

4.2

ERVEN 8408 & 4096, 295 NINTH STREET & 296 TENTH STREET, VOËLKLIP, HERMANUS: APPLICATION FOR CONSOLIDATION & SUBDIVISION: MESSRS DAVE SAUNDERS PLANNER CC ON BEHALF OF LORD TRUST

8408 & 4096 HVK
P Roux
22 February 2023

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 22 April 2022 from Messrs Dave Saunders Planner CC on behalf of Lord Trust in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the following:

- **consolidation** in terms of Section 16.(2)(e) of Erven 8408 & 4096 Voëlkliip; and
- **subdivision** in terms of Section 16.(2)(d) in order to subdivide the consolidated erven into 4 portions namely, Portion A approximately 923m² in extent, Portion B approximately 353m² in extent, Portion C approximately 353m² in extent and Portion D approximately 353m² in extent, to accommodate the new dwelling units on Portions B, C and D.

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 Subdivisional Plan is attached as Annexure C.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

Erf 8408, Hermanus is currently developed with a main dwelling and an outbuilding, and it is zoned for residential use. Erf 4096, Hermanus is also zoned for residential use but is currently vacant. It is proposed to consolidate the two erven and to subdivide the erven into four erven.

4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation for the application is summarised as follows:

- ❖ The subject properties are situated at 296 Tenth Street and 296 Ninth Street respectively.
- ❖ Erf 8408 currently measures 991m² and Erf 4096 measures 991m² as well. It is proposed to consolidate the erven into one and then subdivide the erven into four (4) properties, namely Portion A (±923m²); Portion B (±353m²); Portion C (±353m²); Portion D (±353m²). The intent is to then construct three new free-standing dwellings which will take access form Tenth Street.
- ❖ Portion A will be reduced in size by 68m² and will retain the current house on it. Portions B, C and D will all be equal size with. The freestanding dwellings on Portions B, C and D will have contemporary seaside vernacular style with open plan kitchen/dining room/lounge on ground floor and bedrooms on the first floor.

All dwellings will be set back 4m from the street and 3,76m from the rear common boundary. The 8m height restriction will be complied with and due to the setbacks; the proposed dwellings will be compliant with the current zoning parameters. The proposed dwellings will however be located 1m from the lateral boundary lines as are the zoning parameters for erven smaller than 400m², therefore the proposed dwellings will not be compliant with the current zoning parameters.

- ❖ The two properties are in the same ownership.
- ❖ The suburb is made of two to three storey buildings with erven being mostly fully developed. With architecture being contemporary and monolithic.
- ❖ There is no minimum erf size in this use zone and there is no overlay zone in place limiting subdivision to a specific size.
- ❖ There are no restrictive conditions contained within the title deed.
- ❖ The development will offer opportunity to stimulate the local building industry.
- ❖ The proposed number of units will be the same as the existing land use rights and number of units which can be developed.
- ❖ There will be no material impact on external engineering services.
- ❖ The proposal will lead to better surveillance on the street and will improve safety and the general wellbeing of the surrounding community.
- ❖ Two parking bays are proposed for each unit, the garages are set back sufficiently far to ensure safe access and egress.
- ❖ No unreasonable impact is anticipated, the local authority may impose conditions which limit the amount of dwelling units to ensure a density that is consistent with the general density found here.
- ❖ Impact on heritage
- ❖ There will be no impact on any heritage resources.
- ❖ The property does not have any conservation worthy features.
- ❖ Access to Portion A will be maintained as is and Portion B's access is still to be determined.
- ❖ There are no title deed restrictions which prohibit the use or subdivision of the property.
- ❖ The SDF states the following –
 - *Promote the provision of a range of residential housing types and appropriate densification strategies in order to retain the character of Greater Hermanus, while ensuring appropriate growth to address the growing populations housing needs.*
 - *Contain the urban footprint of Greater Hermanus within a defined urban edge.*

The SDF also identifies some proposals at Local Planning Level:

- *Balance housing provision*
 - *Densification*
- ❖ The motivation proves that the proposals are aligned with the principles and that the number of dwelling units provided is in keeping with what can currently be built and is in keeping with the existing subdivision pattern.
 - ❖ The application falls within Planning Unit 6 and the following proposals are relevant to the area in question:

Incremental development through subdivision to allow a second dwelling and third dwelling unit respectively is proposed for an assumed 20% of the area/dwellings of the planning unit. Based on this assumption, this proposal can potentially contribute more than 200 additional dwelling units, increasing the current gross density from 8.7 to 11.3 dwelling units per hectare.

- ❖ It is believed that the proposed development is in keeping with the LSDP in that it proposes a development which offers a minor increase in density in a manner that is entirely in keeping with the current gross density found in the planning unit. The existing site would be capable of accommodating two double storey dwelling units and four on two stands. The two standard stands could have been easily subdivided into four equal sized erven. The proposal is still for four erven with three slightly smaller than the surrounding erven and four dwellings units. Given the number of units and erven the development is in keeping with the proposals contained within the LSDP.
- ❖ The massing is not out of character and there are various dwellings constructed 1m from the boundary within the same residential block.
- ❖ The proposal is further motivated to be in line with the Planning Principles.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local Newspaper	Yes	03 June 2022	08 July 2022
Notices	Yes	06 June 2022	08 July 2022
Ward councillor	Yes	03 June 2022	08 July 2022
Total comments	One (1) objection 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?			N/A

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

Name	Date received	Summary of comments
Building Control	06/06/2022	No objection. Building plan applications must comply with all applicable law.
Local Heritage	08/06/2022	No objection.
Fire Department	08/06/2022	No objection.

Waste Management	09/06/2022	No objection to the proposal from a solid waste planning point of view. Note all 4 new erven will require animal proof waste disposal storage bins for the placement of their waste on the verge on waste collection days.
Engineering Services	15/07/2022	Annexure F.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

One objection was received on the proposal, the main points of the objection is summarised.

Proposed smaller-than-average subdivided erven sizes

- Three erven will fit in the same area where there would be normally two erven; the proposed size is $\pm 353\text{m}^2$ where the average size is 461m^2 .
- The LAND USE SCHEME, 2020 (Land Use Management Scheme) does not state specifically (in Chapters 6 and 16.10.22) the minimum sizes for subdivisions in Residential Zone: Single Residential. However, the Western Cape Province's Land Development Parameters state the following regarding "Single Dwelling Residential":
 - *“Minimum erf size 300m² unless:*
 - (i) policy identifies area for retention of larger or smaller erven.*
 - (ii) in the absence of approved local policy mentioned in (i), where smaller local single residential erven than 300m² already exist and the smallest erf resulting from the proposed subdivision is not smaller than the average erf size of all the existing single residential erven directly abutting (or closest to, where not abutting) the parent property to be subdivided.”*
- Three smaller than average for Voëlklip erven sizes the 3 subdivided erven measuring 353m^2 respectively, where the average erf size in Voëlklip is 461m^2 . Surrounding erven measure 495m^2 – 541m^2 respectively.
- This is a deviation of the Western Cape Province's Land Development Parameters.

Response from applicant

- Smaller erven will be created this is correct.
- The Land Use Scheme does not set out a measure of control for the erf sizes and therefore it is presumed that it is not necessary for the Voëlklip area and that every subdivision will be considered on its own merit.
- It is unclear to which documentation the objector is referring to. Without specifics it is impossible to respond to this very general statement.
- The proposal is aligned with Section 7 of SPLUMA and Section 59 of LUPA which provides broad land use planning principles. Such as i.e.
 - The proposed development allows for appropriate densification within a high-amenity, well-located area. It will tap into existing engineering infrastructure and existing public facilities, reducing the fiscal burden on the State, capital and operational, associated with developments on the periphery. The proposal does not constitute urban sprawl and will not

- have an impact on prime and unique agricultural land, such promote spatial sustainability.
- The proposed development optimizes the use of valuable and scarce land to the benefit of a range of income levels. The design is such that the visual impact on the receiving environment is minimized as far as possible whilst optimizing the use of existing infrastructure. The development promotes efficiency with respect to providing residential opportunities that all reasonably affordable to people.

Response from town planner

It is agreed with the objector that the property sizes proposed contrasts with the morphology of the residential suburb. The average size is 495m² in the residential block and it is normal practice to allow for 10% deviation when subdivision is requested, it is noted the proposed erf sizes of ±353m² which is a 28,68% deviation of the average erf size.

It is noted that the applicant in its motivation failed to relate to Chapter 18 of the Land Use Scheme which state the following regarding the subdivision of residential erven:

“Subdivision in an area will generally be allowed if it is consistent with the planning, policies and the average size and density of surrounding residential properties are being considered.”

The statement made under 4.2 of the response to the objection is therefore not agreed with. Further, while the application can be compliant with general planning principles one has to consider the character of the area and the density provided. From the street scape the average width of the property is at minimum ±15,74m and at maximum ±32m however the proposed width is now only 10,5m. It should be noted that architects and developers are already struggling to design dwellings standard/average sized erven. The proposed erf sizes will effectively reduce the developable area by 3m in width (when considering the applicable building lines).

It should be noted that the document the objector is referring to does not have any status.

Consequences of smaller-than-average subdivided erven

- The allowed coverage and building lines for erven smaller than 400m² is less than that on erven larger than 400m². Coverage is 65% (<400m²) from 50% (≥400m²), lateral building line is 1m (<400m²) from 2m (≥400m²). And street building line is 2m (<400m²) from 4m (≥400m²).
- The coverage will be increased beyond the 50% allowable coverage which is currently applicable on erven larger than 400m².
- It must be noted that this “57% coverage” cited in the application document appears to be incorrect – the actual coverage appears to be approximate 63%.
- The proposed 3 building will be tightly spaced and rather enormous buildings which will have a significant impact on the surrounding properties, the style is that of a densely packed “apartment style” living, which is out of character for Voëlklip Residential Zone: Single Residential (SR1) standards.
- A precedent will be created for other erven to be developed similarly.
- Will the sewage system handle such densification?

