

4.3

ERF 376, 5 MAIN ROAD, GANSBAAI, OVERSTRAND MUNICIPAL AREA: PROPOSED REZONING AND REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: MESSRS CONRADIE, GOODWIN AND ASSOCIATES ON BEHALF OF EC O'CONNOR

376 GGB (3047/2019)

SW van der Merwe

26 May 2020

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 3 May 2019 from Messrs Conradie, Goodwin and Associates on behalf of EC O'Connor in terms of the Overstrand By-Law on Municipal Land Use Planning, 2015 (By-Law) applicable to Erf 376, Gansbaai for the following:

- removal of restrictive title conditions C.2(a), C.2(b), C.2(c), C.2(d) and C.2(e) as contained in Title Deed T34452/88 in terms of Section 16(2)(f) of the By-Law, and
- rezoning from Residential Zone 1 (SR1) to Business Zone 3: Local Business (B3) in terms of Section 16(2)(a) of the By-Law in order to accommodate shops, offices and flats above ground floor on the property.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, the proposed Site Development Plan is attached as Annexure C and Title Deed T34452/88 as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

Erf 376, Gansbaai is situated along the eastern side of Main Road and measures 744m² in extent. The property is zoned for Residential Zone 1 purposes and developed with a dwelling house and associated outbuildings.

The application proposes the rezoning of the property from Residential Zone 1: Single Residential to Business Zone 3: Local Business. It is the intention to develop the property for commercial purposes in accordance with the provisions of the Overstrand Zoning Scheme Regulations, i.e. for shops and offices that will compliment both the village character of Gansbaai, whilst at the same time promote economic expansion of the town along Main Road.

In addition, the application entails removal of the following restrictive title conditions found in Deed of Transfer T34452/88, namely:

C. 2.(a) *Hierdie erf mag nie onderverdeel word nie.*

C. 2.(b) *Hierdie erf mag slegs vir bewoningsdoeleindes gebruik word.*

C. 2.(c) *Slegs een woning, tesame met die nodige buitegeboue mag op hierdie erf opgerig word.*

- C. 2.(d) *Op nie meer as veertig persent van die oppervlakte van hierdie erf mag gebou word nie.*
- C. 2.(e) *Geen gebou of struktuur of enige gedeelte daarvan behalwe grensmure en heinings, mag binne 4,72 meter van die straatlyn wat 'n grens van hierdie erf vorm, opgerig word nie, ook nie binne 3,15 meter van die agtergrens of 1,57 meter van die sygrens van 'n aangrensende erf nie, met dien verstande dat 'n buitegebou met die toestemming van die plaaslike owerheid op die voorgeskrewe ruimte tussen die agtergrens en die hoofgebou opgerig mag word, mits sodanige buitegebou nie 'n hoogte van 3,05 meter te bowe gaan nie, watter hoogte gemeet moet word van die vloer tot die ankerplaat, en mits geen gedeelte daarvan vir bewoningsdoeleindes deur mense aangewend word nie.*

4. SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation (refer to Annexure B) is summarised as follows:

- ❖ Development philosophy for Gansbaai, especially Main Road changed since the restrictive title conditions were imposed with reference to densification, promotion of economic growth, optimal use of services, strengthening of the CBD, and the creation of exciting, yet functional living environments.
- ❖ Accessibility of Gansbaai in relation to regional attractions makes Overstrand as well as Gansbaai one of SA's best eco-tourism and outdoor adventure destinations.
- ❖ The subject properties' location at the entrance to the town lends itself for commercial development.
- ❖ Several properties in close proximity have already been rezoned for commercial purposes.
- ❖ The subject property is now part of the CBD and earmarked for residential development, whilst the title deed restrictions of this extension of the town served to protect the residential integrity, character and land use of the built environment at that time.
- ❖ On-site parking will be provided in accordance with the provisions of the Overstrand Zoning Scheme Regulations.
- ❖ The proposal complies with the planning principles in terms of LUPA and SPLUMA.
- ❖ The application for removal of restrictive title conditions complies with the criterial specified in Section 35(4) of the Overstrand Municipal Land Use Planning By-law, 2015.
- ❖ The proposal complies with the Growth Management Strategy.
- ❖ Rezoning will not infringe on existing rights, or impact negatively on the built or natural environment.
- ❖ The proposal will contribute to the creation of a functional CBD.
- ❖ The proposal will create employment opportunities.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local Newspaper	Yes	25 July 2019	30 August 2019

Gazette	Yes	26 July 2019	30 August 2019
Notices	Yes	25 July 2019	30 August 2019
Ward councillor	Yes	26 July 2019	30 August 2019
Total comments	THREE (3) objections were received		
Total letters of support	NONE		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly?			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA?			Yes
In case of application for removal, amendment or suspension of restrictive title conditions if notices in accordance with Section 35(3)(d) of the By-Law on Municipal Land Use Planning was served on all persons mentioned in the title deed for whose benefit the restriction applies?			Yes

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

Name	Date received	Summary of comments
Fire Services	26/07/2019	Annexure G.
Building Control	10/08/2019	No objection.
Waste Management	13/08/2019	No objection.
Telkom	16/08/2019	Annexure H.
Traffic	26/08/2019	Supported.
Department of Transport and Public Works	27/08/2019	Annexure I.
Environmental Section	30/08/2019	No objection.
Engineering Services	29/10/2019	Annexure J.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Letters of comment had been received from A Huisamen, the owner of Erf 523, Gansbaai, MM Groenewald and PH Lourens, the owners of Erf 375, Gansbaai and FG Summer the owner of Erf 379, Gansbaai. The letters of comment are attached as Annexure E and the applicant's comment thereon as Annexure F.

No objection was raised to the proposed rezoning (although the heading refers to application for rezoning and removal of restrictive title conditions) provided that general living conditions of the adjoining properties not be negatively impacted upon. The main points of comment being raised are the following:

Point of comment

Neighbouring properties are predominant single residential and portray heritage aspects on Main Road, thus requests that the proposed development retain the residential pattern and character of Main Road.

Applicant's comment

The applicant did not respond to this comment.

Town Planner's comment

The subject property is not a heritage property and was not identified in the heritage survey. The applicant states in the Motivation Report that the proposed commercial use will be accommodated within the existing buildings on the property, thus in accordance with the point of comment. Should the property in future be redeveloped, the applicant will be required to submit a Site Development Plan, demonstrating compliance with the Scheme Regulations, including building lines. In regard the Scheme Regulations under Business Zone 3 contains more restrictive lateral- and rear building lines, compared to the existing zoning.

Point of comment

The notice does not fully describe the application, thus raising concern that the development could incorporate consent uses (i.e. restaurant, place of entertainment and sale of liquor) which will adversely impact the neighbourhood in terms of noise levels, traffic and serenity.

Applicant's comment

The application clearly refers to the application as being rezoning from Residential Zone 1 to Business Zone 3, allowing for flats, offices and flats above ground floor.

Town Planner's comment

The applicant's comment is noted and agreed with and will facilitate development of the subject property in accordance with the applicable primary rights pertaining to Business Zone 3 : Local Business. The proposed development does not incorporate applications for consent use applicable to Business Zone 3 properties. The applicable primary rights do not permit the operation of a restaurant which is a consent use.

Point of comment

Concludes that a development comprising offices and residential apartments are supported, but that the establishment of a commercial / entertainment element would ruin the character of the neighbourhood.

Applicant's response

The applicant is of view that the objection mainly relates to the creation of a restaurant and place of entertainment, which also includes the sale of liquor and/or gambling, not forming part of the application. Further the applicant states that the sale of liquor and gambling be prohibited in terms of the Resolution of the Municipal Planning Tribunal.

Town Planner's response

The applicant's comment is noted. It should be pointed out that the letters of comment clearly states that they do not object to rezoning, but concludes that offices and residential apartments are supported, whilst commercial / entertainment facilities could adversely impact upon the surrounding neighbourhood. The aforesaid is contradictory with the initial statement.

The applicable primary rights, being shops, offices and flats above ground floor do accommodate commercial use, opposed to the aforesaid.

