

## Overstrand Municipality

### LAND USE PLANNING REPORT - MUNICIPAL PLANNING TRIBUNAL (MPT)

**ERF 5788, 23 RAED-NA-GAEL STREET, HERMANUS HEIGHTS, OVERSTRAND MUNICIPAL AREA :  
 PROPOSED CONSENT USE AND DEPARTURE : MESSRS PLAN ACTIVE ON BEHALF OF  
 STAND 5788 HERMANUS PROP HOLDING CC**

Reference number	5788 HHH (3260)	Application submission date	6 APRIL 2016	Date report finalised	29 SEPTEMBER 2016
<b>PART A: AUTHOR DETAILS</b>					
First name(s)	Petrus				
Surname	Roux				
Job title	Town Planner				
SACPLAN registration number	A/2246/2015				
Directorate/Department	Infrastructure and Planning				
Contact details	028 313 8900 <a href="mailto:petrusroux@overstrand.gov.za">petrusroux@overstrand.gov.za</a>				
<b>PART B: APPLICANT DETAILS</b>					
First name(s)	Lerm				
Surname	Merike				
Company name	PlanActive Town- and Regional Planners				
SACPLAN registration number	A/158/2009	Is the applicant authorised to submit this application	Yes	N	
Registered owner(s)	STAND 5788 HERMANUS PROP HOLDING CC				
<b>PART C: PROPERTY DETAILS</b>					
Property description (in accordance with Title Deed)	Erf 5788, Hermanus				
Physical address	23 Raed-na-Gael	Town/City	Hermanus (Hermanus Heights)		
Current zoning	RESIDENTIAL ZONE 1	Extent (m <sup>2</sup> /ha)	823m <sup>22</sup>	Are there existing buildings on the property?	Yes N
Applicable zoning scheme	Overstrand Municipality Zoning Scheme Regulations, 2014				
Current land use	Residential	Title Deed number & date	T25591/94		
Any restrictive title conditions applicable	Yes	No	If Yes, list condition number(s)		
Any third party conditions applicable?	Y	No	If Yes, specify		
Any unauthorised land use/building work	Yes	N	If Yes, explain		

PART D: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)							
Has pre-application consultation been undertaken?		Yes	No				
PART E: LIST OF APPLICATIONS (TICK APPLICABLE)							
Rezoning	√	Permanent Departure	√	Temporary departure	√	Subdivision	√
Extension of the validity period of an approval	√	Approval of an overlay zone	√	Consolidation	√	Removal, suspension or amendment of restrictive conditions	√
Permissions in terms of the zoning scheme	√	Amendment, deletion or imposition of conditions in respect of existing approval	√	Amendment of Site Development Plan	√	Permission in terms of a condition of approval	√
Determination of zoning	√	Closure of public place	√	Consent use	√	Occasional use	√
Disestablish a home owner's association	√	Rectify failure by home owner's association to meet its obligations	√	Permission for the reconstruction of an existing building that constitutes a non-conforming use	√		
PART F: APPLICATION DESCRIPTION / EXECUTIVE SUMMARY							
<p>An application was received from Messrs PlanActive Town- and Regional Planners on behalf of the property owners of Erf 5788, Hermanus for a consent use in terms of Section 16(2)(o) in order to establish a health clinic on the property concerned.</p> <p>The application also includes a departure in terms of Section 16(2)(b) in order to deviate from the parking requirements.</p>							
PART G: BACKGROUND / HISTORY							
<p>Erf 5788, Hermanus Heights is zoned as Residential Zone 1: Single Residential. The property is developed with a large three (3) storey dwelling consisting of six (6) bedrooms and three (3) servants' quarters. The property owners wish to utilize portions of the dwelling in order to establish a health clinic which will be used as a step down facility for people who has recently been discharged from hospital but who is not fit enough to travel.</p>							
PART H: SUMMARY OF APPLICANTS MOTIVATION							
<p>The applicant states that the health clinic will consist of three (3) patient/guest rooms, two (2) manager rooms and one (1) treatment room. The applicant does not state it, but one (1) of the servants' quarters shown on the approved building plan of 1994 will be used as a bedroom.</p> <p>The lounge on the lower ground floor will be used as a reception area. The applicant states that it is anticipated that only the manager and one (1) staff member will reside on the property. Two (2) bedrooms are reserved to be used by the manager and one (1) of the staff quarters will be reserved for the staff.</p> <p>All bedrooms are as per the approved plan of 1994 and will only receive an on-suite bedroom. The bedrooms are therefore inter-leading with the dwelling and can easily be changed back to a dwelling house if so required.</p> <p>The applicant also states that the proposed departure and consent use will not be detrimental to the character of the area.</p>							
PART I: SUMMARY OF PUBLIC PARTICIPATION							
Methods of advertising			Date published		Closing date for comments		
Press	Yes	N	N/A				

Gazette	Yes	N	N/A		
Notices	Yes	N	N/A	2 June 2016	8 July 2016
Ward councillor	Yes	N	N/A	2 June 2016	8 July 2016
Site notice	Y	N	N/A		
Community organisation(s)	Y	N	N/A		
Public meeting	Y	N	N/A		
Third parties	Y	N	N/A		
Other	Y	N	If yes, specify		
Total valid comments	Thirteen			Total comments and petitions refused	13
Valid petition(s)	Y	No	If yes, number of signatures		
Community organisation(s) response	Y	N	N/A	Ward councillor response	Yes No N/A
Total letters of support	None				
Was public participation undertaken in accordance with Section 48 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016					Yes N

## PART J: SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Thirteen (13) objections were received from the surrounding property owners. One (1) objection, from HE Sues, was received after the closing date of the public participation process. The late comments/objections are noted, but due to it being late, will not form part of the evaluation.

Some of the issues raised in the objections from the various property owners correspond and will therefore be summarised and discussed per issue. The objections are as follows:

### Objection

Proposed sub-acute medical care facility will generate additional traffic to the area. This will add to noise pollution that adjacent property owners have to endure. The parking also does not suffice.

### Applicant's comment

As mentioned in our report, the proposed sub-acute care facility is a low impact land use and consequently the proposed application will not adversely affect the traffic flow of the area. A maximum of six (6) patients will be accommodated at any given time.

Only one (1) doctor/therapist will be able to visit patients. Only one (1) staff member will reside in the staff quarters and no parking bay is required. The relevant staff member will be transported by a shuttle to and from the premises. One (1) manager will reside on the premises (the owner will not reside on the premises). A parking ratio of one (1) parking bay per bedroom should suffice since it is not anticipated that the patients drive themselves to the medical facility. A shuttle will be available to transport patients. The facility will be mostly for people who do not have friends and family close by. It is therefore foreseen that few visitors will come to the subject property.

The applicant will try to consolidate trips of the shuttle in order to provide medical equipment, pre-cooked meals and services in order to mitigate traffic.