Response from applicant

- The coverage proposed is only 57%. The objector has merely made no case whatsoever to suggest that this very minor shift from what is currently permitted to what is proposed will result in undesirable development.
- The proposed structures will be in a different street to the one the objector lives in. None of the property owners living in Tenth Street whether adjacent to the property in question, opposite it or down the road had objections towards coverage.
- 57% coverage is correct. This claim should therefore be dismissed.
- The space between the structures will be at least 2m this is equal to and greater than many of the existing situations between dwellings in the surrounding environment. The buildings are therefore entirely separate entities and in keeping with the built fabric in Voëlklip. The term “apartment style” is therefore not only inappropriate but also deceptive.
- Each application must be considered on its own merit. There is good precedent and there are bad, the objector does not substantiate or provide reasons to support her claim. Through the motivation and the fact that only one person objected, there are no evidence to suggest that a bad precedent will be established.
- No objection was received from the departments of the Overstrand Municipality. It should be noted that the existing zoning scheme would allow six dwelling units on the site (three on each erf) and the proposal at hand only entails four dwelling units. The proposal presents less of an impact.

Response from town planner

Due to the change in size of the property a lesser building line is applicable, and a greater coverage is proposed. The maximum coverage for erven smaller than 400m² is 65% and although it is proposed to only develop 57% of the property, the footprint of all three dwelling will still be more than the footprint of two erven developed in line with the 50%, i.e., should Erf 4096 only be subdivided in two standard sized erven and developed with its primary rights. With the calculations made the footprint will be exceeded by 108,63m².

Erf size	Coverage	Number of erven
353m ²	57% (201,21m ²)	3 (603,63m ²)
495m ²	50% (247,5m ²)	2 (495m ²)
		Difference = 108,63m ²

In terms of street frontage ±25m of street frontage can be developed if three erven are created compared to ±22m of street frontage if only two erven were developed, considering this the developer will be able to develop 3m additional street frontage.

Considering the above mentioned the opinion is maintained that the objector is correct in stating that the structures will be tightly spaced and is not in character with the low-density area of Voëlklip.

In terms of the Overstrand Municipal Growth Management Strategy, 2010 (OMGMS), the subject property is located in Planning Unit 6 which allows for a density of 10 to 20 units per hectare. If calculated on the maximum density of 20 units per hectare the minimum/average erf size will be 500m², however the Overstrand Growth Management Strategy states that the Planning Unit 6 can have a proposed gross

residential density of 11.6 units per hectare. This equates to erven of a size of 862.06m².

Given the aforementioned, the proposal is not in line with the density/erf sizes as per the OMGMS and the motivation is therefore considered flawed due to the applicant not addressing the densification in detail.

Further considering the fact that the erf sizes are not the same as the average erf sizes in the area and the footprint of the built structures on the three erven will be more than that of two erven, the proposal is considered to create a 'bad' precedent for the low-density suburb.

Unclear lateral elevations / building heights

- There are no sketch plans including the lateral / side elevations of the proposed structures, the Land Use Scheme states the following height is applicable:

"c) Height

- The maximum height of a building measured from the base level to the top of the structure is 8,0 m."
- In fact, the artistic graphic depictions of these dwellings (on page 8 of the application), appear to reach rooftop heights of more than 8 metres, if compared with the photographed building heights on either side, where the building on the left is a three-storey "apartment" dwelling with a total estimated height of around 12 metres.

Response from applicant

No application has been made for height departures. Any building plans submitted as a result of the approval of the application at hand would therefore have to comply with all relevant zoning parameters.

Response from town planner

The proposal does not clearly provide detail of the elevations, however, should the application be approved then the structures will have to comply with the 8m height restriction as per the land use scheme.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

N/A

9. MUNICIPAL ASSESSMENT OF COMMENTS

All relevant departments provided positive comments.

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

10.1 Background

N/A

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

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

Spatial Justice

The application is for the subdivision of an existing property in Hermanus (East) and therefore it does not apply to this principle.

Spatial sustainability

The application will have no impact on the conservation status of the subject property or the area. The impact on the biophysical environment will also be kept to a minimum. The new properties will have to be developed in line with the relevant zoning scheme. The location of the proposed application will not lead to urban sprawl.

It is considered that the proposed erf sizes are not in line with the densification policy of the Overstrand Municipality and the erf sizes are not similar to that of the morphology of the residential suburb and is not considered to be sustainable for the development of the suburb.

Efficiency

The application discourages urban sprawl and encourages densification. However, the densification is proposed is not in line with the forward planning policies of the Overstrand Municipality.

Spatial Resilience

N/A

Good administration

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

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as 10.2 above.

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

The application is in line with the SDF as the planning unit is indicated for residential use and the proposed application will not change the use.

The Overstrand Spatial Development Framework, 2020 (SDF), in line with Provincial- and National Government Planning Policies, encourage densification within the urban edge thereby making more efficient use of brownfield land within the confines of the urban edge.

Following the SDF, the OMGMS encourage residential densification in appropriate locations. In terms of the Overstrand Municipal Growth Management Strategy, 2010 (OMGMS), the subject property is located in Planning Unit 6 which allows for a density of 10 to 20 units per hectare. If

calculated on the maximum density of 20 units per hectare the minimum/average erf size will be 500m², however the Overstrand Growth Management Strategy states that the Planning Unit 6 can have a proposed gross residential density of 11.6 units per hectare. This equates to erven of a size of 862.06m². Given the aforementioned, the proposal is not in line with the density/erf sizes as per the OMGMS and the motivation is therefore considered flawed due to the applicant not applying for a deviation of the OMGMS. If the proposed erf sizes are to be used (353m²) a density will be applicable of 28,33 units per hectare.

Further considering the fact that the erf sizes are not the same as the average erf sizes in the area and the footprint of the built structures on the three erven will be more than that of two erven, the proposal is considered to create a negative precedent for the suburb.

Lastly considering the smaller erf sizes and the higher density proposed the applicant failed to address the OMGMS directly. Considering this, the opinion is held that there is an oversight in the motivation which was 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. The property owner will have to contribute to the bulk service levy for the additional property.

The newly created portions will have road access as indicated on the subdivision plan. No objections were received regarding the services and availability thereof.

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The zoning of the proposed subdivided properties will remain for single residential use. However due to the change in size of the property the zoning parameters will be less restrictive allowing a greater footprint.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A.

12. THE DESIRABILITY OF THE PROPOSAL

It is proposed to consolidate Erven 8408 and 4096 and subdivide the consolidated portion into four erven. Erf 8408 currently measures 991m² and Erf 4096 measures 991m² as well. It is proposed to consolidate the erven into one and then subdivide the erven into four (4) properties, namely Portion A (±923m²); Portion B (±353m²);

Portion C ($\pm 353\text{m}^2$); Portion D ($\pm 353\text{m}^2$). The intent is to then construct three new free-standing dwellings which will take access from Tenth Street.

The proposal is however considered not to in line with the character of the area or the development trend as discussed in the evaluation below.

The average size is 495m^2 in the residential block and it is normal practice to allow for a slight deviation in size when subdivision is requested and in Voëlklip it is 5m^2 deviation. It is noted the proposed erf sizes are $\pm 353\text{m}^2$ in extent which is a 28,68% deviation of the average erf size.

It is noted that the applicant in its motivation failed to relate to Chapter 18 of the Land Use Scheme which state the following regarding the subdivision of residential erven:

“Subdivision in an area will generally be allowed if it is consistent with the planning, policies and the average size and density of surrounding residential properties are being considered.”

The proposed subdivision is considered not to be in line with the average size of the erven in the residential block and as discussed further in this report the proposal is also not in line with the density policy for the area.

Further while the application can be compliant with general planning principles as contained in SPLUMA and LUPA one has to consider the character of the area and the density provided. From the street scape the average width of the property is at minimum $\pm 15,74\text{m}$ and at maximum $\pm 32\text{m}$, however the proposal allows for a maximum width of $10,5\text{m}$. This breaks the rhythm of the street frontage. Given the small width proposed, it should be noted that architects and developers are already struggling to design dwellings on the on the standard/average sized property, how even more so will the narrower width cause development constraints? The proposal will effectively reduce the developable area by 3m in width (when considering the applicable building lines) thus the need to depart from the relevant building lines will be even greater. In addition to this the historical lateral building lines in Voëlklip was $1,2\text{m}$, in 2013 a 2m lateral building line was imposed to allow better view lines and lessen the impact of the development area, thereby creating a lower footprint on the property in line with the low density of the suburb. The proposal will allow for 1m building lines which will cause a greater impact on the neighbouring properties.

As discussed in the response to objections, due to the change in size of the property, a lesser building line is applicable (2m street and 1m lateral building lines), and a greater coverage is proposed. The maximum coverage for erven smaller than 400m^2 is 65% and although it is proposed to only develop 57% the footprint of the dwellings will be more than the footprint should Erf 4096 only be subdivided and developed within its primary rights. With the calculations made the footprint will be exceeded by $108,63\text{m}^2$ on the newly created erven.

<i>Erf size</i>	<i>Coverage</i>	<i>Amount of erven</i>
353m^2	57% ($201,21\text{m}^2$)	3 ($603,63\text{m}^2$)
495m^2	50% ($247,5\text{m}^2$)	2 (495m^2)
		Difference = $108,63\text{m}^2$

In terms of street frontage $\pm 25\text{m}$ of street frontage can be developed if three erven are created compared to $\pm 22\text{m}$ of street frontage if only two erven were developed, considering this the developer will be able to develop 3m additional street frontage.