The application does not entail any of the consent uses applicable to Business Zone 3, which amongst others includes restaurant, place of entertainment / gambling. The aforesaid will therefore be dealt with in the conditions of approval, thereby ensuring that the character of the area comprising mixed land uses is not adversely affected.

Point of comment

That in the interest of the privacy the crumbling vibracrete wall between Erf 379 and the application property be replaced with at least a 1,7m high vibracrete boundary wall.

Applicant's response

The applicant did not respond to this comment.

Town Planner's comment

The comment is noted. The matter is however considered to be a civil matter between the respective property owners.

Point of comment

The letting of residential accommodation on Erf 380 result in his property being used as a dumping ground (bottle caps, plastic and cigarette butts).

Applicant's response

The applicant did not respond to this comment.

Town Planner's response

The comment is noted. This however is speculative as the property is currently single residential.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

Refer to paragraph 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner's comment on objections/and response thereon)

Refer to paragraph 7 above.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)**10.1 Background**

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application.

Spatial Justice

The proposal will not perpetuate past spatial imbalances and will provide access to opportunities, i.e. commercially zoned land and development opportunities.

Spatial sustainability

Commercial use of the application property will promote a compact CBD, enhance pedestrian access to the CBD and will allow future mixed use, in line with the SDF and OMGMS. The proposed development will not impact on agricultural land or environmental sensitive or biodiversity rich areas. The application is thus deemed spatially sustainable.

Efficiency

The proposed development in accordance with the SDF and OMGMS promotes a compact CBD, optimal use of space, energy, infrastructure, resources and land. The proposal also promotes densification and urban development typologies, thus consistent with the principle of efficiency.

Spatial Resilience

The proposed development will allow for / provide land use options allowing for flexibility in the use of the property. The principle relates to climate change to ensure that structures and occupants will be able to use their properties with little as possible physical and financial discomfort. The proposal is consistent with the applicable strategic policy documents, which adheres to the principle of spatial resilience.

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 Point 10.2 above.

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

Consistent with the Spatial Development Framework.

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

N/A

10.6 Impact on Municipal engineering services

Municipal services are available. The proposal is supported by the Engineering Services Department, subject to conditions, including the payment of a bulk development contribution levy.

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

The proposed rezoning does not trigger Section 38 of the Heritage Resources Act.

The property is not accessed from a municipal street and as such was circulated to Department of Transport for comment, which department did not object.

10.8 Existing and proposed zoning comparisons and considerations

The application is in line with the Overstrand Spatial Documents. The application is in line with the Overstrand Zoning Scheme to accommodate the land uses through an application process.

10.9 ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The removal of restrictive title conditions C.2(a)-(e) as contained in Title Deed T34452/88 will enable the future development and use of the property for commercial purpose in accordance with the Scheme Regulations.

The financial or other value of the rights

The administrator upon approval of the township imposed restrictive conditions, the removal of which will permit the utilisation of the property in accordance with the Scheme Regulations, thus adding value for the owner, as well as the Municipality in terms of rates and taxes.

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

The Municipality gains no benefits in keeping or removing the restrictive conditions.

The personal benefits which will accrue to the person seeking the removal

Removal of restrictive title conditions will enable the development of the property in line with the character of the area and parameters as stipulated in the Overstrand Municipal Zoning Scheme, 2013.

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

Removal will allow for enhanced development rights, increased income (applicant / council), economic investment and job creation. The opinion is thus held that there will be no social benefit if the restrictive conditions remain in place.

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

Application is made for Removal of conditions C.2 (a)-(e) as contained in Title Deed T34452/88. Conditions C.2(f) will be retained (refer to Annexure D).

11. THE DESIRABILITY OF THE PROPOSAL

The subject property is situated along Main Road, Gansbaai towards the northern edge of the CBD. The surrounding area comprises of a mixture of commercial, authority (SAPS) and single residential land uses, whilst properties directly abutting the subject property is zoned for single residential use. Existing commercial uses towards the northern end of the CBD comprises offices as well as the future day hospital, whilst uses along Main Road to the south also includes shops, restaurants, beauty clinic and a hair salon.

The proposed rezoning will facilitate the future development of the property in accordance with the Scheme Regulations for offices, shops and flats above ground floor. The applicant indicated that initially the existing buildings will be utilised for commercial purposes, thus for shop or office purposes. Should the property in future be redeveloped, the applicant will be required to submit a Site Development Plan, demonstrating compliance with the applicable development parameters, including on-site parking provision.

Initially the status quo will be retained in that commercial use will be limited to the existing buildings on the subject property. Thus, the proposed land use is compatible with the character of the area.

The application does not entail consent uses under Business Zone 3, as per the letters of comment. The applicant agreed to a restriction on the future use of the premises for the sale of liquor and gambling to be incorporated in the conditions of approval, should the application be supported. The opinion is

therefore held that the proposal will not unacceptably detract from the vested rights of adjoining properties.

Access to a parking area rear of the property will be obtained from an upgraded access in accordance with the requirements of the Department of Transport. On-site parking will be available in accordance with the provisions of the Scheme Regulations. No objections were raised by Engineering Services with regard to the proposed access and parking, whilst the proposal is also supported by the Department of Transport subject to the widening of the existing access to enable two-way traffic.

The rezoning is consistent with the applicable policy documents and considered compatible with the character of the area.

The proposed rezoning and removal of restrictive title conditions will promote the economic growth and strengthens the CBD of Gansbaai, provide much needed employment opportunities, whilst ensuring optimal use of services. Having had regard to the above, the rezoning of the property is considered desirable.

12. RECOMMENDATION

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of restrictive title conditions C.2(a), C.2(b), C.2(c), C.2(d) and C.2(e) as contained in Title Deed T34452/88 applicable to Erf 376, Gansbaai, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16(2)(a) of the By-Law for the rezoning of Erf 376, Gansbaai from Residential Zone I: Single Residential (SR1) to Business Zone 3: Local Business (B3)) in order to accommodate shops, offices and flats above ground, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the approvals in paragraphs 1. and 2. above be subject to the following conditions:
 - (a) that prior to the commencement of the development parking layout demonstrating compliance with the applicable development parameters pertaining to Business Zone 3 be submitted for approval by the Authorised Official;
 - (b) that the parking layout be implemented in accordance with the approval in (a) above;
 - (c) that the requirements of Engineering Services (attached as Annexure J), be adhered to;
 - (d) that building plans be submitted to the Building Department for approval, and that all conditions of the Building- and the Fire Department be complied with at that stage;

- (e) that applicable rates and service tariffs, as determined by the annual budget be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (f) that the display of signage be subject to compliance with the Municipal By-Law on Signage;
 - (g) that this permission do not permit the sale of liquor or the provision of gambling facilities;
 - (h) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with, and
 - (i) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
4. that the applicant and persons who commented be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditions of approval.

13. REASONS FOR RECOMMENDATION

- ❖ The application has followed due procedure.
- ❖ The development is consistent with the applicable strategic policy documents.
- ❖ The development is consistent with the planning principles.
- ❖ The development has a limited impact.
- ❖ The character and morphology of the surrounding area will be maintained.

14. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Title Deed T34452/88
Annexure E:	Objections
Annexure F:	Comment on objections
Annexure G:	Comment: Fire Services
Annexure H:	Comment: Telkom
Annexure I:	Comment: Department of Transport and Public Works
Annexure J:	Services Report

SIGNATURE

REGISTERED PLANNER

Name: **SW VAN DER MERWE**

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

Signature: _____

Date: _____

1.2 Purpose of Report

Conradie Goodwin and Associates ('the applicant') has been appointed by Ms EC O'Connor ('the applicant'), on behalf of the estate of the late Mr Dirk Cornelius and Ms Elizabeth Catharina Maria Lourens, then owners of Erf 376, Gansbaai ('the subject property') situated at no. 5 Main Road, to apply for the rezoning of this property so as to allow for the development thereof, for commercial purposes (please refer to **ANNEXURE A**).