It is envisaged that the facility will be a tranquil care facility and therefore it will not create noise.

### Town Planner's comment

The applicant proposes to manage the proposed land use on the property in such a way that it will have a low impact on traffic in the area.

It should be noted that in terms of the Overstrand Municipality Zoning Scheme Regulations a dwelling requires two (2) parking bays and a clinic requires one (1) parking bay per bed plus four (4) beds per consulting room. The applicant wishes to utilise the rooms in the following manner; three (3) patient/guest rooms, two (2) manager rooms and one (1) treatment room. If parking is calculated in terms of the Zoning Scheme then three (3) parking bays are required for the patient bedrooms (an additional three (3) is required if two (2) beds are provided per room), two (2) parking bays are required for the manager and two (2) additional parking bays for the treatment room and ambulance/shuttle parking. The total number of parking bays required are ten (10), but could amount to thirteen (13) should additional beds be provided per room.

The applicant wishes to deviate from the parking requirement and provide parking bays in a similar manner as a guest house and therefore only one (1) parking bay is required per room. However, it should be noted that the proposal is not a guest house and that although visitors are not attracted to guest houses the proposed use can attract loved ones or relatives. The applicant does not foresee that patients will receive many visitors, however the possibility is always there, and the manager will be hard-pressed to keep visitors from seeing their loved ones. Therefore additional parking is also required for visitors. This becomes problematic and could arise to undesired parking issues on site and have further issues on the character of the area. In general such departures for guest house applications would not be entertained. The desirability/undesirability of the parking will be further discussed in the evaluation.

#### **Objection**

This specific area currently accommodates no health care facilities and the surrounding property owners want to keep it that way. The objectors are of the opinion that the location of the proposed medical facility is inappropriate and that the tranquil environment and property values will be negatively influenced by the proposed sub-acute medical facility.

#### **Applicant's comment**

The proposed sub-acute medical facility will be accommodated within the existing structure on Erf 5788, and will therefore have a minimal impact on the character of the area. Few internal changes which will have no impact on the surrounding property owners.

Only three (3) bedrooms will be used by patients who in most cases will not be able to drive. Therefore the low traffic flow will be kept to a minimum.

The scale of the facility is of such a small stature that it will be able to be accommodated on the property, even though there aren't similar facilities. The Town Planning Scheme allows for an institutional land use as a consent use under single residential zoning, if the type of land use were to be considered a high impact on residential properties then it would not have been incorporated in the Zoning Scheme.

The property will not obtain a business zone or be created to be a business enterprise. The zoning of the property will remain unchanged and therefore only an additional land use right will be obtained. This will ensure that the owner will have to comply with approval conditions at all times or risk losing the land use right.

The applicant also states that the objectors should consider the alternatives: the property can be used for one (1) large family on a weekend/holiday without rules and regulations that apply and where the Municipality has no control over. With the proposed use there will be rules and regulations which have to be adhered to. The Municipality can also cancel the proposed land use if it becomes problematic. The owner will seek to keep the facility to high standards to ensure positive referrals.

#### **Town Planner's comment**

The objectors are correct in saying that there are currently no medical facilities in the area. The proposed land use is *inter alia* to be used in connection with hospitals in the area; however the subject property is not in close proximity to any hospitals or any major traffic routes. Rather the property is located in an existing residential area with no direct route to the hospitals.

The applicant states that the proposed land use is a consent use in terms of the Zoning Scheme and the respective zoning of the property. The aforementioned is correct, however the applicant further states that the proposed land use is a consent use and therefore it is not regarded as having a high impact on the character of the residential area. A land use which is stated as a consent use in terms of the Zoning Scheme requires an application because the land use may function under a certain zoning. However, it is not a primary right because all the facets of the proposed land use must still be considered.

The applicant states that the objector must consider the alternative uses on the property and that the Municipality does not have rules and regulations that apply to them. The zoning of the property itself is a regulation and if the owners do not adhere to it the Municipality will have to assert control.

The desirability of the proposed land use is discussed in the evaluation.

**Objection**

The objectors have concerns regarding the handling, management, storage and disposal of medical waste on the subject property. This concern was not addressed in the application.

**Applicant's comment**

Medical waste will be handled by medical staff only (i.e. doctor and nurse), who will be trained to handle medical waste.

The waste will be sorted and stored in a locked garage in separate bins. Normal household waste will be disposed of on a weekly basis via the municipal services. The same company which handles Hermanus Medi-Clinic's medical waste will collect the proposed facility's medical waste.

Furthermore, the medical waste is to be handled, managed, stored and disposed of as prescribed by the Health Professions Council of South Africa in the Guidelines for the Management of Health Care Waste Booklet.

Considering the neighbouring property owners will not even be aware of the medical waste on the premises, the comments with regard to the character which will become "industrial" and the comments with regards to the danger to the animals in the area are irrelevant. The "how and by whom" the medical waste will be handled, managed, stored and disposed of was not ignored/down played at all. The proposed facility will have to be registered with the Department of Health and a due process has to be followed to ensure the safety of patients as well as the surrounding environment.

**Town Planner's comment**

The applicant is correct. If the application is to be approved the land owner/manager must ensure that medical waste is handled, managed, stored and disposed in the correct manner as prescribed by law. Although the applicant neglected to mention it in the motivation the relevant authorities will have to ensure that the standards are maintained. If the application is approved a condition will be imposed to this effect.

**Objection**

Comparing the proposed sub-acute medical facility to a guesthouse is misleading and deceptive and portrays how ill-conceived the application is.

**Applicant's comment**

The comparison was only made in order to emphasise the low impact (i.e the impact of a guesthouse versus medical facility which offers recovery accommodation and generates even less traffic than a guesthouse would). The comparison was not done to disregard important information (such as the medical waste).

**Town Planner's comment**

It is agreed a clinic as a consent use cannot be compared to a guest house. Both land uses have its different operational components and is by definition not similar. Furthermore, the applicant cannot motivate or compare the proposed land use with another consent use which must be considered on its own merit.

**Objection**

The applicant's identity is questioned by an objector (Hermanus Property Holdings CC versus Stand 5788 Hermanus (Pty) Ltd and "our client" versus "the owners").

**Applicant's comment**

The property is registered in the name: Stand 5788 Hermanus (Pty) Ltd. The client, Dr. Deidre Grobbelaar, is the only director of the aforementioned company. The applicant is appointed by Dr D Grobbelaar on behalf of the company.

**Town Planner's comment**

It should be noted that the property was originally owned by Stand 5788 Hermanus Property Holding CC but has been transferred to Stand 5788 Hermanus (Pty) Ltd. As stated by the applicant Dr D Grobbelaar is the only shareholder and have given power of attorney.