Considering the above mentioned the opinion is maintained that the objector is correct in stating that the structures will be tightly spaced and is not in character with the low-density residential suburb of Voëlklip.

In terms of the Overstrand Municipal Growth Management Strategy, 2010 (OMGMS), the subject property is located in Planning Unit 6 which allows for a density of 10 to 20 units per hectare. If calculated on the maximum density of 20 units per hectare the minimum/average erf size will be 500m^2 , however the Overstrand Growth Management Strategy states that the Planning Unit 6 can have a proposed gross residential density of 11.6 units per hectare. This equates to erven of a size of 862.06m^2 , although please note the average size of erven is 495m^2 . Given the aforementioned, the proposal is not in line with the density/erf sizes as per the OMGMS and the motivation is therefore considered flawed due to the applicant not addressing the OMGMS directly. If the proposed erf sizes are to be used a density will be applicable of 28,33 units per hectare.

Further, considering the fact that the erf sizes are not the same as the average erf sizes in the area and the footprint of the built structures on the three erven will be more than that of two erven, the proposal is considered to create a negative precedent for the suburb.

Considering the abovementioned evaluation, the proposed application is not considered desirable.

13. RECOMMENDATION

1. that the objection be noted;
2. that the application in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) applicable to Erven 8408 and 4096, Voëlklip, Hermanus for the following:
 - consolidation in terms of Section 16(2)(e) of Erven 8408 & 4096 Voëlklip, Hermanus; and
 - subdivision in terms of Section 16(2)(d) to subdivide the consolidated erven into 4 portions namely Portion A approximately 923m in extent; Portion B approximately 353m^2 in extent; Portion C approximately 353m^2 in extent; and Portion D approximately 353m^2 in extent, to accommodate new dwelling units on Portions B, C and D,

not be approved in terms of the provisions of Section 61;

3. that the applicant and persons who commented be notified of its 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 erf sizes are not in line with the densification as proposed in the OMGMS. The erf sizes proposed would require a density of 28.33 units per hectare. The applicant failed to consider the density and the impact in terms of the OMGMS.
- ❖ The additional footprint which can be developed from the three erven is 108,63m² more than if the standard subdivision was allowed and two erven was developed.
- ❖ The average size is 495m² in the residential block and it is normal practice to allow for 10% deviation when subdivision is requested, it is noted the proposed erf sizes are ±353m² in extent which is a 28,68% deviation of the average erf size.
- ❖ The densification will cause a drastic change in the street façade average width of the property is at minimum ±15,74m and at maximum ±32m, however the proposal allows for a maximum width of 10,5m. The proposal will effectively reduce the developable area by 3m in width (when considering the applicable building lines) thus the need to depart from the relevant building lines will be even greater.
- ❖ It is noted that the applicant in its motivation failed to relate to Chapter 18 of the Land Use Scheme which state the following regarding the subdivision of residential erven:
 - *“Subdivision in an area will generally be allowed if it is consistent with the planning, policies and the average size and density of surrounding residential properties are being considered.”*
- ❖ The proposal will set a negative precedent.
- ❖ The proposal is not in line with the low residential density, character or morphology of the area.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Consolidation-, Subdivision- and Site Development Plans
Annexure D:	Objection
Annexure E:	Comment on objection
Annexure F:	Services Report

SIGNATURES**AUTHOR**

Name: **P ROUX**

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

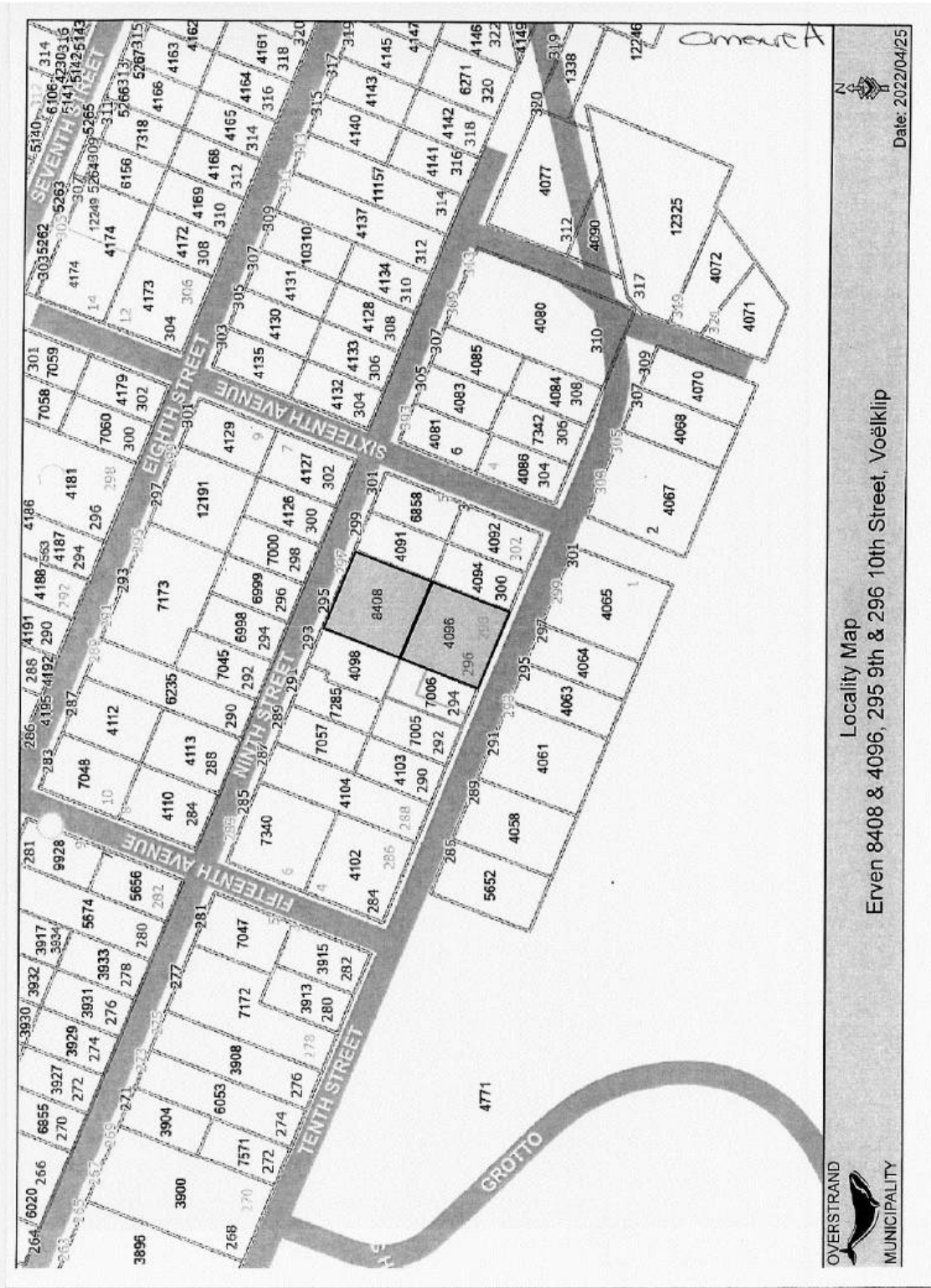
Signature: _____

Date: _____

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

Signature: _____

Date: _____



OVERSTRAND
MUNICIPALITY

Locality Map
Erven 8408 & 4096, 295 9th & 296 10th Street, Voëlklip

Date: 2022/04/25

Amara A

Annexure B/12

1. INTRODUCTION

This report serves as the motivation for the proposal to make application for the consolidation of erf 4096 (991m² in size) and erf 8408 (991m² in size), the subdivision of the consolidated erf into four portions (923m² and three erven of 353m² in size). The intention is to construct three new freestanding dwellings taking access off Tenth Street. The result of the application will be four freestanding dwellings on what are now two double sized erven capable of accommodating four free standing dwelling units. The application, the motivation, and all the necessary supportive documentation are contained in this report.

2. THE APPLICANT

The two properties concerned are registered in the name of The Trustees for the time being of the Lord Trust. Andre Lord, who is duly authorised to act on behalf of the Trust, has appointed David Richard Saunders to submit the relevant planning applications to the Overstrand Municipality. A Power of Attorney and a resolution are attached as Annexure A.

3. THE LOCATION OF THE PROPERTIES

The position of the two properties is indicated on the attached Locality Plan (see Annexure B), on figure 2 a locality plan, and figure 3 an aerial photo of the area. The General Plan for the area is attached to this motivation as Annexure C.

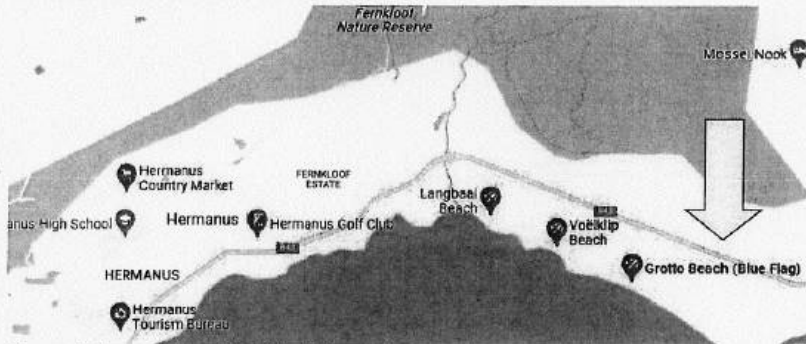


Figure 1: The position of Voelklip in Hermanus.



Figure 2: Locality Plan - Erf 8406 Ninth Street and Erf 4096 Tenth Street, Voelklip, Hermanus.