So as to give effect to the envisaged commercial development of the subject property certain restrictive conditions contained in the Title Deed of Erf 376, may impact negatively on the proposed redevelopment of the erf, and have to be removed or amended accordingly. These restrictive conditions were imposed with the approval of Extension 3 of Gansbaai, in 1948. Restrictive conditions of Title take precedent over the use rights and development rules defined in terms of the zoning scheme.

Since these conditions were imposed some 70 years ago, the development philosophy for Gansbaai, and especially along Main Road, has changed substantially with an increased awareness of densification, promoting economic growth, optimal use of services, strengthening the CBD and the creation of exciting, yet functional living environments to name but a few. With the above in mind our client wishes to establish a low key commercial development that will compliment both village character of Gansbaai whilst promoting the economic expansion of the town along Main Road.

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It is therefore the purpose of this report to:

- successfully motivate an application to the Overstrand Municipality for the removal of the restrictive Title Deed conditions of 1948 and the rezoning of Erf 376, Gansbaai from Residential Zone 1 to Business Zone 3 (Local Business) allowing for a small commercial complex consisting of shops and offices (please refer to **ANNEXURE E**):

1.3 Location

Erf 376 Gansbaai is situated along the coast, approximately 44km southeast of Hermanus and 164km from Cape Town.

To reach Gansbaai you either follow the N2 over Sir Lowry's Pass turning on to the R43 after the Houhoek Pass, or take the R44 along the coast and turn onto the R43 to Hermanus. Drive through Hermanus and Stanford. Gansbaai is situated 15km past Stanford on the R43 (please refer to **ANNEXURE D**).

2.0 APPLICATION

We hereby apply:

- 1. in terms of Section 16 (2) (f) of the Overstrand Municipality: By-Law on Municipal Land Use Planning, GN. 7540 of December 2015- for an amendment, suspension deletion of restrictive title conditions C.2 (a) –(e) in respect of Erf 376, Gansbaai, and**

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2. *in terms of Section 16 (2) (a) of the Overstrand Municipality: By-Law on Municipal Land Use Planning, GN. 7540 of December 2015- for the rezoning of Erf 376, Gansbaai from Residential Zone 1 to Business Zone 3, allowing for shops, offices and flats above ground floor.*

Attached please find the following administrative documentation in support of this application:

ANNEXURE A:

Special Power of Attorney

This document gives **Conradie Goodwin & Associates** the mandate to act on behalf of the estate of Mr and Ms Lourens.

ANNEXURE B:

Application Form

This form provides all the relevant information required in terms of the Overstrand Municipality: By-Law on Municipal Land Use Planning, GN. 7540 of December 2015.

ANNEXURE C: Title Summary and Conveyancer Certificate

The Title Deed (**ANNEXURE Ci**) from the deeds office provides:

1. Property detail,
2. Title Deed detail,
3. Owners detail, and
4. Endorsements

The Conveyancer Certificate (**ANNEXURE Cii**) confirms the nature of the restrictive title conditions.

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ANNEXURE D:**Locality Plan and Planning Documentation**

This document reflects the regional and local position of Erf 376, Gansbaai as well as the forward planning philosophy for the area.

ANNEXURE E:**Status Quo and Draft Site Development**

The Draft SDP as well as accompanying photos, confirms that existing residence can be used for shops and offices. The external, residential appearance will remain largely intact and sufficient off-street parking can be provided.

3.0 BACKGROUND INFORMATION**3.1 Regional Locality**

With reference to Para 1.3 above the subject property is situated approximately 164km southeast of Cape Town, at no 5 Main Road (R43) leading into Gansbaai (please refer to **ANNEXURE D**).

Driving southeast on the N2 towards Somerset-West and Gordon's Bay, the visitor can chose between two equally scenic drives, i.e. the Whale Coast Route fringing the picturesque Kogelberg Nature Reserve and the coastal villages of Rooi Els, Pringle Bay, Betty's Bay and Kleinmond, or the equally scenic drive over the Hottentots Holland Mountains via Sir Lowry's Pass.

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Both routes offer spectacular mountain and sea views amidst the Cape Floral Kingdom and runs via Hermanus and Stanford to Gansbaai. Both Stanford and Gansbaai are popular tourist destinations for their exquisite combination of unique natural beauty and artistic creativity.

Gansbaai, the natural adventure destination, is home to the highest density of Great White Sharks in the world and from July to December, the temporary home for the Southern Right Whales, who come to these shores to mate, birth and raise their young. These two spectacular marine creatures draw visitors and film crews from all over the world.

Southeast of Gansbaai the white sandy beaches and rocky cliffs lead to the Agulhas National Park and L'Agulhas, where the Indian and Atlantic Oceans meet. Picturesque seaside villages such as Struisbaai, Arniston, Waenshuiskrans, Witsand, Stilbaai and Vleesbaai dot the shoreline right up to Mossel Bay, Knysna and Port-Elizabeth.

Gansbaai is linked to the spectacular Garden Route and its endemic landscapes of lush indigenous forests, free flowing rivers and majestic mountains competing for beauty with outstretched beaches via the R43 and N2.

No matter from which direction you approach Gansbaai, your route will take you along spectacular mountains, vineyards, rivers, countryside filled with fynbos wildflowers and canola fields to a coastal and mountain kingdom.

The diverse town of Gansbaai is ideally located in the centre of all these regional attractions that make the southern coastline and Overstrand,

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one of South Africa's best eco-tourism and outdoor adventure destinations, nationally and internationally.

3.2 Property Description and Ownership

The subject property is registered as Erf 376 Gansbaai, is according to the Title Deed 744m² in extent and is situated in the Overstrand Municipality, District of Bredasdorp, Western Cape Province.

The registered owners of Erf 376, Gansbaai are the late Mr Dirk Cornelius Lourens and Ms Elizabeth Catharina Maria Lourens, represented by Ms E O'Connor for the Estate of Mr DC Lourens.

3.3 Title Deed Restrictions

The Title Deed T34452/1988 (see **ANNEXURE Ci**) contains no servitudes that can impact on this development proposal.

There is however a number of restrictive Title Deed conditions that in our opinion needs to be removed so as to allow for the envisaged Commercial Use of Erf 376, Gansbaai.

As confirmed by Messrs Madeleyn Incorporated (**ANNEXURE Cii**) conditions C2(a) –(e) stipulating that:

- C.2
- (a) Hierdie erf mag nie onderverdeel word nie.
 - (b) Hierdie erf mag slegs vir bewoningsdoeleindes gebruik word.
 - (c) Slegs een woning, tesame met die nodige buitegeboue mag op hierdie erf opgerig word.
 - (d) Op nie meer as veertig persent van die oppervlakte van hierdie erf mag gebou word nie.

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(e) Geen gebou of struktuur of enige gedeelte daarvan behalwe grensmure en heinings, mag binne 4,72 meter van die straatlyn wat 'n grens van hierdie erf vorm, opgerig word nie, ook nie binne 3,15 meter van die agtergrens of 1,57 meter van die sygrens van 'n aangrensende erf nie, met dien verstande dat 'n buitegebou met die toestemming van die plaaslike owerheid op die voorgeskrewe ruimte tussen die agtergrens en die hoofgebou opgerig mag word, mits sodanige buitegebou nie 'n hoogte van 3,05 meter te bowe gaan nie, watter hoogte gemeet moet word van die vloer tot die ankerplaat, en mits geen gedeelte daarvan vir bewoningsdoeleindes deur mense aangewend word nie.

be removed so as to allow for the development of Erf 376, Gansbaai for Commercial purposes (Business Zone3), in line with the provisions contained in Council's Zoning Scheme

The property is not bonded.

3.4 Local Authority

The subject property falls within the area of jurisdiction of the Overstrand Municipality. The offices of this local authority are situated in Hermanus, with an extension office in Gansbaai.

3.5 Existing Land Uses and Densities

The existing average erf size in this area is $\pm 720\text{m}^2$. Erven in the immediate vicinity of Erf 376 Gansbaai, are zoned for Single Residential or Commercial uses and utilised as such.