**Objection**

An objector stipulates that the pre-application discussions serve to taint the process since it gives pre-conceived notions on the success of the merits of the application

**Applicant's comment**

As town planning consultants we almost in all instances undertake pre-submission discussion with the Municipality to ensure that the application is in line with the future planning for the area. This is mainly done to advise the owner of any possible risks to the application and to ensure that the possible stumbling blocks are understood. The pre-submission discussions in the motivation report were never intended to introduce pre-conceived notions.

**Town Planner's comment**

Municipal officials are not entitled to give an indication on whether an application will be approved or not. The Municipal Official may only give an indication whether or not there are any legislative constraints for the proposed land use. The Authorised Official or the Municipal Planning Tribunal must still consider the relevant information provided, in terms of the Municipal By-Law.

**Objection**

Insufficient detail is available with regard to the health care facility.

**Applicant's comment**

The client is a sinologist based in Hermanus. The client noticed that there is a gap in the nursing industry whereby acute care is at the top of the spectrum, and frail care at the bottom with nothing in between. Furthermore, a need has been identified by the client for medical care facility where people without support systems can be accommodated and receive the necessary recovery treatments and rest after surgery or medical treatments. It is therefore the intention to establish a health clinic on the subject property that will provide patients with medical services such as post operation care and support, mobility therapy and other relevant medical therapy.

It is anticipated that the proposed clinic will accommodate three (3) to four (4) people (to a maximum of six (6), if two (2) patients per bedroom is accommodated). The proposed clinic will be a high quality, high standard health care facility offering luxury accommodation, transport services, meals and health care and the focus will be on the wellness and healing of each patient. The clinic will definitely target patients (tourists) on medical safaris and in this case the subject property is ideally located next to the mountain, sea views, hiking trails and a luxurious medical facility.

**Town Planner's comment**

Sufficient information was provided in order to process the application.

**Objection**

Will the necessary approvals be obtained from the Department of Health? Will the facility have the necessary emergency evacuation plans in case of emergency?

**Applicant's comment**

Once the land use is approved our client will commence with the application and registration process at the relevant authorities. The aforementioned will entail the submission of an application to the Department of Social Development and in the process also obtain the necessary health and safety certificates to allow the operation of the health facility. Health and Safety Regulations will have to be complied with.

**Town Planner's comment**

As previously stated, if the application is approved then a condition will be imposed that the Health and Safety Regulations must be complied with prior and during the operation of proposed use.

**Objection**

The proposed medical facility will have a negative impact on the security of the area.

**Applicant's comment**

The proposed risk will not be kept to a minimum since the proposed facility targets a higher income market. As previously mentioned it is also in the best interest of the owner to manage the medical facility to high standards.

**Town Planner's comment**

It is my opinion that the response given by the applicant is not worded correctly. Furthermore, it is the opinion that the proposed use will not be a security risk for the neighbourhood as permanent residence will remain on the property as opposed to a dwelling being left unoccupied during most of the year.

**PART K: SUMMARY OF APPLICANT'S REPLY TO COMMENTS**

Applicant's reply to comments was inserted beneath the objections received.

**PART L: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS**

Name	Date received	Summary of comments	Recommendation		
			Positive	Negative	Comment
Operational Services	2 June 2016	No objection	Positive	Negative	Comment
Building Department	6 June 2016	To comply with SANS 10400 part S and T as the change in uses will require changes to the existing structure. Building Plans showing compliance must be submitted for approval.	Positive	Negative	Comment
Local Heritage	7 June 2016	Supported	Positive	Negative	Comment
Environmental Department	15 June 2016	No objection	Positive	Negative	Comment
Waste Management	20 June 2016	No objection	Positive	Negative	Comment
Engineering Department	20 June 2016	Attached as F.	Positive	Negative	Comment
Fire Department	8 July 2016	Approval of application is subject to compliance of National Fire Protection Regulations SANS 10400:2011 and The Community Fire Safety By-Law P.N 6454 for Occupancy – E4 Medical Facilities	Positive	Negative	Comment
District Health		No comment received	Positive	Negative	Comment
Traffic Department		No comment received	Positive	Negative	Comment

**PART M: MUNICIPAL ASSESSMENT OF COMMENTS**

All comments received from the internal departments indicate that the proposed application does not have a negative affect towards the relevant departments.

**PART N: MUNICIPAL PLANNING EVALUATION**

Was the application processed correctly (if no, elaborate below):

Yes

N

Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)

Yes

N

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

The applicant did not address the planning objectives applicable. However, it should be noted that the subject property is situated in an established township and residential area, thus it is difficult to evaluate the proposed land use in terms of Section 42 of SPLUMA. However, one can determine its compliance as follows:

**Spatial Justice**

As mentioned above the subject property is within the existing township therefore spatial justice does not apply to this application.

**Spatial Sustainability**

The proposed application is limited to the subject property and therefore does not require additional use of resources such as services or land, which is inherently seen as a sustainable practice.

**Efficiency**

The Overstrand Municipality is committed to the development of efficient and streamlined timeframes. Therefore the application process followed the timelines as set forth in the By-Law. Furthermore, the application will ensure that the existing resource, land is used in an efficient and affordable manner. No additional structures will be required on the land unit.

**Spatial Resilience**

The existing township in which the subject property is situated is governed with spatial plans, policies and land use management systems which will help the community of the area to resist, absorb and accommodate impacts which are caused by economic and environmental shocks.

**Good Administration**

The Overstrand Municipality seeks to maintain a good administrative quality which give adherence to well established administrative procedures.

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

Same as above.

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

The applicant motivated the compliance of the proposed land use in terms of Overstrand Spatial Development Framework, 2006 and the Overstrand Municipal Growth Management Strategy, 2010 (OMGMS). The area is designated for residential use with a relatively low density per hectare. The area is also earmarked as a mountain interface zone.

The proposed land use will be able to be accommodated within the subject dwelling and existing zoning without necessitating additional construction or rezoning which could have had a negative effect on the mountain interface, designated densities and character of the area. However, the OMGMS identifies key areas for economic opportunities. Areas identified for economic opportunities are identified where the Municipality will promote mixed land uses and allow the change of use in order to be more service and business orientated. The opinion is held that the proposed land use will be better suited in these areas.

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

Not Applicable

**Impact on Municipal Engineering Services**

None of the services are impacted upon as indicated in the Service Report.

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

The applicant and/or property owner will have to ensure that the dwelling and all occupancies are in line with the relevant legislation such as health and safety, and the National Building Regulations.

**Existing and proposed zoning comparisons and considerations**

The property is zoned for single residential use and can therefore be primarily used for dwelling purposes. The Zoning Scheme allows for an institution as a consent use under the prescribed zoning. The definition of an institution allows for a "health and welfare facility" and a "clinic". Therefore provision is made for the proposed sub-acute medical facility as per definition.