Figure 3: Aerial photo of the properties in Voelklip, Hermanus

4. LAND USE AND ZONING

4.1 Land Use

The context is totally residential in character, made up of one, two and three storey dwelling houses with associated outbuildings. Many of the dwellings are large and cover most of the erf that they are positioned on. Roofs vary quite considerably between double pitches, gable end facing, flat roofs, and multi pitched roofs. The prevalent architecture is contemporary and often monolithic. The photos provided below are just a small indication of the existing established architecture and massing found in the surrounding environment.



Figure 4: Looking east down Tenth Street with the property in question on the left after the three dwellings.

3/12

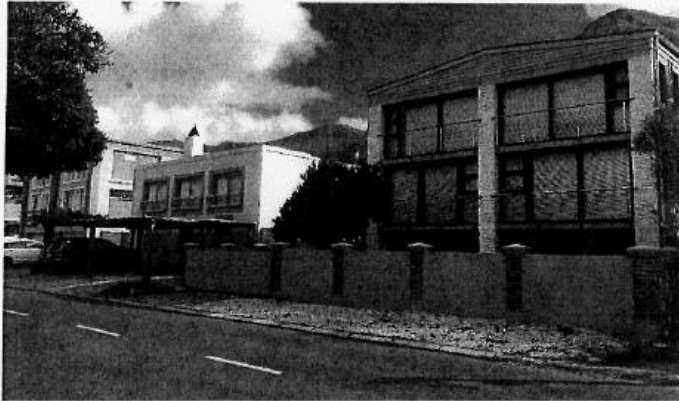


Figure 5: Three dwellings immediately to the left of the property in Tenth Street.



Figure 6: The dwelling immediately to the left of the property in Tenth Street.



Figure 7: An existing double storey immediately to the right with one metre common boundary setbacks.

4/12

4.2 Zoning

An extract of the zoning map is shown as Figure 8. The property concerned is zoned **Residential Zone 1: Single Residential SR1**. In terms of Chapter 6 Section 6.1 of the Overstrand Zoning Scheme Regulations, the property may be developed with a crèche, dwelling house, guest rooms, home occupation, second dwelling and self-catering.

The following uses are permitted with the 'consent' of Council: day care centre, green house, guest house, house shop, institution, place of worship, residential building, and intensive horticulture.

The following development rules apply:

Coverage:	Less than 400m ² 65%, 400m ² and greater 50%
Permitted Height:	8m
Street boundary Building lines:	Erf size less than 400m ² - 2m, 400m ² and greater - 4m
Common boundary building lines:	Erf size less than 400m ² - 1m, greater than 400m ² - 2m

Second dwellings:

- The total floor area (footprint) of the second dwelling unit shall not exceed 120 m².
- A second dwelling unit may be contained within the same building as a primary dwelling unit and may be either on the ground or first floor.
- A second dwelling unit may not be separately alienated in terms of the Sectional Title Act.
- Parking must be provided on the property as per Chapter 17, Section 17.1.3, to the satisfaction of the Municipality.
- A second dwelling must be located within the applicable building lines.

The property is not located within a Heritage Protection Overlay Zone or any other proclaimed special area.

There is no minimum erf size in this use zone and there is no overlay zone in place limiting subdivision to a specific size. There are no other pertinent land use or zoning considerations.

An extract of the zoning map is provided below – see figure 8 below. All the surrounding properties are zoned Residential Zone 1: Single Residential SR1.

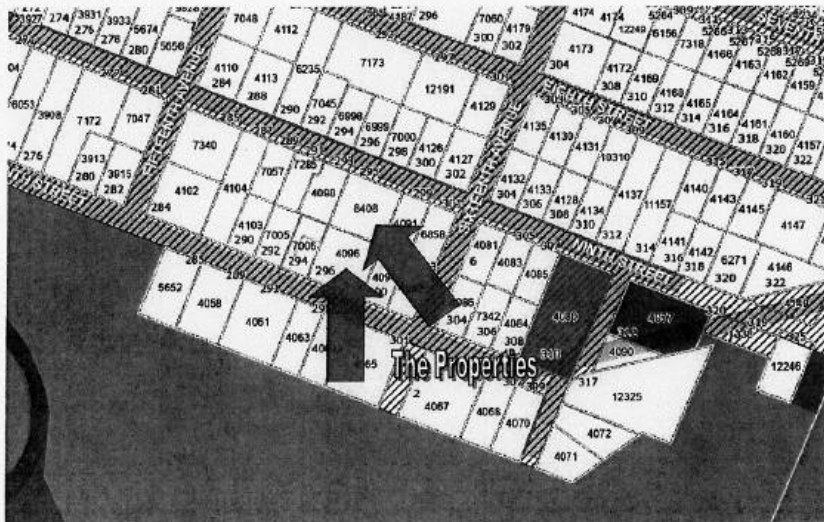


Figure 8: Zoning of the property and immediate surrounds.

5. LAND USE RESTRICTIONS IN TERMS OF THE TITLE DEEDS

A copy of the relevant title deeds for Erf 8408 and Erf 4096, situate in the Overstrand Municipality, Division of Caledon, Western Cape Province are attached as **Annexure D**. The General Plan for this area is attached as **Annexure C**. There are no conditions of title which are relevant to the applications made. A Conveyancer's Certificate completed by Antonie Carl Du Toit confirming the above, is attached to this motivation as **Annexure E**.

6. THE PROPOSAL

Erf 8408 which faces on to Ninth Street and erf 4096 which faces on to Tenth Street, are both 991m² in size. These two erven are twice the size of the average erf in Voelklip which is 461m² in size. The proposal is to consolidate erf 4096 (991m² in size) and erf 8408 (991m² in size) into one erf of 1882m² in size and subdivide the consolidated erf into four portions namely:

Portion A - 923m²

Portion B - 353m²

Portion C - 353m²

Portion D - 353m²

Portion A will reduce in size by 68m² and will retain the current house on it. Portions B, C, and D, all of an equal size will be developed with three new freestanding dwellings and of the same architectural style being contemporary seaside vernacular. Figure 10 below indicates an artist's impression of the three buildings and Figure 11 an indication of the interior of the proposed dwellings. A Plan of Subdivision is attached as **Annexure G**. A set of sketch plans indicating the floor plans of the proposed buildings is attached as **Annexure H**.

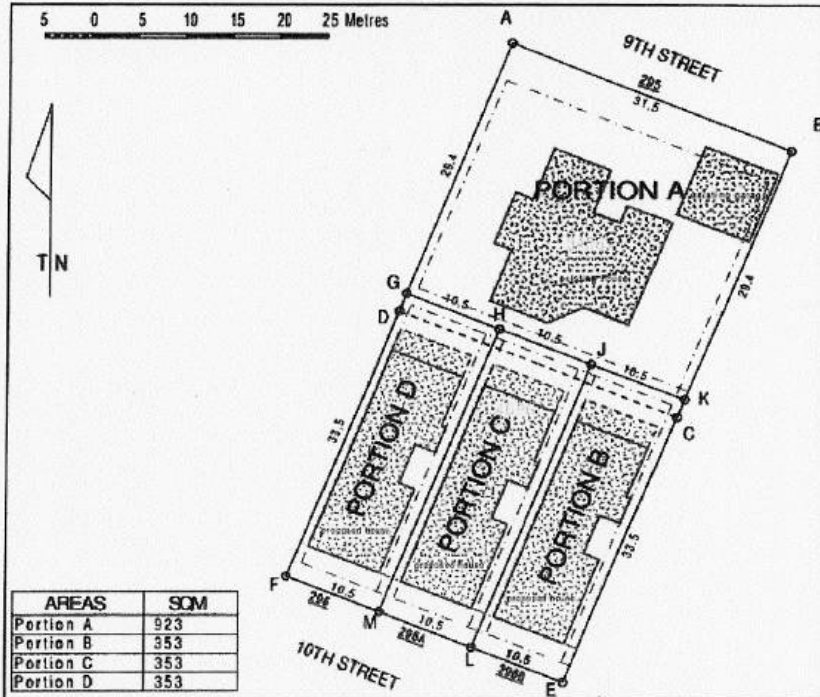


Figure 9: The plan of the proposed consolidation of the two erven and the subdivision into four portions.

6/12



Figure 10: The three new dwellings within the existing streetscape of Tenth Street.

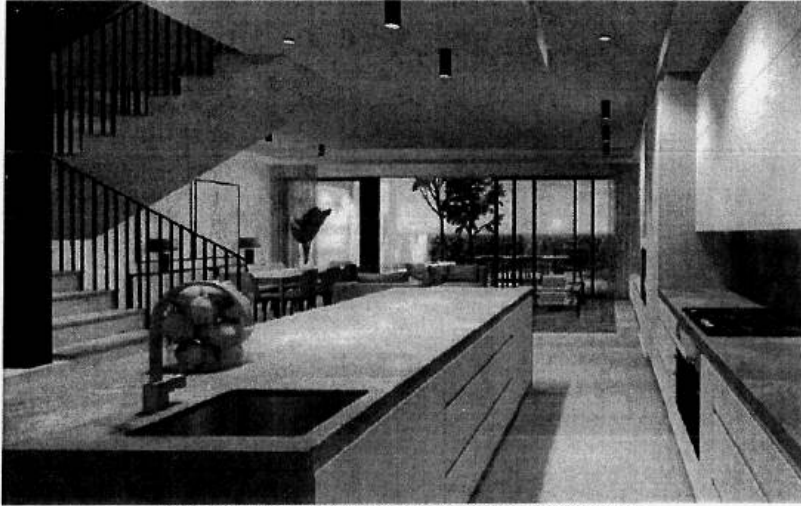


Figure 11: The interior of one of the proposed new units.

The three new dwelling units will all be the same size and will be comprised of the following:

Ground floor: A double garage, open plan kitchen/dining room/lounge.

First floor: Master bedroom with en-suite-bathroom and dressing room, a pyjama lounge, two bedrooms and an additional bathroom.