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3.6 Existing Zoning

The subject property is zoned as Single Residential Zone 1, historically developed and utilised as private residence of the Lourens Family - please refer to **ANNEXURE Cii**.

3.7 Existing Policy Frameworks

The Overstrand Growth Management Plan prepared inter alia by Messrs Urban Dynamics and approved in 2010 by Council is relevant to this application. In terms of the Growth Management proposals for Gansbaai, Erf 376 is **earmarked in terms of the Contextual Analysis for retail purposes** - please refer to **ANNEXURE Diii** - Contextual Overview (E).

In terms of the Growth Management proposals for Gansbaai, Erf 376 is **earmarked as part of the Gansbaai CBD** (Planning Unit 12) - please refer to **ANNEXURE Div** - Proposal Plan (H).

4.0 MOTIVATION - PROPOSED DEVELOPMENT

4.1 Development Vision

The development of Gansbaai has the past few years been boosted by the pro-active marketing of this town not only as shark cage diving destination, but also a sought after family holiday destination within an area with abundant adventure opportunities.

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The accessibility of Gansbaai, being in close proximity to the regional attractions that make the southern coastline and Overstrand, one of South Africa's best eco-tourism and outdoor adventure destinations both nationally and internationally provides further impetus to the development of Gansbaai and the strengthening of its CBD.

Erf 376, Gansbaai being situated at no 5 Main Road, at the western entrance to the town, lends itself to the development of a commercial venture as opposed to the existing residential land use.

It should be noted that a number of properties in close proximity to Erf 376 and also along Main Road, have already been rezoned for commercial purposes.

Our client does not wish to redevelop the property at this stage, but rather utilise the existing residence as far as possible for the envisaged shops or offices. Being at the entrance to Gansbaai, the low key Business Zone 3 zoning seems more appropriate and compatible with the short to medium term development along Main Road, retaining the "residential" village look and feeling in terms of building mass and scale, at least for the foreseeable future.

Erven along Main Road, has with the historical establishment of this extension in 1948, been encumbered with restrictive title conditions which served to protect the residential integrity, character and land use of the built environment at that time. As is evident from the Growth

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Management Plan for Gansbaai, Erf 376 is now considered as part of the Gansbaai CBD and earmarked for retail development.

With the above in mind our client applies for the removal of those restrictive title conditions that governed the historical residential Extension 3 of Gansbaai. With the anticipated use of Erf 376 for commercial purposes, we are of the opinion that the development parameters for Business Zone 3 should apply as per Council's Zoning Scheme - as opposed to the existing title restrictions, clearly formulated for a residential environment.

Should Council consider the removal of the restrictive title conditions favourably, our client simultaneously wishes to apply for the rezoning of Erf 376, Gansbaai from Residential Zone 1 to Business Zone 3, subject to the amendment of the Title Deed for Erf 376 Gansbaai, by the Registrar of Deeds.

It is anticipated that only 150m² GLA will be used at this stage. The remainder of the existing building is used for Garages, Ablution Facilities and Storage – please refer to Draft SDP **ANNEXURE E**.

4.2 Access and Parking

It is proposed that the existing **access** to Erf 376 off R43 remain, and be used by guests and clients to the proposed commercial development.

The existing kerb will have to be dropped to widen the existing driveway, allowing for an entrance and exit. Our client will abide by the recommendation of the Provincial Roads Engineer in this regard and will

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communities access to commercially zoned land and enhanced development opportunities.

4.4.2 Spatial Sustainability

The commercial use of this residential erf in line with the provisions of the Gansbaai SDF will promote a compact CBD, enhance pedestrian access to the CBD and allow for future mixed use. The position on Main Road will furthermore allow for functional access via a public transport system and contribute positively to space economy.

The envisaged rezoning of Erf 367 Gansbaai from residential to commercial use will allow for an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limiting urban sprawl.

4.4.3 Efficiency

The Gansbaai SDF promotes a compact CBD which encourages the optimal the use of space, energy, infrastructure, resources and land. Inherent in this proposal is the need to promote densification and urban (as opposed to suburban) development typologies. Erf 367 Gansbaai, being part of the compact CBD, will contribute positively to this principle of efficiency.

24 JUN 2019

4.4.4 Spatial Resilience

The proposed rezoning of Erf 367 Gansbaai will allow for land use options that will give more flexibility in the use of the property. This will allow for a sustainable livelihood in terms of diversified economic opportunities and securing employment for the poor.

4.4.5 Good Administration

The inclusion of Erf 367 Gansbaai within the well defined Gansbaai CBD (interms of the SDF) is a result of an integrated, consultative planning practices in which all spheres of government and other role-players were consulted to ensure that a joint planning approach was pursued.

4.5 Considerations for Removal of Restrictive Conditions

In terms of Section 35(4) of the Overstrand Municipal Land Use Planning By-Law, the following considerations applies to the removal or amendment of title deed conditions:

4.5.1 Financial Value of Rights/Restrictions

The restrictive title conditions C.2(a)-(e) has no inherent financial value other than restricting the use of the property to that of Residential. As such the financial value of the property is limited.

4.5.2 Personal Benefits of the Restrictive Condition(s)

The restrictive title conditions C.2(a)-(e) has no inherent personal benefit and merely restricts the use of the property to that of Residential

4.5.3 Personal Benefits with Removal of Restrictive Condition

The removal of the restrictive title conditions C.2(a)-(e) will allow for the functional development of the property in line with the provisions of the Overstrand Zoning Scheme and the Gansbaai GMP.

The removal of the restrictive conditions will increase the development potential (benefit) of the property and hence the value thereof.

4.5.4 Social Benefit of Retaining Restrictive Condition

Considering the principles of (spatially) justified, sustainable, resilient and efficiency in directing planning and hence physical development, there can be no social benefit in retaining the restrictive title conditions C.2(a)-(e) pertaining to Erf 367 Gansbaai and limiting the development potential of the property.

4.5.5 Social Benefit Removing/Amendment of Restrictive Condition

The removal of restrictive title conditions C.2(a)-(e) will allow for enhanced development rights in line with the provisions of the Overstrand Zoning Scheme and the Gansbaai GMP.

The redevelopment of the property will not only increase Council's income through rates and taxes, but will also allow for economic investment as well as the job creation in Gansbaai.

4.5.6 Will Removal, Suspension or Amendment of Restrictive Condition remove all rights enjoyed by the beneficiary

While restrictive title conditions C.2(a)-(e) are not in favour of a specific beneficiary we are of the opinion that the removal of these restrictive conditions will allow for the development of the property in line with the provisions of the Overstrand Zoning Scheme and the Gansbaai GMP. While the rights of "beneficiaries" (whether Council or the Community by default) pertaining to Erf 367 Gansbaai will be removed from the Title Deed, development rights will in fact be managed by the provisions of the Overstrand Zoning Scheme.

4.6 Desirability of Proposed Zoning

As is evident from the Growth Management Plan for Gansbaai, Erf 376 is now considered as part of the Gansbaai CBD and earmarked for retail development.

24 JUN 2019

A number of properties in close proximity to Erf 376 and also along Main Road, have already been rezoned for commercial purposes.

We are of the opinion that the rezoning of the subject property will in fact, as demonstrated in par 4.4 above satisfy the basic planning principles of Spatial Justification, Sustainability Resilience and Efficiency.

The development proposal is in line with provisions of the Gansbaai GMP and as such will assist in giving effect to this management plan. The redevelopment of the property for commercial and retail land uses will allow for economic investment and growth as well as sustainable job creation.

In view of the above we are of the opinion that the rezoning of Erf 367 Gansbaai will not infringe on any existing rights, will not impact negatively on the built or natural environment and will contribute significantly to the establishment of a functional CBD and its socio-economic benefits.

5.0 SUMMARY

Erf 376 Gansbaai is already seen as part of the Gansbaai CBD and as such earmarked for commercial use in terms of Council's forward planning. In addition to this, a number of erven in the immediate vicinity of this property has already been rezoned for commercial use.