In terms of the Zoning Scheme a dwelling requires two (2) parking bays and a clinic requires one (1) parking bay per bed plus four (4) beds per consulting room. The applicant wishes to utilise the rooms in the following manner; three (3) patient/guest rooms, two (2) manager rooms and one (1) treatment room. If parking is calculated in terms of the Zoning Scheme then three (3) parking bays are required for the patient bedrooms (an additional three (3) is required if two (2) beds are provided per room), two (2) parking bays are required for the manager, four (4) bays for the treatment room and one (1) ambulance/shuttle parking. The total number of parking bays required is ten (10), but could amount to thirteen (13) should additional beds be provided per room.

The applicant motivates that the proposed patients will most likely not be able to travel and/or do not have friends or relatives to transport them to the premises and will therefore not require parking. The applicant further proposes to shuttle the patients and additional staff to the proposed facility. Therefore the applicant proposes to depart from the required parking bays in the following manner; one (1) parking bay per room, one (1) parking bay for the manager and one (1) parking bay for the therapist, which result in the five (5) parking bays being provided. It must be stated that one (1) of the parking bays indicated for patients is also indicated as the disabled parking.

In the motivation it is stated that the parking be deviated from and provided for in a similar manner as a guest house and therefore only one (1) parking bay is required per bedroom and not per bed. However, it should be noted that the proposal is not a guest house and that although visitors are not attracted to guest houses the proposed use will. The applicant does not foresee that patients will receive many visitors, however the possibility is always there, and the manager will be hard-pressed to keep visitors from seeing their loved ones. Therefore additional parking is also required for visitors. This becomes problematic and could arise to undesired parking issues on site. If compared to a guest house application such departures would not be entertained.

**The desirability of the proposal**

The criteria for decision making by a Municipal Planning Tribunal or the Authorised Official is listed in Section 66 of the Overstrand Municipality By-Law on Municipal Land Use Planning. The aforementioned section specifically states that the comments in response of the notice and the response thereon must be considered as well as the desirability of the proposed land use.

The first issue in terms of desirability is the deviation of the parking requirements. Ten (10) parking bays minimum are required, which does not account for unforeseen visitors. Furthermore, the applicant only provides one (1) parking bay for the manager and one (1) for the doctor/therapist. This does not account for any additional medical or office staff. The applicant does state that a shuttle service will be used, however no parking is identified for the shuttle and if the shuttle service is not managed correctly then further issues will arise.

The second issue is the location of the proposed land use in connection with other medical facilities. The opinion is held that the location of the proposed land use must be well planned in relation to other primary medical facilities. Certain areas must first be identified which have direct routes to the primary medical facilities and in an area where mixed land uses have already been established. Such areas are mainly closer to primary medical facilities. As previously stated the OMGMS identifies key areas for economic opportunities which are better situated for the proposed land use.

The proposed area (Hermanus Heights) is foremost categorized as a residential area and therefore the objections and comments from the adjacent property owners must be considered. As previously stated the location in which the proposed land use is accommodated will have to be an area where mixed land uses have already been considered.

Considering the aforementioned the proposed land use is considered undesirable in the proposed location.

**PART O: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS (REFER TO ROR GUIDELINE)**

**The financial or other value of the rights**

N/A

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

N/A

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

N/A

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

N/A

**PART P: SUMMARY OF EVALUATION**

An application has been received for a consent use in order to establish a health clinic on Erf 5788, Hermanus. The applicant further requests to deviate from the parking requirements.

Thirteen (13) objections were received and the applicant responded to the objections. One (1) objection was received late.

All municipal departments support the application.

The OMGMS identifies key areas for economic opportunities. Areas identified for economic opportunities are identified where the Municipality will promote mixed land uses and allow the change of use in order to be more service and business orientated. The opinion is held that the proposed land use will be better suited in these areas.

The proposed application is considered undesirable due to the proposed parking deviation and the proposed location of the subject property.

**PART Q: RECOMMENDATION****RECOMMENDATION :**

1. that the objections, **be noted**;
2. that, in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 the application received from Messrs PlanActive Town- and Regional Planners on behalf of the property owners on Erf 5788, Hermanus for a consent use in order to establish a health clinic on the property, **not be approved**;
3. that, in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 the application for a departure to deviate from the parking requirements, **not be approved**, and
4. that the applicant be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2016 with regard to the above conditions of approval.

