Further, it has to be said that 'probably' 99% or so of the Home Owners in Voëlklip invested in their properties here as HOMES, as it is a well set out Residential Suburb.</i> <p><i>In the absence of a formal survey, it is very likely that this same very high percentage of Homeowners want the area to remain Single Use - Residential. Please respect these, Home Owners!"</i></p>
Response to comment
<p>The standard public participation procedure was followed and the timeframe to submit comments has closed. The objectors cannot make assumptions and speak on behalf of other property owners that did not provide their feedback.</p>

Conclusion

These objections have revealed the concerns of the property owners in the Voëlklip area. The application is to rezone a property that has low residential integrity, and the proposal is not out of the ordinary as Voëlklip cannot be considered an outright residential area anymore. The mixed use was indicated by the Overstrand Municipality to allow residential and business to coexist.

The application is to allow the property owner to use the property for its intended purpose and serve a community and allow access to medical facilities within their area.

Considering the response to objections, it is recommended that the planning application be approved as submitted.

Yours faithfully

T JANSEN
PROFESSIONAL TOWN PLANNER (A/2858/2019)

Omeare G. 1/2

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS,
REZONING, CONSENT USE & PERMANENT DEPARTURE: ERF 5473,
VOELKLIP (4088/2022)**

Stormwater (SW) : In Order
Electricity : In Order
Water : In Order
Sewer : 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 (2022/2023) is as follows:

Freehold erven:

Water	R 26 036.00 x -0.438	--R 11 403.77
Sewerage	R 17 555.00 x -0.438	--R 7 689.09
Roads	R 7 872.00 x 2.962820=	R 23 323.32
Stormwater	R 9 082.00 x 1.1093338=	R 10 074.97
Solid Waste	R 1 574.00 x 1.08 =	<u>R 1 699.92</u>
TOTAL (inclusive of VAT)	=	R 16 005.35

Note:

- 1.3 **The above figures are estimates**
1.4 **The above figures do not include evaluation/investigation levies and connection fees**

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2. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
 3. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the owner's cost;
 4. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage;
 5. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Area Manager: Hermanus for written approval;
 6. that any additional and / or extended vehicle entrances will be for the owner's account;
 7. that stormwater be allowed to discharge through Erf 5473, Voelklip, unobstructed;
 8. that all medical waste generated will need to be collected by a registered healthcare risk waste company and disposed of at an approved facility as per the undertaking;
 9. that no on-street parking be allowed.

p.p. R. Coche
DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES

22/09/2022
DATE