24 JUN 2019

We reiterate our clients vision as per par 4.1 above:

"Our client does not wish to redevelop the property at this stage, but rather utilise the existing residence as far as possible for the envisaged shops or offices. Being at the entrance to Gansbaai, the low key Business Zone 3 zoning seems more appropriate and compatible with the short to medium term development along Main Road, retaining the "residential" village look and feeling in terms of building mass and scale, at least for the foreseeable future.

Erven along Main Road, has with the historical establishment of this extension in 1948, been encumbered with restrictive title conditions which served to protect the residential integrity, character and land use of the built environment at that time.

With the above in mind our client applies for the removal of those restrictive title conditions that governed the historical residential Extension 3 of Gansbaai. With the anticipated use of Erf 376 for commercial purposes, we are of the opinion that the development parameters applicable to Business Zone 3 should apply as per Council's Zoning Scheme - as opposed to the existing historical title restrictions, clearly formulated for a residential environment."

It is indeed our contention that the purpose of the application is to align the original approval with a modern day development philosophy and vision for Erf 376 Gansbaai, as identified by Council.

24 JUN 2019

In view of the aforesaid we respectfully request Council's approval for:

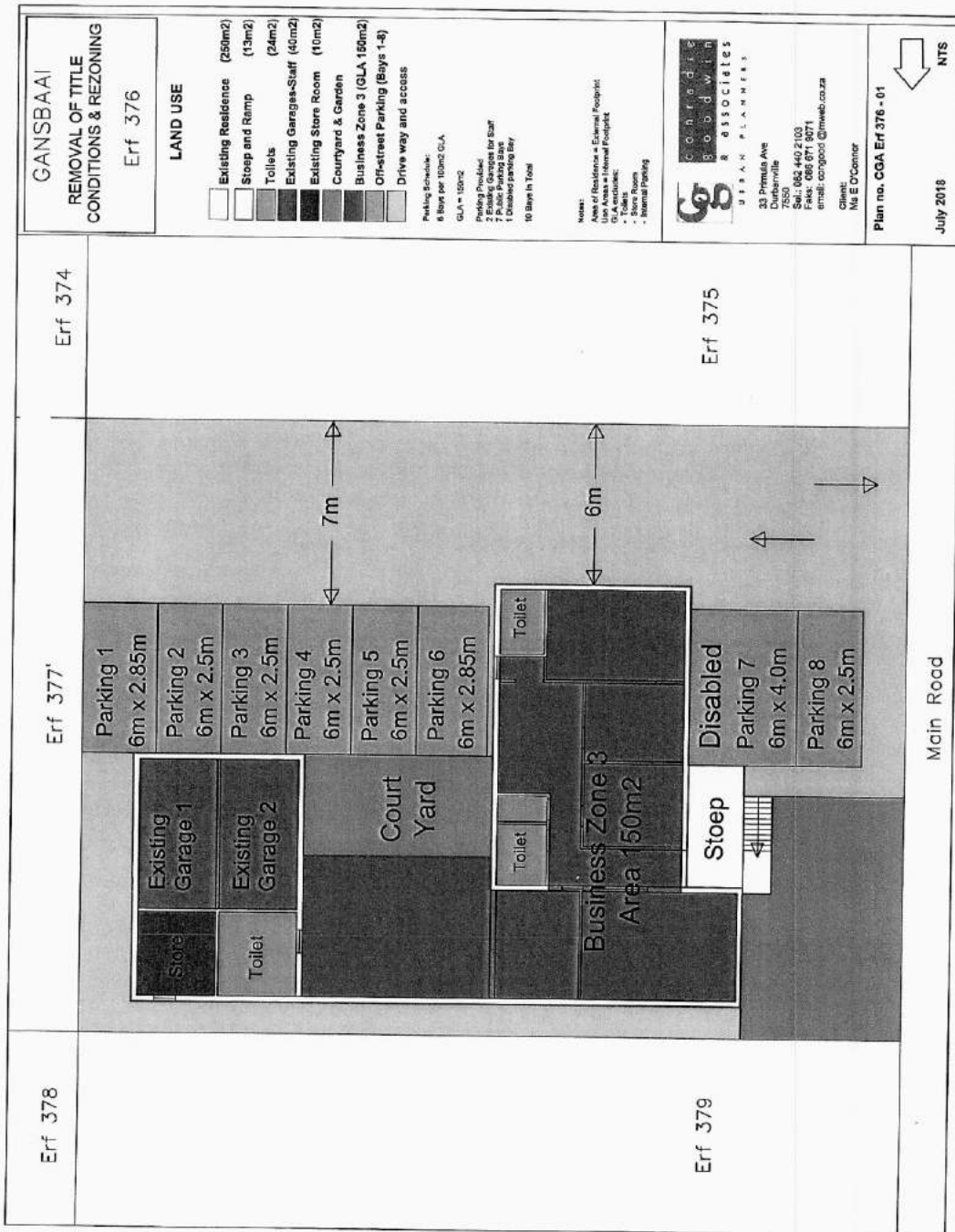
- 1. in terms of Section 16 (2) (f) of the Overstrand Municipality: By-Law on Municipal Land Use Planning, GN. 7540 of December 2015- for an amendment, suspension deletion of restrictive title conditions C.2 (a) –(e) in respect of Erf 376, Gansbaai, and**

- 2. in terms of Section 16 (2) (a) of the Overstrand Municipality: By-Law on Municipal Land Use Planning, GN. 7540 of December 2015- for the rezoning of Erf 376, Gansbaai from Residential Zone 1 to Business Zone 3, allowing for shops, offices and flats above ground floor as per Council's Zoning Scheme.**

August 2018

CONRADIE GOODWIN & ASSOCIATES

24 JUN 2019




14

ENDSOMMEER 19-NOV-1917 ARTIKEL 45 (1) VAN WET 47 VAN 1917	REGISTRATION BY VOTUE OF REGISTRATION BY VOTUE OF
DIRK CORNELIUS LOURENS Id No. 340827	5017 087 Widower
WAT BI GEMEENSAP VAN GULD GETROUD WAS MET	WHO WAS MARRIED BY COMMUNITY OF PROPERTY TO
ELIZABETH CATHARINA MARIA LOURENS	
IS GERECHT OM MET ERVENDE EINDOCH TE HANDEL GRADIGENS AAN TESAARNTIDE VOORWAARTES	IS ENTITLED TO DEAL WITH THE UNMENTIONED PROPERTY SUB- JECT TO UNUSUAL CONDITIONS
000014826/2017	
22 MAR 2017	REGISTRATEUR/REGISTRAR

T 34452.88

TRANSPORTAKTE

VAN DER SPUY EN VENNOTE
 KAAPSTAD

Opgestel deur my,

 Aktebesorger
 M. DE WAAL

Hiermee word bekend gemaak dat

ANDRE GERHARD VAN DER SPUY Aktebesorger,
 voor my, Registrateur van Aktes in Kaapstad, verskyn het, behoorlik daartoe gemagtig deur 'n
 Volmag ten gunste van hom verly te MOSSELBAAI
 op die 23ste dag van Maart 19 88 deur

DAVID JACOBUS DE VILLIERS
 Identiteitsnommer: 450228 5107 000
 getroud buite gemeenskap van goed

EN DIE KOMPARANT ALDUS GEMAGTIG HET VERKLAAR DAT:

1

NADEMAAL/...