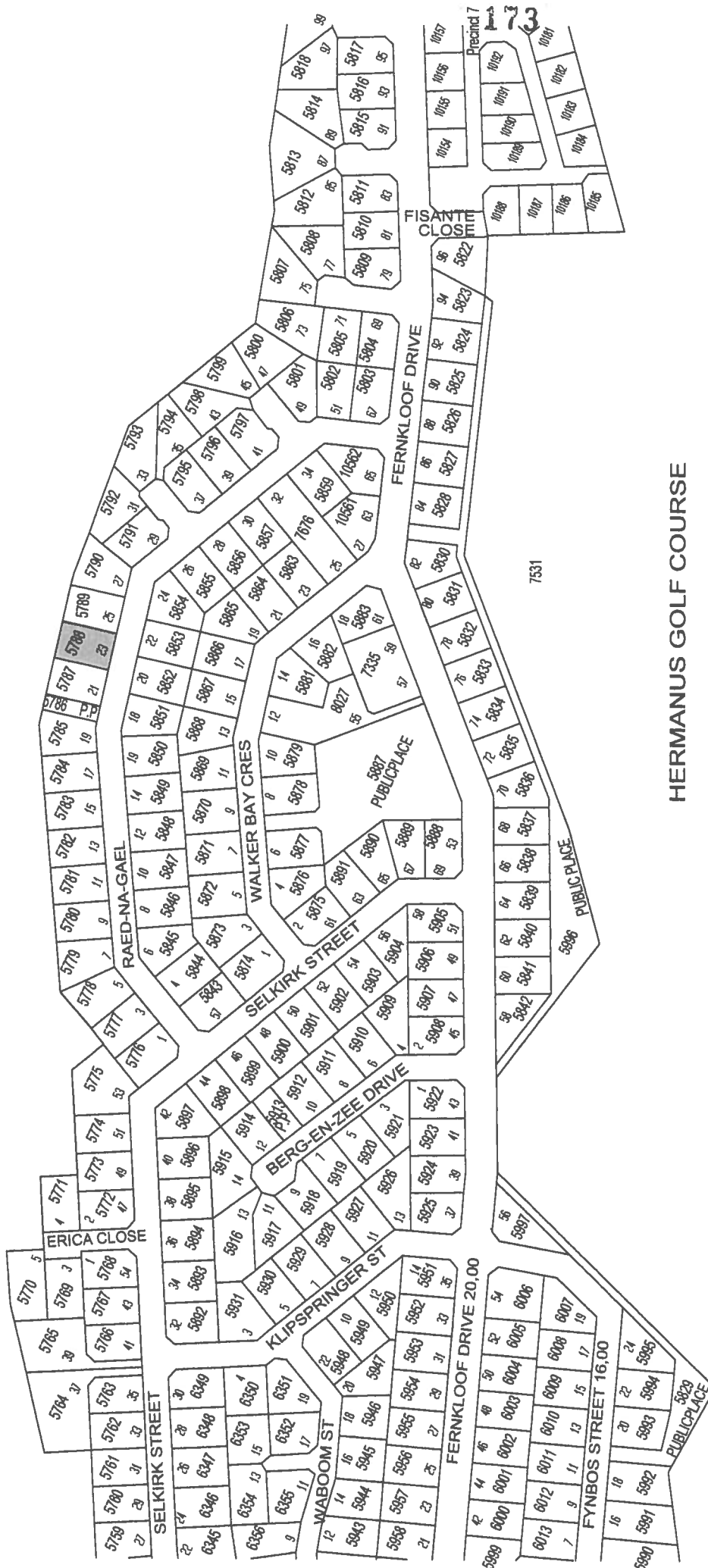
**PART R: REASONS FOR RECOMMENDATION**

- The location of the proposed land use is not desirable and the OMGMS identifies key areas for economic opportunities.
- The deviation from the required parking is undesirable.
- The objections from the neighbouring property owners clearly state that the proposed use is unwanted in the residential area.

**PART S: ANNEXURES**

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

**PART T: SIGNATURES**Author Name: **P ROUX**Author Signature: Date: 19/10/16Registered Planner Name: **S VAN DER MERWE**Registered Planner Signature: SACPLAN Registration Number: **A/1850/2014**Date: 25/10/2016



HERMANUS GOLF COURSE

All distances approximate and subject to survey.

Property Description:

**ERF 5788  
HERMANUS**

Plan Description:

**LOCALITY MAP**

Scale: NTS

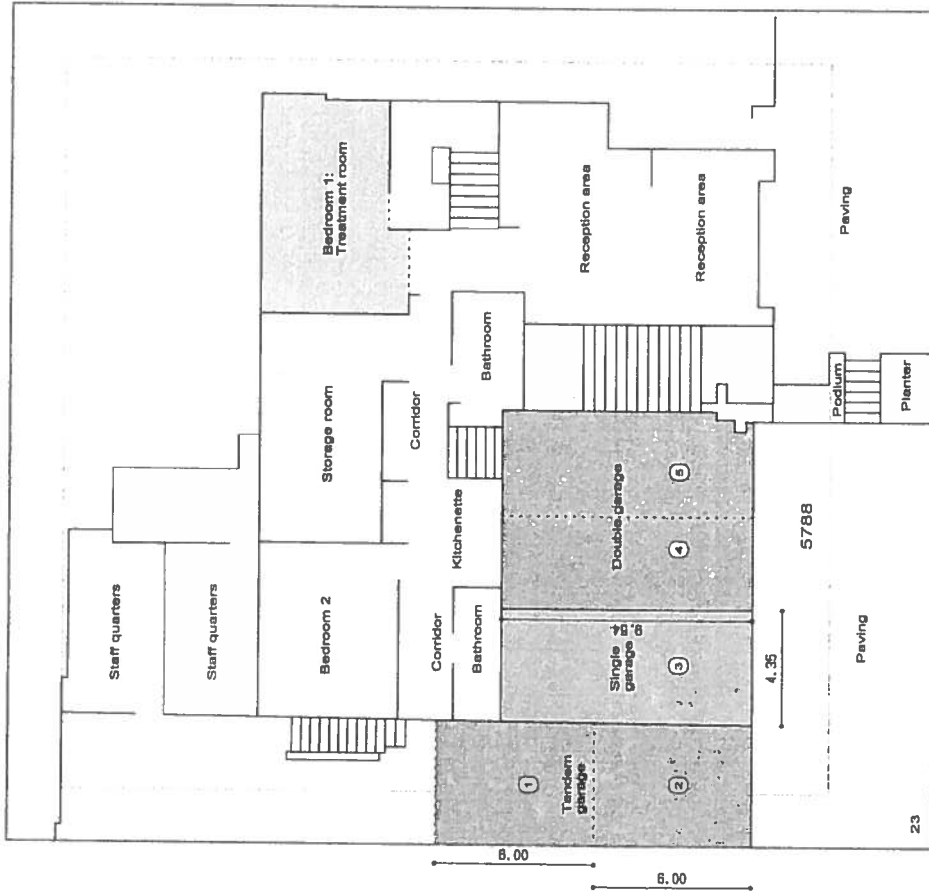
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Date: AUGUST 2015

Stads- en Streeksbeplanners  
Town & Regional Planners

**PLActive**

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RAED-NA-GAEL STREET

NOTES:

- Erf boundaries
- Building lines
- Treatment room
- Parking (existing garages)
- Parking for the disabled (existing garage)



Stads- en Streetsbeplanners  
Town & Regional Planners

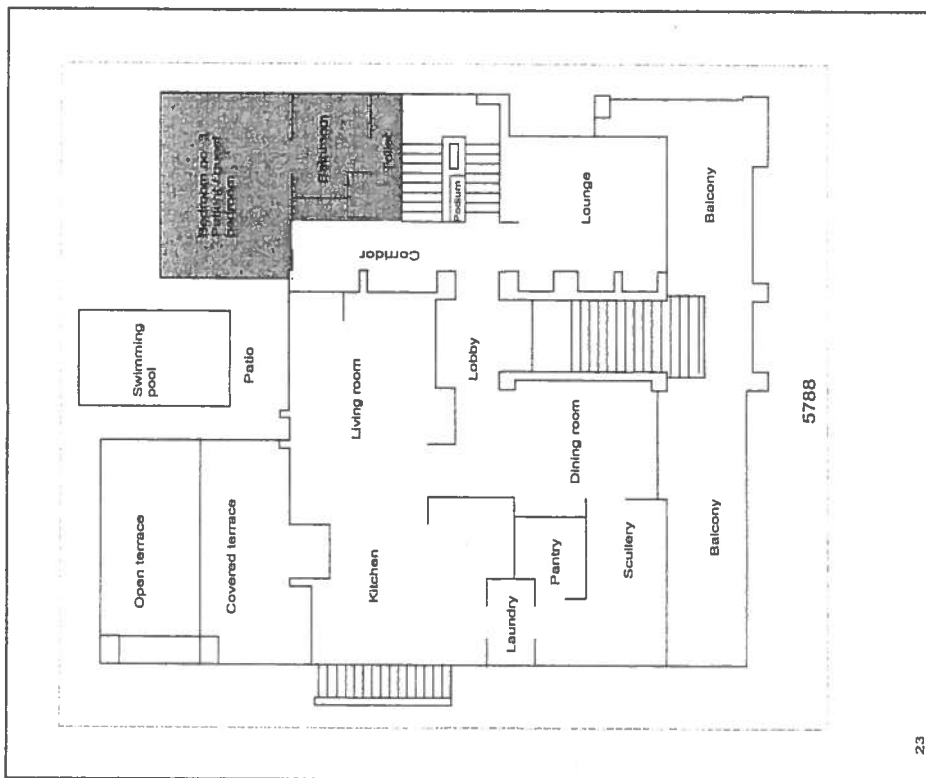
All distances approximate  
and subject to survey.  
COPY RIGHT RESERVED