All the dwellings will be setback four metres from the street and 3,76m from the rear common boundary. In terms of street and common boundary setbacks they will therefore comply with the existing zoning parameters applicable to an erf 991m² in size. They will also comply with the 8m height restriction.

While the dwellings will comply with the lateral common boundary setbacks applicable to sites smaller than 400m² they do not comply with the 2m setbacks applicable to buildings on properties larger than 400m².

In terms of coverage, each building will have a coverage of 57%. This will comply with the 65% coverage applicable to sites smaller than 400m² but not with the 50% applicable to buildings on properties larger than 400m².

The sketch plans indicating the floor plans of the three proposed units is attached to this motivation as **Annexure H**.

7. THE NECESSARY PLANNING APPLICATIONS

Application is hereby made for the following:

7.1 The Consolidation of erf 8408 and erf 4096 in terms of Section 16(2)(e) of the By-law.

7.2 Subdivision in terms of Section 16(2)(d) of the By-Law of the consolidated erf into four portions, namely:

Portion A - 923m²

Portion B - 353m²

Portion C - 353m²

Portion D - 353m²

The planning application form is attached to this report as **Annexure F**.

8. THE PLANNING MOTIVATION

8.1 Assessment in terms of the MPBL

In terms of Section 66 of the Overstrand Municipality Municipal Planning Bylaw the planning application at hand must have regard to the following assessment criteria:

- 1) The application submitted in terms of this By-law;
- 2) The procedure followed in processing the application;
- 3) The desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding proposed land uses;
- 4) The comments in response to the notice of the application and the comments received from organs of state and internal departments.
- 5) The response by the applicants to the comments referred to on paragraph 4;
- 6) Investigations carried out in terms of other laws which are relevant to the consideration of the application;
- 7) A registered planner, or a planner eligible for registration, written assessment, which includes:
 - i. An amendment of a Spatial Development Framework or land use scheme.
 - ii. An approval of an overlay zone contemplated in the land use scheme.
 - iii. A phasing, amendment or cancellation of a subdivision plan or part thereof.
 - iv. A determination of a zoning.
 - v. A rezoning.
- 8) Municipal Spatial Development Framework.
- 9) Local Spatial Development Frameworks adopted by the Municipality.
- 10) Policies of the Municipality.
- 11) The Provincial Spatial Development Framework.
- 12) The Spatial Planning and Land Use Management Act & Land Use Planning Act.
- 13) The Land Use Scheme.

8.2 Motivation

8.2.1 The application submitted in terms of this By-law

The application is submitted in accordance with the Overstrand Municipality Municipal Planning Bylaw.

8.2.2 The procedure followed in processing the application

All required processes and procedures including public participation will be carried out by the responsible local authority. If any comments/objections are received it is understood that the matter will go before the Municipal Planning Tribunal for a final decision.

8.2.3 The desirability of the proposal

Desirability is assessed in terms of the following criteria:

- a) Socio-economic impact;
The development proposal offers an opportunity to stimulate the local building industry.
- b) compatibility with surrounding uses;
The introduction of an additional three dwelling units is exactly the same number of units as the four units the current development rights offer. This is entirely in keeping with the surrounding residential uses.
- c) impact on the external engineering services;
As stated above, the provision of four dwelling units on the two erven is entirely in keeping with the existing development right afforded by the MPBL. It is therefore envisaged that the proposal will have no material impact on external engineering services.
- d) impact on safety, health and wellbeing of the surrounding community;
Erf 4096 is currently vacant. The development of this erf with three new dwellings will make a significant improvement in terms of surveillance of Tenth Street. This will lead to an improvement of safety and the general wellbeing of the surrounding community.
- e) impact on heritage;
There will be no impact on any heritage resources. The properties are not positioned within a declared Heritage Protection Overlay Zone and the proposal entails the use of vacant land.
- f) impact on the biophysical environment;
The properties are located in a well-established urban area. There will be no impact whatsoever on the biophysical environment.
- g) traffic impacts, parking, access and other transport related considerations;
Two parking bays are proposed for each unit. The garages are set back sufficiently far enough to ensure safe access and egress. It is important to note that the garages comply with the development criteria for garages.
- h) conditions that can mitigate an adverse impact of the proposed land use.
No unreasonable impact is anticipated, however they local authority may wish to impose conditions limiting the amount of dwelling units permitted to ensure a density that is consistent with the general density found here.

8.2.4 Comments from internal branches and other organs of state.

Given the low-key nature of the application it is highly unlikely that the application will draw interest from other organs of state.

8.2.5 Response to comments received.

Any comments received will be addressed at a later stage.

8.2.6 Other relevant laws.

The proposal does not trigger any other laws including the National Heritage Resources Act and the National Environmental Management Act.

8.2.7 Written Assessment by a registered planner or a planner eligible for registration.

While the application in question is not a listed submission, this motivation has been compiled by a person who is eligible for registration.

8.2.8 Compliance with the Municipal Development Framework.

The application at hands complies with the following principles contained within the Municipal development Framework:

- *promote the provision of a range of residential housing types and appropriate densification strategies in order to retain the character of Greater Hermanus, while ensuring appropriate growth to address the growing populations housing needs.*

9/12

- Contain the urban footprint of Greater Hermanus within a well-defined urban edge.

The Municipal Development Framework also identifies some proposals at Local Planning Level. The following are pertinent to the application at hand:

- *Balanced Housing provision*
- *Densification*

It is believed that this motivation proves that the proposal satisfies all the principles identified above. While the proposal offers a greater option in residential housing types it is believed that the number of dwelling units achieved is entirely in keeping with what could be achieved by unlocking erven which are entirely in keeping with the existing subdivision pattern found here.

8.2.9 Local Spatial Development Frameworks adopted by the Municipality.

The application falls within an area defined as Planning Unit 6 in Hermanus East.

The following proposals are relevant to the area in question:

- *Incremental development through subdivision to allow a second and third dwelling unit respectively is proposed for an assumed 20% of the area/dwellings of this planning unit. Based on this assumption, this proposal can potentially contribute more than 200 additional dwelling units, increasing the current gross density from 8.7 to 11.3 dwelling units per hectare.*

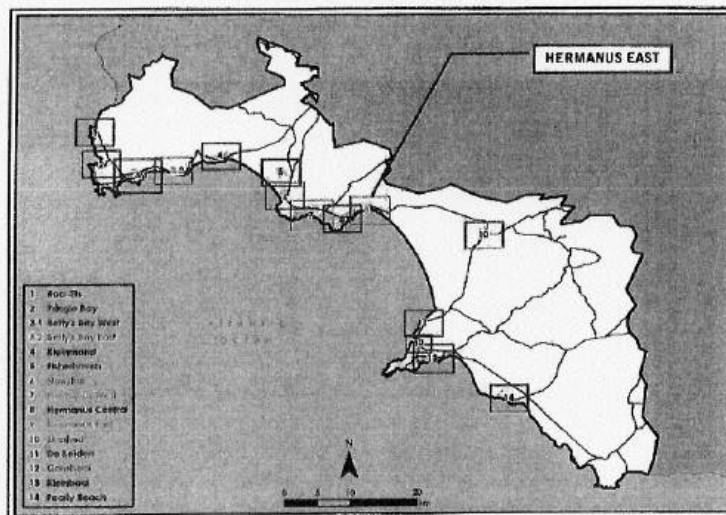


Figure 12: Hermanus East

8.2.9.1 Compliance with the Local Spatial Development Framework (LSDF).

It is believed that the proposed development of the two erven in question complies fully with the LSDF in that it proposes a development which offers a minor increase in density in a manner that is entirely in keeping with the current gross density found in Planning Unit. The site currently consists of two erven with a composite area of 1882m². The existing site would be capable of accommodating two double dwelling units (total four units) on two stands. Given the size of the existing two erven being 991m² in size, a subdivision of these erven into four erven of the same size as the adjoining erven would be a simple planning matter. This would result in four stands or four opportunities for four double dwelling units (a total of eight dwelling units). What is proposed is four stands (three slightly smaller than the surrounding erven) and four dwelling units. It could be therefore argued in terms of dwelling units and density, the proposed development is in keeping with the proposals contained within the LSDP.

Furthermore, it is believed that the proposed building massing is not out of character with the built form found in Planning Unit 6 of Hermanus East. Figure 13 below provides an indication of the footprints of the proposed three new dwellings and of those of the existing dwellings surrounding the site. It is important to note that the proposed massing is not dissimilar to the existing massing found in the block immediately to the east of the site. It is also worth noting that there are many examples of one metre setbacks between properties visible in the same aerial photo.



Figure 13: The footprints of the proposed three new dwelling units superimposed on the existing built fabric.

8.2.10 Policies of the Municipality.

It is believed that the proposal complies with all other policies adopted by the Overstrand Municipality.

8.2.11 The Provincial Spatial Development Framework.

The provisions of the Provincial Spatial Development Framework are binding on all planning applications lodged. The proposal at hand complies with all the principles contained in this document. In this regard the most relevant policy is the following:

- *The average gross residential density in urban settlements experiencing urban growth shall be encouraged to increase to 25 du/ha before further extensions to the urban edge are considered.*

The proposal at hand addresses this principle albeit in a moderate manner.

8.2.12 The Spatial Planning and Land Use Management Act & Land Use Planning Act.

It is believed that the proposal is compliant with criteria as set out in Section 42 of the Spatial Planning and Land Use Management Act, 2013 (ACT 16 of 2013) (SPLUMA) and Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA). The principals in question are the following:

- *'Spatial Justice', refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access to opportunities, facilities, services and land.*

The proposal will result in three new housing opportunities.