- 2 -

NADEMAAL sy Prinsipale die hiernavermelde eiendom aan die hiernavermelde transportnemers verkoop het op 23 Februarie 1988;

NOU DERHALWE sedeer en transportteer die Komparant in sy voornoemde hoedanigheid hiermee in volle en vrye eiendom aan en ten gunste van:

DIRK CORNELIUS LOURENS

Identiteitsnommer: 340827 5017 004

en

ELIZABETH CATHARINA MARIA LOURENS

Identiteitsnommer: 370604 0019 001

getroud in gemeenskap van goed met mekaar

- BEIDE BLANKE GROEP -

hulle erfgename, eksekuteurs, administrateurs of gemagtigdes:

Erf 376 Gansbaai in die Munisipaliteit Gansbaai, Afdeling Caledon

GROOT: Sewehonderd Vier en Veertig (744) vierkant meter

WHITE GROUP
BLANKE GROEP

AANVANKLIK oorgedra kragtens Transportakte NR. 9973/1948 en kaart Nr. 6989/47 wat daarop betrekking het en gehou kragtens Transportakte Nr. T12915/1976;

A. ONDERHEWIG aan die voorwaardes waarna verwys word in Transportakte NR. 9973/1948.

B. ONDERHEWIG/.....

- 3 -

B. ONDERHEWIG VERDER aan die volgende voorwaardes vervat in Grondbrief Nr. 160/1938 naamlik:

1. Behoudens die bepalinge van die "Wet op de Ontginning van Voorbehouden Mineralen" 1926, en van die "Wet op Edelgesteentes", 1927, word alle minerale, minerale produkte, minerale olies, steenkool, onedele of edele metale of edelgesteentes op of onder die grond van die Staat voorbehou.

(Ten opsigte van welke Minerale Regte 'n Sertifikaat van Minerale Regte Nr. 175/1938 uitgereik is ten gunste van die Republiek van Suid-Afrika.)

C. ONDERHEWIG VERDER aan die volgende spesiale voorwaardes vervat in Transportakte Nr. 9973/1948 opgelê deur die Administrateur van Kaap die Goeie Hoop met die goedkeuring van Gansbaai Dorpuitbreiding Nr. 3 naamlik:

1. Alle woorde en uitdrukkings wat in hierdie voorwaardes gebesig word het dieselfde betekenis as wat daaraan geheg word in die regulasies afgekondig by kennisgewing van die Provinsiale Administrasie Nr. 401 van 17 Oktober 1935, en in die Memorandum wat genoemde regulasies vergesel het.

2. Hierdie eiendom is onderhewig aan die volgende voorwaardes met dien verstande dat indien die Administrateur na oorleg met die Dorpekommissie en die plaaslike owerheid, dit raadsaam ag dat die beperking in enige sodanige voorwaarde te eniger tyd opgeskort of versag behoort te word, hy die nodige opskorting of versagting kan goedkeur onderworpe aan sodanige voorwaades as wat hy oplê:

(a) Hierdie erf mag nie onderverdeel word nie.

(b) Hierdie erf mag slegs vir bewoningsdoeleindes gebruik word.

(c) Slegs een woning, tesame met die nodige buitegeboue mag op hierdie erf opgerig word.

(d) Op nie meer as veertig persent van die oppervlakte van hierdie erf mag gebou word nie.

(e) Geen /

- 4 -

- [Handwritten mark]*
- (e) Geen gebou of struktuur of enige gedeelte daarvan behalwe grensmure en heinings, mag binne 4,72 meter van die straatlyn wat 'n grens van hierdie erf vorm, opgerig word nie, ook nie binne 3,15 meter van die agtergrens of 1,57 meter van die sygrens van 'n aangrensende erf nie, met dien verstande dat 'n buitegebou met die toestemming van die plaaslike owerheid op die voorgeskrewe ruimte tussen die agtergrens en die hoofgebou opgerig mag word, mits sodanige buitegebou nie 'n hoogte van 3,05 meter te bowe gaan nie, watter hoogte gemeet moet word van die vloer tot die ankerplaat, en mits geen gedeelte daarvan vir bewoningsdoeleindes deur mense aangewend word nie.
- (f) Die eienaar van hierdie erf is verplig om sonder betaling van vergoeding toe te laat dat die rioolvuil en afloopwater insluitende reënwater van enige ander erf of erwe oor hierdie erf gevoer word indien dit deur die plaaslike owerheid nodig geag word en wel op die wyse en plek wat van tyd tot tyd redelikerwys vereis word. Dit sluit die reg op toegang te alle redelike tyd tot die eiendom ten einde rioler, mangate, vore, waterleidings of ander werke behorende daartoe te bou, onderhou, verander, verwyder of te inspekteer.

WESHALWE/.....

- 5 -

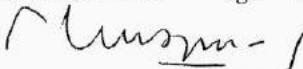
WESHALWE die Komparant afstand gedoen het van alle eiendoms- en ander regte wat die gesegde Transportgewer/s

tot op hede op gemelde vaste eiendom gehad het en gevolglik ook erken dat hy/sy/hulle/dit daarvan heeltemal onteien is, en geen eiendoms- en ander regte daarop besit nie; en dat, kragtens hierdie Akte, die gesegde Transportnemer/s


hulle Erfgename, Eksekuteure, Administrateure of Gemagtigdes tans is en voortaan op die volle eiendomsregte daarop geregtig sal wees, ooreenkomstig plaaslike gebruik, onder voorbehoud nogtans van die Regte van die Staat en eindelijk erken het dat die koopprys ten bedrae van R84 000,00 behoorlik betaal of verseker is.

AS BEWYS WAARVAN EK, die genoemde REGISTRATEUR, saam met die KOMPARANT, q.q. hierdie Akte onderteken het en die Ampseël daarop laat aanbring het.

ALDUS GEDOEN EN UITGEVOER in die Kantoor van die REGISTRATEUR VAN AKTES TE KAAPSTAD op hede die 24^{ste} dag van Junie in die Jaar van Onse Heer Eenduisend Negehonderd Agt en Tagtig (1988)


q.q. SY-PRINSIPAAL

In my teenwoordigheid


REGISTRATEUR VAN AKTES

1

10734/46

APPROVED
 [Signature]
 SUPERVISOR GENERAL

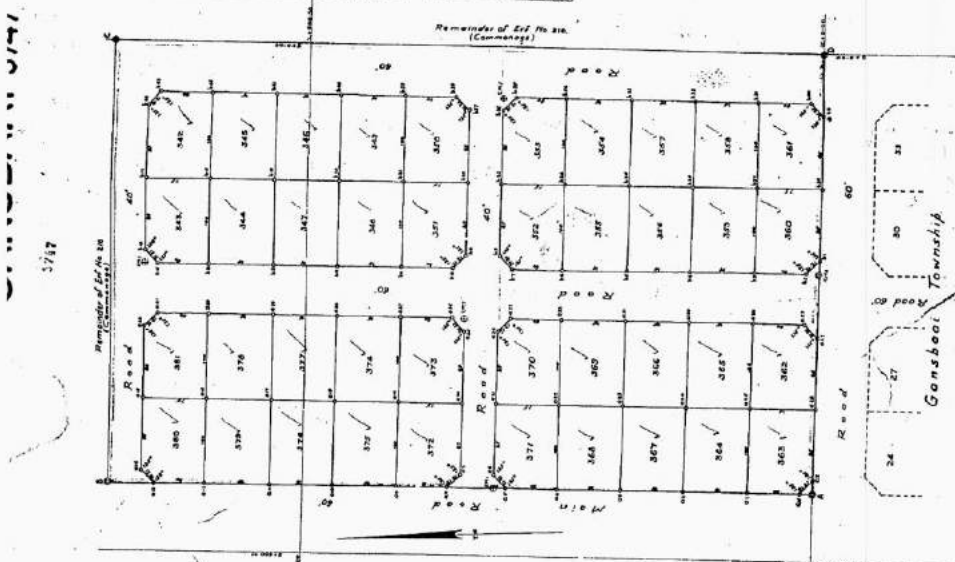
THIS PLAN IS APPROVED THROUGH THE WORKS
 OF THE BOARD OF SUPERVISORS OF THE COUNTY OF
 SAN JOAQUIN, CALIFORNIA, ON THIS 15th DAY OF
 OCTOBER, 1946.

RECORDED IN THE OFFICE OF THE COUNTY CLERK
 OF SAN JOAQUIN COUNTY, CALIFORNIA, ON THIS 15th DAY OF
 OCTOBER, 1946.

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Original Plan No. 296
 Surveyed by [Name]
 [Address]
 [City, State]



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AP N. Theod
(S. J. N. N. N.)