Property Description:  
**ERF 5788**  
**HERMANUS**

Plan Description:  
**LOWER GROUND  
FLOOR & PARKING  
LAYOUT**

Scale: 1:200  
Drawing Nr: hema5788gdl  
Date: APRIL 2

1, 2, 4, 5




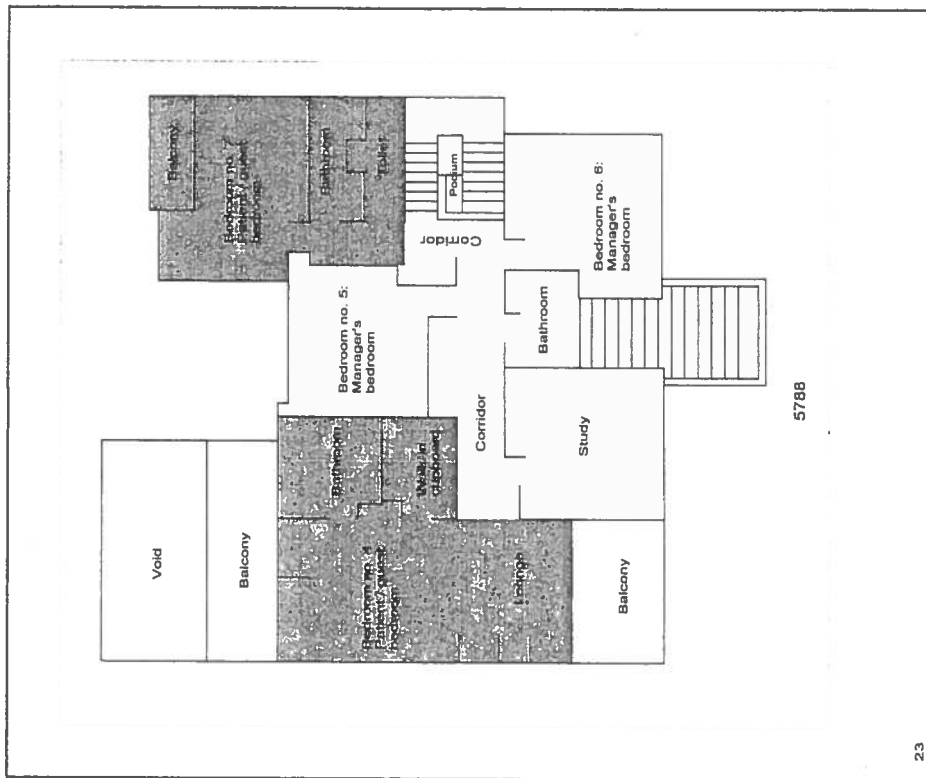
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RAED-NA-GAEL STREET

NOTES:

-  Erf boundaries
-  Building lines
-  Proposed patient / guest room


 <b>Stads- en Streeksbeplanners</b> Town & Regional Planners	All distances approximate and subject to survey.  COPY RIGHT RESERVED	Property Description: <b>ERF 5788</b> <b>HERMANUS</b>	Plan Description: GROUND FLOOR LAYOUT	Scale: 1:200 Drawing Nr: Herm5788sdl Date: MARCH 20
		RAED-NA-GAEL STREET		



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RAED-NA-GAEL STREET

- NOTES:
-  Erf boundaries
  -  Building lines
  -  Proposed patient / guest rooms

 <b>Stads- en Streeksbeplanners</b> Town & Regional Planners	All distances approximate and subject to survey. COPY RIGHT RESERVED	Property Description: <b>ERF 5788</b> <b>HERMANUS</b>	Plan Description: <b>FIRST FLOOR</b> <b>LAYOUT</b>	Scale: 1:200 Drawing Nr: herm5788sdp Date: MARCH 20
	5788			

**PROPOSED CONSENT USE & DEPARTURE****ERF 5788 HERMANUS****DIVISION: CALEDON****OVERSTRAND MUNICIPALITY****MOTIVATION REPORT****1. BACKGROUND**

The company Plan Active was appointed by Dr. D. Grobbelaar, on behalf of Stand 5788 Hermanus Pty Ltd, to apply for the consent use and departure of erf 5788 Hermanus.

Erf 5788 Hermanus is 823m<sup>2</sup> in extent and is held by title deed number T25591/1994. It is the intention of the owners of erf 5788 Hermanus to establish a health clinic (sub-acute medical care facility) on the subject property.

**2. APPLICATION DETAILS**

Application is made in terms of:

- Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the consent use of erf 5788 Hermanus for an institution to allow for the establishment of a health clinic (sub-acute medical care facility) on the subject property;
- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the departure from the parking requirements for the proposed land use on erf 5788 Hermanus.

### **3. GENERAL APPLICATION INFORMATION**

#### **3.1 PROPERTY DESCRIPTION**

Erf 5788 Hermanus is situated at 23 Raed-na-Gael Street, Hermanus Heights. Please refer to the locality plan attached. Erf 5788 Hermanus is 823m<sup>2</sup> in extent and is situated in a residential and nature reserve environment.

#### **3.2 ZONING**

Erf 5788 Hermanus is zoned Residential Zone I: Single Residential.

Surrounding properties are zoned for Residential Zone 1 and Open Space Zone I purposes.

#### **3.3 LAND USE**

There is an existing three storey dwelling situated on the subject property. The existing building is currently used for single residential purposes.

Land uses that surround erf 5788 Hermanus are single residential dwellings, public open space and public roads.

#### **3.4 PROPOSED DEVELOPMENT**

- The consent use of erf 5788 Hermanus in terms of Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use

Planning, 2016, to accommodate a health clinic (sub-acute medical care facility) on the subject property;

- A departure from the parking requirements for the proposed land use on erf 5788 Hermanus in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016.

Pre-application discussions were undertaken with Mrs Hanneen van der Stoep, Mr Petrus Roux and Mr Dennis Hendriks. The general feel from the municipality was that the proposed land use can be accommodated in this area. The provision of parking on site was however a concern and options to allow access from the reservoir road was denied. This application therefore proposes a smaller health clinic and deviations from the parking requirements. We are of the opinion that the proposed deviations can be favourably considered given the motivation of how the proposed land use will be operated on the premises.