11/12

- *'Spatial Sustainability' essentially refers to a sustainable form of development. A part of this means promoting less resource consuming development typologies that promote compaction, pedestrianisation and mixed-use urban environments which allow for the development of a functional public transport system and space economy.*

The proposal not only entails the inclusion of all sustainable building principles but also offers a building typology that addresses the issues of spatial sustainability.

- *'Efficiency' refers to the need to create settlements that optimise the use of space, energy, infrastructure, resources and land.*

The proposed development addresses all of the above in terms of design.

- *'Spatial Resilience' in the context of land use planning refers to the need to promote the development of sustainable livelihoods for the poor (i.e., communities that are most likely to suffer the impacts of economic and environmental shocks). Spatial Resilience also refers to the requirement for flexibility in spatial plans, policies and land use management systems to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks.*

While the proposal does not address this issue directly it is believed that it does not fall foul of the principles of spatial resilience.

- *'Good Administration' in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role-players ensure a joint planning approach is pursued. Furthermore, it is critical that decisions made in terms of land use planning seek to minimise the negative financial, social, economic and environmental impacts of a development.*

It is believed that the proposal complies with all National, Regional, and Municipal planning policy. Furthermore, it is believed that the approval will not result in a negative impact on the safety and welfare of the members of the community, or on the preservation of the natural and developed environment.

8.2.13 The Land Use Scheme.

No permanent departures from the Scheme are required for the proposal. It is important to note that this is due to the fact of the smaller subdivisions applied for, the proposal is very close to be compliant to all development parameters attached to the existing very large erven. The only difference being that that development entails one metre common boundary side spaces rather than 2 metre side spaces and that the coverage of the three smaller erven is 57% and not 50%. This difference is very marginal, and given the nature of the footprints proposed it could be argued that most of the additional coverage could be positioned from the rear lateral boundary.

8.3 **Summary**

The above motivation confirms the following:

- Compliance with all national planning law including SPLUMA and LUPA.
- Compliance with all other national law including the NHRA and NEMA.
- Compliance with all Provincial Planning Law and Policy.
- Compliance with the Municipal Planning Bylaw.
- Compliance with the Local Spatial Development Framework (LSDF).
- Desirability of the proposal.
- A sensible proposal in terms of achieving a moderate increase in density.
- Respect for the existing character of the area.

9. CONCLUSION

The application to subdivide the two erven into four portions will make a positive contribution to achieving a more efficient and sustainable urban environment. The proposed form of development is very much in keeping with numerous other surrounding developments that have occurred recently. The application is in keeping with all broader planning policies and represents a very moderate and sensible increase in densities. This motivation has depicted that the proposal is not only desirable but compliant with all existing planning policy. Furthermore, it is believed that the approval will not result in a negative impact on the safety and welfare of the members of the community, or on the preservation of the natural and developed environment.

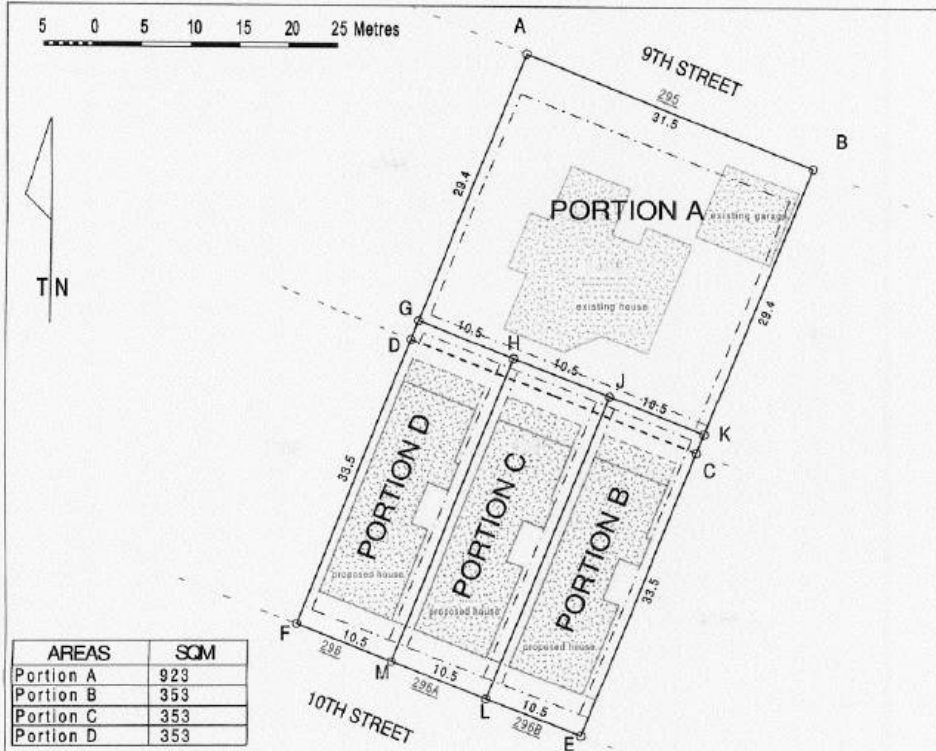
I trust that you will find the application acceptable and grant the required consolidation and subdivision into four new portions.

DAVE SAUNDERS

APRIL 2022

DAVE SAUNDERS cc CK 2005/104725/23
David Richard Saunders BSoc Sci MCRP MSAPI MAHAP

Amexuse C/14



AREAS	SQM
Portion A	923
Portion B	353
Portion C	353
Portion D	353

ZONING	4096	SR1	DATE : March 2022	SCALE : 1 / 500
	8408	SR1		
	Subdivisions	SR1	CHECKED BY : S R OLD	

NOTES:

- 1) All dimensions are approximate and scaled
- 2) The figure ABCD represents Erf 8408 Hermanus
- 3) The figure DCEF represents Erf 4096 Hermanus
- 4) The 2 Erven are to be consolidated and then subdivided into 4 portions
- 5) The figure ABKG represents Portion A
- 6) The figure JKEL represents Portion B
- 7) The figure HJLK represents Portion C
- 8) The figure GHMF represents Portion D

PROPOSED CONSOLIDATION AND SUBDIVISIONS OF ERVEN 4096 & 8408 HERMANUS
295 9TH STREET & 296 10TH STREET, VOELKLIP

AREA : 4096 = 991 sqm & 8404 = 991 sqm
TOTAL = 1982 sqm

OWNERS : Lord Trust

PLAN NO. :SUB_APP 4096 & 8408 HERMANUS REV0

DIAGRAM NO's: 4096/194 & 4976/2000

SG SHT NO: M3814	STEPHEN OLD LAND SURVEYORS Tel +27 (0) 21 591 7485 Fax +27 (0) 86 529 2491 survey@cybersmart.co.za www.surveyland.co.za
D T NO :T3601/2004	

TP n. (Heart
(H. Olivier)



Professor Jeanine Vellema
299 9th Street, Voëlklip, Hermanus, 7200

01 July 2022

FOR ATTENTION:

OVERSTRAND DEPARTMENT: TOWN PLANNING
16 Paterson Street, Hermanus, 7200
Tel: 028 – 313 2093
E-mail: alida@overstrand.gov.za
The Town Planner: Mr P Roux
Tel: 028 – 313 8900

FILE NO.	Erven 8408
11096	HVK ✓
SCAN NO.	HVK 8408
COLLABORATOR NO.	1705207

INTEREST AND REASON FOR COMMENTS TO MUNICIPAL NOTICE NO. 56/2022 APPLICATION:

**OVERSTRAND MUNICIPALITY ERVEN 8408 & 4096, 295 NINTH STREET & 296 TENTH STREET, VOËLKLIP, HERMANUS:
APPLICATION FOR CONSOLIDATION & SUBDIVISION: DAVE SAUNDERS PLANNER CC ON BEHALF OF LORD TRUST**

Notice is hereby given in terms of Section 47 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 of the applications mentioned below applicable to Erven 8408 & 4096, Voëlklip, Hermanus, namely:

1. Consolidation in terms of Section 16(2)(e) of Erven 8408 & 4096 Voëlklip; and
2. Subdivision in terms of Section 16(2)(d) in order to subdivide the consolidated erven into 4 portions namely:
1) Portion A (±923m²): Portion B (±353m²): Portion C (±353m²): Portion D (±353m²), to accommodate the new dwelling units on portions B, C and D.

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

Any written comments must be submitted in accordance with the provisions of Sections 51 and 52 of the said By-law to the Municipality (16 Paterson Street, Hermanus / (f) 028-313 2093 / (e) alida@overstrand.gov.za) on or before Friday, 8 July 2022, quoting your name, address, contact details, interest in the application and reasons for comments.

*Telephonic enquiries can be made to the Town Planner, Mr. P. Roux at 028-313 8900
The Municipality may refuse to accept comment received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.*

Municipal Manager, Overstrand Municipality, PO Box 20, HERMANUS, 7200

I, Jeanine Vellema, am the homeowner of 299 9th Street, Erf 4091, Voëlklip, Hermanus, with Municipal Account Number:

My interest in this Municipal Notice No. 56/2022 Application is that my property is directly adjacent to (abutting on) and diagonally behind the proposed consolidated and subdivided erven.

I wish to make some enquiries and express some concerns about the proposal as set out in Municipal Notice No. 56/2022.