7 Main Road
Erf 375
Gansbaai

31 July 2019

Overstrand Municipality
P.O. Box 20
HERMANUS
7200

FILE NO:	GB 376
	Gansbaai ✓
SCAN NO:	GB 376
COLLABORATOR NO:	311397

Dear Sir/Madam

RE: PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND REZONING OF
ERF 376 MAIN ROAD, GANSBAAI - MUNICIPAL NOTICE NO.: 95/2019

I write in connection with the abovementioned planning application and wish to raise my concerns on the proposed development and its contextual location. I wish to express that I have no objection to the rezoning of Erf 376 on the condition that it be done to erect a business premises which will not be disruptive to my general living conditions.

As per the notice, it was mentioned that an application for the removal of title deed conditions and rezoning was applied for on the subject property. The property is said to be rezoned to Business Zone 3: Local business, which in the approved Overstrand Zoning Scheme Regulations of 29 November 2013, allow for the following primary uses; shops, flats (above ground floor) and offices.

Below refers to two (2) main concerns for the proposed development;

- 1.1 It is understood that the Overstrand Municipal Wide Spatial Development Framework of October 2016/17 aims to promote the proposal (to promote a balanced land use mix), however, it also aims to maintain the unique character of the villages. The neighboring properties to the rear, north and south are dominantly Single Residential, and portray heritage aspects on old Main Road. I herewith request that the applicant/developer consider applying similar visual techniques to the design of the new building, so that the residential pattern and character of Main Road be retained.
- 1.2 As mentioned, that the development occurs in a neighbourhood predominantly consisting of Single Residential properties. It has come to my attention that the notice does not fully describe the proposed use of the property. The property will be rezoned to Business Zone 3, as mentioned, however, there is still an uncertainty that the motivation could include an application for Consent Use, which provides the developer with a spectrum of various uses such as, restaurants, place of entertainment, sale of alcoholic beverages, etc. These types of uses as listed under Consent Use of Business Zone 3 will be harmful towards the neighbourhood and will negatively contribute towards the noise levels, traffic and

- 8 AUG 2019

serenity of the neighbourhood.

To conclude, the neighbourhood surrounding Erf 376 Main Road, Gansbaai is a dispersed residential settlement where development proposals should be considered carefully. The development of office spaces and residential apartments will receive my support, however the establishment of a commercial/entertainment element in the area could ruin the character of the neighbourhood and overwhelm the current residents.

Finally, please note that this letter is in respect of the proposed development. While I have taken every effort to present accurate information for your consideration, I cannot take any responsibility for unintentional errors or omissions.

I hope the municipality finds in favour of this letter.

Yours faithfully

Margaretha Maria Groenewald
(Owner)

mm Groenewald Erf 376
MARGARETHA MARIA GROENEWALD.

Herman Cornelius Lourens

H.C. Lourens Erf 376

Petronella Hendrina Lourens

P.H. Lourens Erf 376

(Occupants)

TELEFOON 0283840258

SEL. 082 5865354

P.H. LOURENS - DOETJER VAN KIEKARES - WONING WOORD

P.H. LOURENS SIN NA AFSIERWE VAN M.M. GROENEWALD.



1/P. D. Meert
(S. J. N. M. M.)

3/6
Page | 1

22 Main Road
Erf ~~376~~ 52
Gansbaai

Overstrand Municipality
P.O. Box 20
HERMANUS
7200

FILE NO:	51 376	31 July 2019
	Gansbaai	
SCAN NO:	GB 376	
COLLABORATOR NO:	1313267	

Dear Sir/Madam

RE: PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND REZONING OF ERF 376 MAIN ROAD, GANSBAAI - MUNICIPAL NOTICE NO.: 95/2019

I write in connection with the abovementioned planning application and wish to raise my concerns on the proposed development and its contextual location. I wish to express that I have no objection to the rezoning of Erf 376 on the condition that it be done to erect a business premises which will not be disruptive to my general living conditions.

As per the notice, it was mentioned that an application for the removal of title deed conditions and rezoning was applied for on the subject property. The property is said to be rezoned to Business Zone 3: Local business, which in the approved Overstrand Zoning Scheme Regulations of 29 November 2013, allow for the following primary uses; shops, flats (above ground floor) and offices.

Below refers to two (2) main concerns for the proposed development;

- 1.1 It is understood that the Overstrand Municipal Wide Spatial Development Framework of October 2016/17 aims to promote the proposal (to promote a balanced land use mix), however, it also aims to maintain the unique character of the villages. The neighboring properties to the rear, north and south are dominantly Single Residential, and portray heritage aspects on old Main Road. I herewith request that the applicant/developer consider applying similar visual techniques to the design of the new building, so that the residential pattern and character of Main Road be retained.
- 1.2 As mentioned, that the development occurs in a neighbourhood predominantly consisting of Single Residential properties. It has come to my attention that the notice does not fully describe the proposed use of the property. The property will be rezoned to Business Zone 3, as mentioned, however, there is still an uncertainty that the motivation could include an application for Consent Use, which provides the developer with a spectrum of various uses such as, restaurants, place of entertainment, sale of alcoholic beverages, etc. These types of uses as listed under Consent Use of Business Zone 3 will be harmful towards the neighbourhood and will negatively contribute towards the noise levels, traffic and

serenity of the neighbourhood.

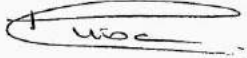
To conclude, the neighbourhood surrounding Erf 376 Main Road, Gansbaai is a dispersed residential settlement where development proposals should be considered carefully. The development of office spaces and residential apartments will receive my support, however the establishment of a commercial/entertainment element in the area could ruin the character of the neighbourhood and overwhelm the current residents.

Finally, please note that this letter is in respect of the proposed development. While I have taken every effort to present accurate information for your consideration, I cannot take any responsibility for unintentional errors or omissions.

I hope the municipality finds in favour of this letter.

Yours faithfully

Anita Huisamen
now sole owner.





3 main Road
ET# 379
Gansbaai
19/8/2019

Dear Sila Madam

Re/Proposed removal of
Restrictive Title deed
on ET# 376 main Road Gansbaai
Having read the contents
of your letter received
on the 12 of August under
registered mail I wish
to make the following
comments.

I wish to express that I
have no objections to the
re-zoning of ET# 376 main
Road Gansbaai from
residential to shops
office flats above ground
floor.

I am not in favour
however of the said
development being used
for entertainment of liquor,
gambling, slot machines
ect.

with regards to my privacy
I would like to point out
that the Vibra Cete wall
separating esp 376 and
esp 379 is crumbling and
disintegrating and would
have to be replaced with
a wall of at least 1.700 high.

I am having endless
trouble with the letting of
residential space between
esp 376 and 380.

My ~~own~~ property are been
used for a dumping ground
for cigarette butt, Beer tops,
bottle caps and plastic
bags.

Once again I would like
to say I am satisfied
with the reserving
development of esp 376
and wish them Godluck.

Yours faithfully
F G Sumner
Telephone 0812101797
F G Sumner



conradie
goodwin
& associates

URBAN PLANNERS

33 PRIMULA AVENUE, DURBANVILLE, 7550
TEL 082 440 2103 FAX: 086 671 6091
EMAIL: congood@mweb.co.za

Our ref.: Erf 367 Gansbaai
01 October 2019

The Municipal Manager
Overstrand Municipality
P.O. Box 20
HERMANUS
7200

TP. D. M. (S. J. d. M. M.) ANNEXURE F 1/3

FILE NO:	GF 367 ✓
	Gansbaai
SCAN NO:	GB 367
COLLABORATOR NO:	1331175

Attention: Mr SW van der Merwe

Dear Mr van der Merwe,

ERF 367, GANSBAAI
Removal of Title Conditions and Rezoning
RESPONSE TO COMMENT

1. Council's notification dated 04 September 2019, File Ref 367 GGB (Application ID: 3047/2019), refers.
2. The comment as received from:

MM Groenewald and HC & PH Lourens (received 31 July 2019),
A Huisamen (received 31 July 2019), and
FG Sumner (received 19 August 2019), bears reference.
3. We have studied the comment and wish to note the following:
 - 3.1 Our application quite clearly stated that application made for the rezoning from Residential Zone 1 to Business Zone 3, allowing for shops, offices and flats above ground floor.