Our client is a sonologist based in Hermanus. Our client realised that there is a gap in the nursing industry whereby acute care is at the top of the spectrum, and frail care at the bottom, with nothing in-between. Furthermore she also realised the need for a medical care facility where people without support systems (no family living near by, deceased husband / wife, oversees patients, etc.) can be accommodated and receive the necessary recovery treatments and rest after surgery or medical treatments received. Our client therefore intends to establish a health clinic (sub-acute medical care facility) on the subject property that will provide patients with medical services such as post operation care and support, mobility therapy and other relevant medical therapy.

The proposed sub-acute medical care facility will offer recovery accommodation where patients can rehabilitate and recover after surgeries / treatments received at the surrounding hospitals.

An institution can be accommodated as a consent use under the Residential Zone 1: Single Residential zoning. Application is therefore made for a consent use to establish an institution on erf 5788 Hermanus to allow the owners to operate a three bedroom health clinic (sub-acute medical care facility) on the subject property.

The definition of an institution is as follows:

*means a property used as a social, health or welfare facility, or for the administration thereof and includes a hospital, special needs school, clinic, homes for the aged, indigent or handicapped, a reformatory or place of detention, whether of commercial or charitable nature, but does not include a jail;*

The definition of a clinic is as follows:

*means an institution where public are given medical treatment or medical related advice, and a wellness centre with associated uses; provided that a clinic shall not contain live-in facilities for more than thirty persons, including patients and staff;*

An "institution" makes provision for the proposed sub-acute medical care facility and therefore no other application in terms of the Overstrand Municipality's Bylaw on Land Use Planning, 2016, is required to accommodate the proposed land use.

The proposed sub-acute medical care facility will provide care for adult or paediatric patients who have undergone surgery or treatment in a hospital or focused health facility but still require further nursing care and medical supervision at a lower intensity. It is also commonly known as a type of recovery accommodation for patients. Therefore, the proposed land use is a low impact land use and similar to establishing a guest house on the subject property.

The proposed sub-acute medical care facility will serve as a facility where post-operative / post-treatment patients, who are already out of the danger zone but still too weak to take care of themselves, can be accommodated. The facility will assist patients to recover by providing all the necessary amenities to nurse them back to health. This type of facility is ideal for patients without the necessary support at home or support in close proximity to assist in their recovery process after medical procedures / treatment received.

The owners intend to use the existing structure (dwelling) on the subject property for institutional (sub-acute medical care facility) purposes. Only a few alterations will be made to the existing structure to accommodate the proposed facility.

The existing dwelling consists of the following:

- 2 living rooms;
- Lounge area;
- Dining area;
- Kitchen;
- Kitchenette;

- Scullery;
- Pantry;
- Laundry;
- Entertainment area with swimming pool;
- Store room;
- Study;
- 7 bedrooms (two on the lower ground floor, one on the ground floor and four on the first floor);
- 6 bathrooms & 1 extra toilet;
- 5 Garages (of which one tandem garage);
- Balconies;
- Covered and open terraces;
- Two servant's quarters.

The existing bedrooms will be used as follow:

Lower ground floor:

- Bedroom 1: Treatment room;
- Bedroom 2: Bedroom.

Ground floor:

- Bedroom 3: Patient / guest room for immobile patients.

First floor:

- Bedroom 4: Patient / guest room;
- Bedroom 5: Manager's room;
- Bedroom 6: Manager's room;
- Bedroom 7: Patient / guest room.

Where applicable the necessary alterations will be made to ensure that all of the above patient rooms are en-suite. Please refer to the floor layout plans attached.

One of the existing living rooms on the lower ground floor will be used as reception area. The aforementioned was also indicated and approved as a waiting and reception room when the building plans were approved in 1994.

All other uses as shown on the floor layout plans will remain unchanged.

It is anticipated that only the manager and one staff member will reside on the subject property at all times. The staff member will be accommodated in one of the staff quarters and two bedrooms (bedrooms no. 5 & 6) are reserved for use by the manager.

All the bedrooms in the proposed existing dwelling are interleading and will remain unchanged. The proposed sub-acute medical care facility can therefore easily be converted for single dwelling house usage in future (if so required).

The proposed land use will not result in any noise pollution to the adjacent residential area since a clinic / recovery accommodation is associated with low noise levels.

Since the proposed sub-acute medical care facility will be accommodated within the existing structure the height, bulk and coverage of the dwelling will remain unchanged. Consequently deviations from the relevant building lines will not apply.

The proposed departure from the parking requirements is discussed in Section 3.7.2 of this report.

The proposed consent use and departure do not have a negative impact on the surrounding erven as the subject property's zoning will remain unchanged, aesthetically the existing building will remain unchanged and the proposed land use will generate little to no noise. We are of the opinion that there exists a demand for this type of medical facility in the Hermanus area. The subject property is ideally situated (tranquil environment ideal for recovery and healing purposes) to accommodate the proposed land use.

### **3.5 CHARACTER OF THE ENVIRONMENT**

The subject property is situated at the foot of the mountains in Hermanus Heights. This area is characterised as a higher income area and Hermanus Heights is generally seen as a tranquil and quiet neighbourhood.

Since the proposed sub-acute medical care facility will be accommodated within the existing structure on erf 5788 Hermanus, the impact on the streetscape and the general character of the area will remain unchanged. The few proposed internal alterations to the existing dwelling will have no impact on the surrounding properties or the character of the area.

The impact on the existing low traffic flow in the area will be kept to a minimum since only three of the existing rooms will be used by patients (which in most cases will not even be able to drive themselves to the sub-acute medical care facility).

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

The zoning of erf 5788 Hermanus will remain unchanged. The primary land uses applicable to the subject property will therefore remain. The subject property can therefore easily revert back to single residential use only if deemed necessary in future.

The proposed land use is compatible with surrounding guest house land uses. Erf 5788 Hermanus can alternatively also be developed for guest house purposes (maximum five bedrooms), home occupation or second dwelling purposes. However, developing erf 5788 Hermanus for sub-acute medical care / recovery accommodation purposes will have the same impact or less than developing the subject property for guest house purposes. We are therefore of the opinion that the subject property has the potential to be developed for the proposed land use since it will not have a greater impact than:

- a. accommodating a large family in the existing dwelling, or;
- b. accommodating two families in the existing dwelling (main and second dwelling), or;
- c. accommodating 6-10 guests on the subject property (guest house).

### **3.7 IMPACT ON EXTERNAL ENGINEERING SERVICES**

#### **3.7.1 PROVISION OF SERVICES**

All services on the subject property already exist.

##### **Water**

The existing water capacity on erf 5788 Hermanus will suffice for the purposes of the application.

##### **Sewerage**

The existing sewerage capacity on erf 5788 Hermanus will suffice for the purposes of the application.

##### **Electricity**

It is not anticipated that the proposed development will necessitate an upgrade in the available electricity supply.

##### **Solid waste**

Refuse / waste are collected by the municipality once a week and will remain unchanged.