A: PROPOSED SMALLER-THAN-AVERAGE SUBDIVIDED ERVEN SIZES:

1. The subdivision of what would normally be 2 erven into 3 portions, would result in subdivided sizes of $\pm 353\text{m}^2$ each respectively, which is substantially less than the 'normal smaller' erven sizes in Voëlklip, namely on average around 461m^2 . (Page 7 of Application.)
2. The "Overstrand Schedule 2 of Bylaw – Overstrand Municipality Land Use Scheme 2020" appears not to specifically state (in Chapters 6 and 16.10.22) the minimum sizes for Subdivisions in Residential Zone: Single Residential (SR1)
3. However, the Western Cape Province's Land Development Parameters state the following with respect to "Single Dwelling Residential" Facilities:
*"Minimum erf size 300m^2 unless:
 (i) policy identifies area for retention of larger or smaller erven.
 (ii) in the absence of approved local policy mentioned in (i), where smaller local single residential erven than 300m^2 already exist and the smallest erf resulting from the proposed subdivision is not smaller than the average erf size of all the existing single residential erven directly abutting (or closest to, where not abutting) the parent property to be subdivided."*
4. This Application is applying for subdivision of consolidated erven into **3 smaller than average for Voëlklip** erven sizes viz **3 subdivided erven measuring 353m^2 respectively**, where the **average erf size in Voëlklip is 461m^2** .
5. The erven directly abutting the proposed subdivided erven (including my own), measure 495m^2 – 541m^2 respectively and the (proposed) consolidated Portion A would measure 923m^2 .
6. It begs the question why such a significant deviation from the Western Cape Provincial norms would be acceptable.

B: CONSEQUENCES OF SMALLER-THAN-AVERAGE SUBDIVIDED ERVEN:

7. Furthermore, the following sections from the "Overstrand Schedule 2 of Bylaw – Overstrand Municipality Land Use Scheme 2020", indicate the clear advantage i.t.o. the sizes and coverage of structures on erven less than 400m^2 in size – as extracted below:

Development parameters (Pages 68 – 69)

The following parameters apply:

a) Coverage

The maximum coverage for all buildings on the land unit is determined in accordance with the net erf area, as listed in the table below:

<i>NET ERF AREA</i>	<i>MAXIMUM COVERAGE</i>
<i>Less than 150m^2</i>	<i>80%</i>
<i>Less than 400m^2</i>	<i>65%</i>
<i>400m^2 and greater</i>	<i>50%</i>

b) Building lines

(i) Street building line

The street building line is determined in accordance with the net erf area, as listed in the table below:

NET ERF AREA	STREET BUILDING LINE
Less than 150 m ²	1.0 m
Less than 400 m ²	2.0 m
400 m ² and greater	4.0 m

Where a garage obtains direct access off the street, a 4,0 m building line applies.

The street building line of erven of 400 m² and greater is 4,0 m, provided that:

- an erf with an average depth of 20,0 m or less has a 3,0 m street building line;

(ii) Side and rear building line

The side and rear building lines are determined in accordance with the net erf area, as listed in the table below:

NET ERF AREA	SIDE AND REAR BUILDING LINES
Less than 150 m ²	At least 1.0 m one side and 0 m on the other side. Rear = 1.0 m.
Up to 400 m ²	1.0 m
Greater than 400 m ²	2.0 m

(iii) The general building line exemptions of 16.1 apply.

8. There is a resultant Application to "fill" each of these 3 small erven with enormous buildings, comprising at least 63% of the erven sizes, despite the application citing the proposed "building coverage percentages as 57%" and indicating that these are indeed compliant with the 65% coverage applicable to sites smaller than 400 m², but not with the 50% applicable to buildings on properties larger than 400m².
9. On the limited information received, it must be noted that this "57% coverage" cited in the Application document appears to be incorrect – the actual coverage % appears to approximate 63%.
10. These 3 tightly spaced and rather enormous buildings will have a significant impact on my and other surrounding properties, approximating densely packed "apartment style" living, which is out of character for Voëlklip's Residential Zone: Single Residential (SR1) standards.
11. It would also set a precedent for future similar Applications for subdivisions in Voëlklip, should this proposal be accepted.
12. One also has to question whether the Voëlklip "small bore settled sewerage scheme" was designed to deal with future subdivisions of numerous "smaller-than-average" Voëlklip erven for single household users (now multiplied), as per this Application, when one sees the frequency of the Sewage Vacuum Tankers in this suburb.

C: UNCLEAR LATERAL ELEVATIONS / BUILDING HEIGHTS:

13. Lastly, there are no sketch plans including the lateral / side elevations of the proposed structures, despite assurances in the document that the maximum building heights will be below the prescribed 8 meters will be adhered to, as per section 6.1.2 (c) of SCHEDULE 2 - OVERSTRAND MUNICIPALITY LAND USE SCHEME, 2020 (Page 69):

"c) Height

- (i) The maximum height of a building measured from the base level to the top of the structure is 8,0 m."

4/4

14. In fact, the artistic graphic depictions of these dwellings (on page 8 of the Application), appear to reach rooftop heights of more than 8 metres, if compared with the photographed building heights on either side, where the building on the left is a three-storey "apartment" dwelling with a total estimated height of around 12 metres.

I would feel much more comfortable seeing the exact (side) elevations and heights of these 3 dwellings, as proposed and to be approved by the Municipality, to ensure that the maximum 8 meter heights are not exceeded.

I hope to be able to make an appointment to discuss my comments and concerns raised.

Please acknowledge receipt of this e-mailed letter and please indicate a convenient time for a meeting with Mr Roux and viewing of the details of the proposal.

Many thanks.

Yours sincerely,

Jeanine Vellema.



.....

Prof Jeanine Vellema



Omevne E17

The Office of the Director
Infrastructure & Planning
Overstrand Municipality
Po Box 20
Hermanus
7200

TP-A Theart
(Hollivier)

Attention: Mr. P Roux

24th August 2022

Dear Mr. Roux

RESPONSE TO OBJECTION RECEIVED: APPLICATION FOR SUBDIVISION CONSOLIDATION, ERF 8408, NO 295 NINTH STREET AND ERF 4096, NO 296 TENTH STREET, VOELKLIP, OVERSTRAND MUNICIPAL AREA, APP ID 4121/2022

1. Introduction

I refer to your letter of the 2022-07-19 and to the one letter of objection attached thereto. I have been appointed by the applicant to respond to the comments and objections lodged against the abovementioned application. The application was advertised to all interested and affected parties and only one objection was received. I note that there were no negative comments received from any of the internal branches of the Overstrand Municipality.

2. The Objection received

Only one objection was received, being the following:

Professor Jeanine Vellema, Erf 4091, No 299 Ninth Street, Voelklip. The position of this property is indicated below: The objection is based on the following:

1. The subdivision will result in subdivided sizes of approximately 353m² which is substantially less than the "normal smaller" erven sizes in Voelklip, namely on average around 461m²
2. The Overstrand Schedule 2 Bylaw appears not to specifically state the minimum sizes for subdivisions in Residential Zone Single Residential (SR1)
3. The Western Cape Land Development Parameters state the following with respect to "Single Dwelling Residential" facilities:
Minimum Erf size 300m² unless:
 - i. Policy identifies are for retention of large or smaller erven.
 - ii. In the absence of approved local policy mentioned in (i), where smaller local single residential erven than 300m² already exist and the smallest erf resulting from the proposed subdivision is not smaller than the average erf size of all the existing single residential erven directly abutting (or closest to, where not abutting) the parent property to be subdivided.
4. The application is three erven of measuring 355m² respectively, where the average erf size in Voelklip is 461m². It begs the question why such a significant deviation of the Western Cape Provincial norms would be acceptable.
5. While the coverage is indeed compliant with the 65% coverage requirements applicable to sites below 400m² in size they are not compliant with the 50% required coverage for properties larger than 400m²
6. The 57% coverage figures provided appears to be incorrect and seems to be more like 63%.
7. The three tightly spaced and enormous buildings will have a significant impact on my and other surrounding buildings, approximating dense apartment style living which is out of character with the zoning.

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FILE NO. Erven 8408 G
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SCAN NO.
HVK 8408
COLLABORATOR NO.

8. It will set a precedent for future similar applications for subdivisions in Voelklip.
9. One also has to question whether the Voelklip small bore settled sewage scheme was designed to deal with further subdivisions of numerous smaller than average Voelklip erven.
10. There are no sketch plans indicating the lateral /side elevations of the proposed structures, despite assurances in the document that the maximum building heights will be below the prescribed 8 metres. The artistic graphic representations appear to reach roof top heights of more than 8 metres.

3. **The objector's property in relation to the proposed subdivision**

Before addressing the issues raised by the objector it is important to place the objector's property in context. While the application entails two properties, one in Ninth Street and one in Tenth Street. All the material considerations in terms of the additional development rights applied for pertain entirely to the erf in Tenth Avenue. It is important to note that the erf in Tenth Street has very little if any relationship with the objector's property positioned in Ninth Street.

In framing her objection, she confirms that there is very little physical relationship between her property and the proposed development. All the issues the objector raises are general issues. No mention is made whatsoever on any material impact that the proposal may have on her property, namely erf 4091 positioned as it is in Ninth Street.

In this regard, it is important to note that there is no claim or any evidence offered to back up any possible claim that the proposal will have an undesirable impact on the objector's erf. This includes any overshadowing, loss of view, impact on privacy or any other possible loss of amenity as a result of the proposal going ahead

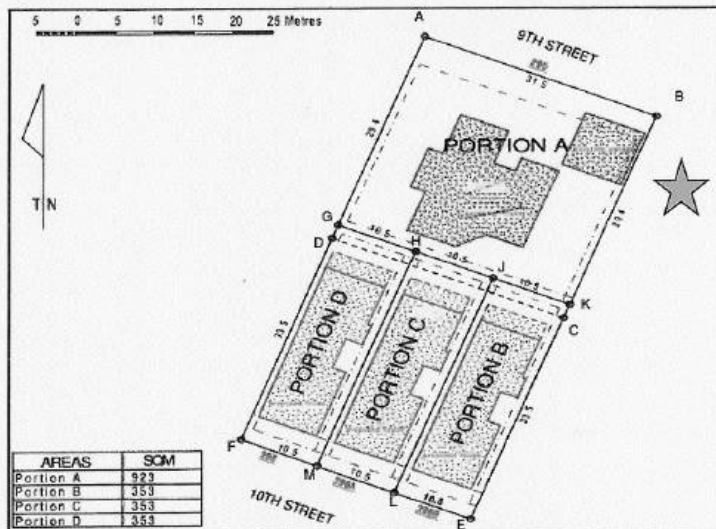


Figure 1: The yellow star indicates the position of the objector's property in relation to the proposed development.