Conradie Goodwin & Associates (Pty) Ltd
Reg. No. 2000/004858/07

Director: B J Goodwin B.A, B.A. Hons (DEV ADMIN), M(TRP)

10 Oct 2019 J

3.2 It is generally noted that none of the comments received raised an objection *per se* to the proposed development of Erf 367 Gansbaai, allowing for shops, offices and flats above ground floor.

3.3 All parties raised a concern that the rezoning of property should not result in the establishment of restaurants, places of entertainment (which will include the selling of liquor and/or gambling).

4. Response:

While our client has no intention of entering the restaurant or entertainment business, the concerns are fully comprehended and hence our client is satisfied that the sale of liquor and gambling be prohibited in terms of Council's resolution when considering this application.

5. CONCLUSION

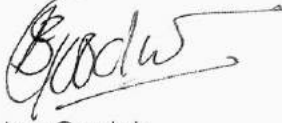
The comment in general addresses the impact that the sale of liquor and gambling will have on the privacy of adjacent properties. While our client does not necessarily wish to exclude Restaurants (which could include a small Boutique Coffee Shop) *per se*, a exclusion on the sale of liquor and gambling is most definitely supported, also given the possibility that flats may be erected above ground floor.

In view of the aforesaid we respectfully request Council's approval for:

1. in terms of Section 16 (2) (f) of the Overstrand Municipality: By-Law on Municipal Land Use Planning, GN. 7540 of December 2015- for an amendment, suspension deletion of restrictive title conditions C.2 (a) –(e) in respect of Erf 376, Gansbaai, and

2. in terms of Section 16 (2) (a) of the Overstrand Municipality: By-Law on Municipal Land Use Planning, GN. 7540 of December 2015- for the rezoning of Erf 376, Gansbaai from Residential Zone 1 to Business Zone 3, allowing for shops, offices and flats above ground floor as per Council's Zoning Scheme (with a specific exclusion on the sale of alcohol and gambling from this property).

Kind regards



Jaco Goodwin

CONRADIE GOODWIN & ASSOCIATES

File reference:	376 GGB (3047/2019)
Date:	25 July 2019
	LI



INTERNAL MEMORANDUM

From	: Town Planning Department
Town Planner	: Schalk van der Merwe

TO:

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

Applicant	BJ GOODWIN (obo EC & DC LOURENS & O' CONNOR)
Property Details	ERF 376, 5 MAIN ROAD, GANSBAAI
Application Description	APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND REZONING

ATTACHMENTS :

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

YOUR DEPARTMENT'S COMMENTS:

The fire department has no objections provided that the structure complied to the fire protection SANS 10400-T:2011 and the community fire safety by-law	
Signature: <i>E. Solomons</i>	Date: 26 JUL 2019 2019

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

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

COMMENTS REQUIRED BY:	30 August 2019
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ANNEXURE H 1/4



TP - A. Theart
(S. v. d. Merwe)

Division of Telkom SA SOC Ltd

10 Jan Smuts Drive
Pinelands
7404

Candice Spammer

Tel: 021 414 5582

Fax: 085 480 0617

Email: spammec1@telkom.co.za

Our Ref.: WWIP_WGNB2668_19

Your Ref.: 376 GGB

16 August 2019

Attention: S Muller

Overstrand Municipality
HERMANUS

FILE NO:	ERF 376 - GB ✓
SCAN NO:	GB 376
COLLABORATOR NO:	1314144

PLANT AFFECTED:

PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND REZONING: ERF 376, 5 MAIN ROAD, GANSBAAI

With reference to your application received **25 July 2019**.

As important cables and other infrastructure are affected, please contact our representative Frederik Swart at 028 514 1199 / 081 363 7815 / FrederikS@openserve.co.za 48 hours prior to commencement of construction work.

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

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

Approval is granted, subject to the following conditions.

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

19 AUG 2019

As per sketch attached, Open Serve infrastructure **WILL BE AFFECTED**, consequently the conditions below and on the attached legend will apply.

Telecommunication services position is shown as accurately as possible but should be regarded as **approximate only**.

Should alterations or relocation of existing infrastructure be required, such work will be done at the request and cost of the applicant.


Please notify this office within 21 working days from this letter of acceptance and if any alternative proposal is available or if a recoverable work should commence.

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

Should open serve infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Open Serve rights remain reserved.

Yours faithfully



Selwyn Bowers

Operations Manager

Wayleave Management: Western Region

PLANT AFFECTED : COPPER

This wayleave, Reference Number **WWIP WGNB2668 19** is valid for 12 months from date hereof and is subject to the following conditions:

1. No mechanical plant or vibrator type compactors may be used within three meters of any Openserve Plant (I.E. any Telecommunication equipment above or below ground level).
2. The position of our plant affected by the proposal is indicated as approximate and **Frederik Swart** at Telephone No **081 363 7815** must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of the Openserve Plant will be indicated on site.
3. A written request must be submitted to Openserve for consideration, should the of the work, upon which the actual location of Openserve Plant will be applicant require our plant to be relocated. The cost of such a relocation will be recoverable from the applicant.
4. It is the responsibility of the applicant to verify the existence of the indicated plant and to notify Openserve immediately, should the applicant locate any Openserve Plant which is not indicated on the plans.
5. Should the applicant expose any Open Serve plant, the safeguard thereof will be the applicant's full responsibility.
6. Failing to comply with the above conditions or any special conditions addendum hereto will be regarded as gross negligence and the applicant will be held responsible for any damage or loss as a result thereof.

Date: 2019/08/19

By: C Spammer
For Regional General Manager
Western Cape

Legend	Green
1. Underground Pipe	
2. Underground Cable	
3. Manhole	
4. Street Distributio Cabinet (SDC)	
5. Jointing Pit / A/JB	
6. Jointing Pillar (PJ)	
7. Pipe Junction Box (B/S)	
8. Robot Control	
9. Pole	
10. Stay	
11. Strut	
12. Aerial Cable (A/C)	





Completed By		C. Spurrin	
Client		13002079	
Chart ref		OpenService.pdf	
Details		CDPSR SERVICES AFFECTED	
Page Size	A4	Sheet No	1 of 5

Legend		Existing Underground Route	
	Existing Manhole		Existing Underfloor DP
	Planned Manhole		Planned Underground Route
	To Be Abandoned Manhole		To Be Abandoned Underground Route
	Existing Joints P1		Existing Overhead Route
	Planned Joints P1		Planned Overhead Route
	To Be Abandoned Joints P1		Existing Overhead Pole
	Existing P1/B		Planned Overhead Pole
	To Be Abandoned P1/B		Existing Min. OADP
	Existing Pole		Planned Min. OADP
	To Be Recovered Pole		Existing Split and Stay

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED
CONDITIONS & REZONING: ERF 376, GANSBAAI (3047/2019)**

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

Conditions:

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

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

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

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

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

The contribution according to the current policy (2019/2020) is as follows:

Freehold erven:

Water	R 22 925.00 x -0.4	=	-R 9 170.00
Sewerage	R 15 457.00 x -0.4	=	-R 6 182.80
Roads	R 6 931.00 x 3.2308	=	R 22 392.67
Stormwater	R 7 997.00 x 0.992	=	R 7 933.02
Solid Waste	R 1 386.00 x 0.86	=	<u>R 1 191.96</u>
TOTAL (inclusive of VAT)		=	R 16 164.85

Note:

The above figures are estimates

1. that the existing water connection and sewer conservancy tank to Erf 376 shall be used to service Erf 376;
2. 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 developer's cost;
3. that any repositioning of existing electrical services will be for the developer's account;
4. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 140400 – P: 2010: Drainage;
5. that those on-site parking facilities are provided as per the planning Schedule, and to the satisfaction of the Department: Operational Services;
6. that any additional and / or extended vehicle entrances will be for the developer's account;
7. that stormwater be allowed to discharge through Erf 376, Gansbaai, unobstructed.


DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES


DATE