Medical waste will be removed regularly by the same company used by the local hospitals.

##### **Conclusion**

There will be no changes in the services capacities required.

#### **3.7.2 TRAFFIC IMPACT, PARKING AND ACCESS**

Access to erf 5788 Hermanus will remain unchanged from Raed-na-Gael Street.



The Overstrand Zoning Scheme Regulations determines that 1 parking bay per bed plus 4 parking bays per consulting room has to be provided for a clinic. Furthermore two parking bays should also be allocated to the main dwelling on the subject property.

We herewith apply for a departure to deviate from the above parking requirements to accommodate the proposed sub-acute medical care facility on the subject property. The deviation from the parking requirements is motivated as follows: the proposed sub-acute medical care facility will be operated like a guest house (recovery accommodation) with only one treatment room to be used by the doctor / therapist visiting patients. Since there is only one treatment room, only one doctor / therapist will be able to visit the patients at any one time. Furthermore one staff member will reside in the staff quarters and no parking bays are required for staff quarters. The relevant staff member will be transported per shuttle to and from the premises and will live-in most of the time. Only one manager will reside on the premises at any one time (the owner will not reside on the premises and furthermore this type of facility is not managed by management couples). In addition the proposed patient bedrooms will be similar to guest rooms in a guest house (with two persons maximum accommodated in a room) and therefore we propose that the parking ratio for guest rooms in a guest house applies to the proposed patient bedrooms as well (1 parking bay per bedroom).

It should also be noted that our client will operate a shuttle from the hospital to the sub-acute medical care facility since most of the patients will not able to drive and / or do not have friends or relatives to transport them to the premises. The shuttle will also be used to transport additional staff to and from the premises.

There are five existing garages on the subject property. In the light of the above mentioned motivation it is proposed to allocate / use the existing garages as follows:

Parking bay no. 1:	Manager
Parking bay no. 2:	Doctor / therapist visiting patient
Parking bay no. 3:	Patient
Parking bay no. 4:	Patient

Parking bay no. 5: Patient

Please refer to the lower ground floor plan attached.

Application is therefore made for a departure to use the following parking ratios to accommodate the proposed facility:

- Deviation from two parking bays for the manager / main dwelling to one parking bay to allow the second parking bay to be used by the doctor / therapist visiting the patients.
- Deviation from 1 parking bay per bed plus 4 parking bays per consulting room for a clinic to provide one parking bay for the consulting room (since the doctor / therapist will not be based on the premises but will come and go on irregular basis and as required) and one parking bay per patient bedroom (since the proposed facility will offer recovery accommodation it is proposed to use the same ratio as for guest houses). Only the patients accommodated on the premises will receive treatment from the doctor / therapist and no out patients will be treated here.

As previously mentioned the proposed sub-acute medical care facility is a low impact land use and consequently the proposed application will not adversely affect traffic flow, the streetscape or the general character of the area.

It should also be noted that all other options (access from the existing gravel road north of the subject property as per our correspondence with Mr Dennis Hendriks) and drive thru to the back via one of the garages were investigated. Both the aforementioned were not deemed to be viable options.

### **3.8 TITLE DEED**

There are no restrictive title deed conditions in title deed no. T25591/1994 that prohibit the proposed consent use and departure of the subject property. Please

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refer to the conveyancer's certificate compiled by L.C. Steyn from Vorster & Steyn Attorneys dated 22 March 2016.

There is a bond registered against erf 5788 Hermanus. Please refer to the bondholder's consent dated 22 March 2016 attached.

### **3.9 FORWARD PLANNING & OTHER LAND USE DOCUMENTS**

#### **3.9.1 OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK (2006)**

The Overstrand Spatial Development Framework (SDF), 2006, earmarks the area where erf 5788 Hermanus is situated, for residential purposes.

The zoning (Residential Zone I: Single Residential) for the subject property will remain unchanged. The primary land use of the subject property will remain for residential purposes and therefore the proposal is still in line with the existing spatial planning policies for the area.

#### **3.9.2 OVERSTRAND MUNICIPAL GROWTH MANAGEMENT STRATEGY (OMGMS, 2010)**

The Overstrand Municipal Spatial Growth Strategy (2010) stipulates that the subject property falls within planning unit no. 1 in Hermanus East. Furthermore the subject property is also situated in the Mountain Management Zone. This application does not propose to subdivide the subject property and therefore the application will have no impact on the density of the area. Furthermore the proposed land use will be accommodated within the existing structures on the subject property and therefore the impact on the biophysical environment will remain unchanged. The proposed land use is a low impact land use (similar to a guest house on the subject property) and therefore the impact on the environment will not be greater than utilizing the subject property for guest house purposes.

In the light of the above mentioned the proposed consent use and departure fall within the existing planning for the Hermanus area.

### **3.10 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**

#### **3.10.1 HERITAGE VALUE**

Erf 5788 Hermanus is not situated within the Heritage Overlay Zone as determined by the Overstrand Heritage Report (2009). The subject property is also not earmarked for heritage conservation purposes in terms of the OMGMS (2010).

The existing structures on the subject property will remain unchanged. The application does not involve changing the character of a site larger than 5000m<sup>2</sup>. It should also be noted that there are no structures on the subject property older than 60 years. The subject property is not associated with any important persons or groups or important events and activities. The subject property has no association with the history of slavery and is not used for living heritage.

The proposed consent use and departure do therefore not trigger any listed activities in terms of Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

In the light of the abovementioned it is evident that the proposed consent use and departure will not have a negative impact on the heritage value of the Hermanus area.

#### **3.10.1. ENVIRONMENTAL IMPACT**

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

#### 4. RECOMMENDATION

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

- The proposal to accommodate a health clinic (sub-acute medical care facility) on erf 5788 Hermanus will have the same impact if the property was to be utilized for guest house purposes;
- It is only proposed to make three guest rooms available for patients and one room available for consultation / treatment purposes;
- The proposed land use is a low impact land use and will attract low volumes of traffic to the subject property and to the area;
- The proposal is compatible with the existing built character and future planning policies of the area;
- Impact on the traffic and services will be kept to a minimum;
- No additional access points are created;
- The proposed sub-acute medical care facility will provide recovery accommodation for patients while simultaneously offering the necessary treatment and medical care facilities;
- The proposed facility will not negatively influence the existing character or land values in the area;
- There are no title deed conditions that restrict the proposed consent use of erf 5877 Hermanus;
- The proposed departure from the minimum parking requirements can be motivated at the hand of the proposed land use and how the land use will be operated on the premises;
- The establishment of a sub-acute medical care facility in Hermanus will contribute to enhancing the greater Hermanus area as one of the most sought after medical destinations in the Overberg (and in South Africa – so called medical safaris).

With regards to the above mentioned it would be appreciated if Council would approve the consent use and departure application for erf 5788 Hermanus.