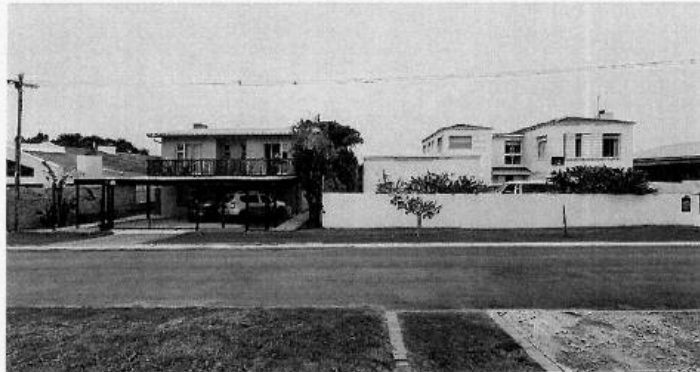


Figure 2: The objector's property on the lefthand side of the property in Nineth Street. There will be no change to this relationship whatsoever.

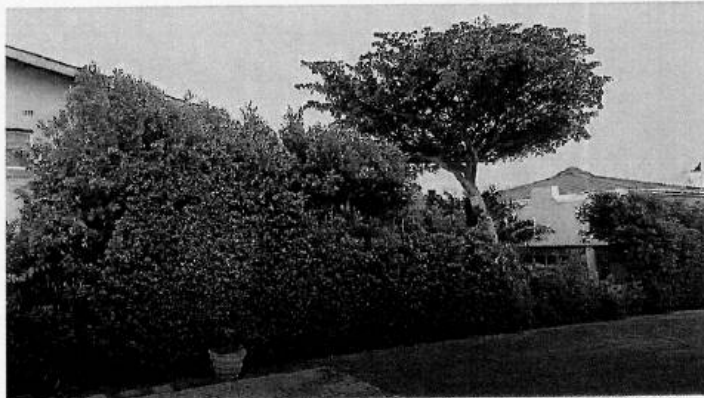


Figure 3: The existing common boundary between the two properties in Nineth Street. Note the extensive boundary vegetation between the two properties.

4. Response to the issues raised in the objection

1. The subdivision will result in smaller plot sizes.
That is a factual statement which is correct.
2. The Overstrand Schedule 2 Bylaw appears not to specifically state the minimum sizes for subdivisions in Residential Zone Single Residential (SR1)
While the Overstrand Schedule 2 Bylaw makes provision for overlay areas to limit the size of subdivisions, no such overlay exists for the Voelklip area. Given this, one must presume that this degree of development control was felt to be unnecessary for the Voelklip area and that every subdivision application would be considered on its own merits.

3. The Western Cape Land Development Parameters do not support the application.

It is unclear which legislative document the objector is referring to and which specific section of this document is pertinent to the application. She simply fails to reference her source of material. Without knowing the source of her 'applicable policy' it is simply impossible to respond to this very general statement.

4. Why is such a significant deviation of the Western Cape Provincial norms acceptable.

What can be said is the following:

Section 7 of SPLUMA and section 59 of LUPA require that land use planning be guided by a number of broad land use planning principles. The principles of spatial justice, spatial sustainability and efficiency are of relevance to land use applications. The proposed development is aligned with these principles as demonstrated below:

Spatial Sustainability. The proposed development allows for appropriate densification within a high-amenity, well-located area. It will tap into existing engineering infrastructure and existing public facilities, reducing the fiscal burden on the State, both capital and operational, associated with developments on the periphery. The proposal does not constitute urban sprawl and will not have an impact on prime and unique agricultural land, and as such promotes spatial sustainability.

Efficiency. The proposed development optimises the use of valuable and scarce land to the benefit of a range of income levels. The design is such that the visual impact on the receiving environment is minimised as far as possible whilst optimising the use of existing infrastructure. The development promotes efficiency with respect to providing residential opportunities that are reasonably affordable to people.

5. The coverage is not compliant with the 50% required coverage for properties larger than 400m².

This statement is correct, as a 65% coverage is applicable to even smaller than 400m². Having said this, the coverage of the proposed development is a mere 57%. The objector has simply made no case whatsoever to suggest that this very minor shift from what is currently permitted to what is proposed will result in undesirable development. Her statement is merely factual.

Furthermore, it must be emphasized that the proposed built-form will take place in a completely different street to the one that the objector lives in. None of the property owners living in Tenth Street whether adjacent to the property in question, opposite it or down the road from it share the objector's concerns regarding coverage, as none of them have lodged objections.

6. The 57% coverage figures provided appears to be incorrect.

The 57% coverage figures provided are correct. The objector has simply asserted that the figures provided "seem to be incorrect" without attempting to offer any evidence why she believes that this might be the case. This claim should therefore be dismissed.

7. The three tightly spaced and enormous approximating dense apartment style living is out of character with the zoning.

The proposal entails a space between the three structures of at least 2 metres and when read from the front street some 2.45 metres. This is equal to and greater than many of the existing situations between dwellings in the surrounding environment. The buildings are therefore entirely separate entities very much in keeping with other built-fabric in Voelklip. The use of the term "apartment style living" is there for not only inappropriate but also deceptive.

Once again, it must be emphasized that the proposed built-form will take place in a completely different street to the one in which the objector lives. None of the property owners living in Tenth Street whether adjacent to the property in question, opposite it or down the road from it share the objectors's concerns regarding setbacks, as none of them have lodged objections.



Figure 4: Two metre space between dwellings in 9th Street.



Figure 5: Two metre space between dwellings in 9th Street.



Figure 6: The property to the immediate west in 10th Street with a 1 metre common boundary setback on the two floors.

8. It will set a precedent for future similar applications for subdivisions in Voelklip. While it is common knowledge that every planning application must be assessed on its own merits, it is also important to note that there is good precedent and bad precedent. The objector has simply provided no rational reasons to support her claim that the proposal will set the kind of precedent which she believes is problematic. Furthermore, given the fact that it has been argued that the resulting built-form will not be out of keeping with the existing built-form found in the surrounding area and that only one person lodged an objection to the advertising of the proposal, there is no evidence at hand to suggest that the approval of this application will result in bad precedent.
9. Was the Voelklip small bore settled sewage scheme designed to deal with further subdivisions?
The Overstand Municipality's service branches have not objected to the proposal. Furthermore, the objector has not offered any evidence whatsoever to back up her claim that there will be a negative impact on the sewage scheme. There is no reason to believe that the objector is qualified to assess service infrastructure and this comment should therefore be taken as merely a layperson's opinion. When considering the impact on service infrastructure, it is important to note that the existing zoning would permit six dwelling units on the site (three on each erf) and the proposal at hand only entails four dwelling units. It could therefore be argued that in terms of impact on service infrastructure the proposal at hand presents less of a potential impact.
10. There are no sketch plans indicating the lateral /side elevations of the proposed structures, despite assurances in the document that the maximum building heights will be below the prescribed 8 metres.
No application has been made for any height departures. Any building plans submitted as a result of the approval of the application at hand would therefore have to comply with all relevant zoning parameters.
5. **Conclusion**
The proposal complies with the all-existing planning policy. The subdivision of the two properties into four portions will result in four dwelling units which is actually a

7/7

reduction in the permitted density which is currently six dwelling units. It could also be argued that the subdivision of erf 4096 into two erven exactly the same size and the adjoining erven would be a simple planning matter. This could result in a total of nine dwelling units on the three erven. The application at hand represents a dwelling unit density of less than half of that.

Furthermore, the only objector has not provided any evidence that the approval of the application at hand will have any undesirable or negative impact on her property.

The development proposal responds favorably to the general massing and geometrical built form informants of the immediate surrounds. It is believed that the granting of the approval required will not result in any negative impact on the surrounding environment.

Yours sincerely



Dave Saunders

Annexure F1/2

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR CONSOLIDATION & SUBDIVISION: ERVEN 8408 & 4096,
VOELKLIP**

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 3	=	R 78 108.00
Sewerage	R 17 555.00 x 3	=	R 52 665.00
Roads	R 7 872.00 x 3	=	R 23 616.00
Stormwater	R 9 082.00 x 3	=	R 27 246.00
Solid Waste	R 1 574.00 x 3	=	R 4 722.00
Electricity	R 34 929.99 x 3	=	<u>R104 789.97</u>
TOTAL (inclusive of VAT)		=	R291 146.97

Note:

- 1.3 **The above figures are estimates**
1.4 **The above figures do not include connection fees and investigation levies.**
2. that each property to have their own water connection, the cost of connection and / or any upgrade for any of these services be required, will be at the owner's cost;

3. that each property to have their own sewer connection, the cost of connection and / or any upgrade for any of these services be required, will be at the owner's cost;
4. that any part of the existing water and sewer services on Erven 8408 & 4096 that crosses any common boundary of the proposed Portions B, C, D and the Remainder of Erf 8408 shall be disconnected and sealed off;
5. that servitudes for municipal services be registered at the developer's cost in respect of all existing municipal services concerned crossing private property
6. that only a standard 60 Amp single phase electricity connection will be available per erf;
7. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage;
8. that each property to have their own access. The cost of construction of access to the properties for the account of the owner/developer;
9. that stormwater be allowed to discharge through the proposed Erven, Voelklip, unobstructed;
10. that all four proposed erven will require animal proof waste disposal storage bins for the placement of their waste on the road verge on waste collection days;
11. that no on-street parking be allowed.

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

15/07/2022
DATE