



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

A G E N D A

DATE:	29 NOVEMBER 2017
VENUE:	TOWN PLANNING COMMITTEE ROOM HERMANUS
TIME:	14:00

OVERSTRAND MUNICIPALITY

Office of the Municipal Manager
Civic Centre
HERMANUS
7200

8 November 2017

TO : THE CHAIRPERSON AND MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

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

NOTICE IS HEREBY GIVEN that a meeting of the **Municipal Planning Tribunal (MPT)** will go into session on **Wednesday, 29 November 2017 at 14:00, Town Planning Committee Room, 16 Paterson Street, Hermanus**, to consider the attached agenda.

You are kindly requested to submit any amendments/additions to Ms S Swart (sswart@overstrand.gov.za) on or before **15 November 2017**.

COENIE GROENEWALD
CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL

Distribution:

1. Mr C Groenewald (Chairperson)
2. Mr S Müller (Vice-Chairperson)
3. Mr S Madikane (Member)
4. Mr R Williams (Member)
5. Mr R Kuchar (Member)
6. Ms H Janser (Member)
7. Mr S van der Merwe (Senior Town Planner)
8. Ms H van der Stoep (Senior Town Planner)
9. Mr P Roux (Town Planner)
10. Secretariat

1. OPENING

2. APPLICATIONS FOR LEAVE OF ABSENCE

3. CONFIRMATION OF MINUTES

3.1 Minutes of a Municipal Planning Tribunal Meeting held on 25 October 2017

4. ITEMS FOR CONSIDERATION

4.1 ERF 4424, 14 DUIKER STREET, NORTHCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS : MESSRS PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF C & N MOSTERT

Report attached

4.2 ERF 6201, 17 DE GOEDE STREET, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA : REMOVAL OF RESTRICTONS AND DEPARTURE : MESSRS PLAN ACTIVE ON BEHALF OF PLASTIKA INVESTMENTS CC

Report attached

4.3 ERF 102, 86 WESTCLIFF ROAD, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE : KL STURMAIR ON BEHALF OF DE WESTCOTT

Report attached

4.4 ERF 1287, 305 MAIN ROAD, EASTCLIFF, HERMANUS : PROPOSED CONSENT USE AND DEPARTURE : SM SMITH ON BEHALF OF THE JUS-TAY TRUST

Report attached

4.1**ERF 4424, 14 DUIKER STREET, NORTHCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS : MESSRS PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF C & N MOSTERT****4424 HNC (3479)****H van der Stoep****2 October 2017****(028) 313 8900****Hermanus Administration****1. EXECUTIVE SUMMARY**

An application has been received on 17 November 2016 from Messrs Plan Active Town & Regional Planners (Ms. M Lerm) on behalf of C & N Mostert on Erf 4424, Hermanus for the removal of a restrictive title condition in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 with reference to Clause C.1. of Title Deed T10790/2014, in order to operate a home occupation (swimming school) on the property concerned.

The Title Deed condition C.1. to be removed reads as follows:

“That this erf be used for residential purposes only.”

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The erf measures 1041m² in extent and is held under Title Deed T10790/2014. The erf is located in the residential area of Northcliff.

The buildings on the property consist of a single dwelling house, hobby room, braai room, laundry and enclosed swimming pool. The swimming pool has been in use for the last eight (8) years providing swimming lessons to pre-school children. The school also caters for water aerobics and rehabilitation.

4. SUMMARY OF APPLICANT’S MOTIVATION

The facility falls under the category of home occupation, and that is a primary right in terms of the Overstrand Zoning Scheme. At present the swimming school offers lessons to children and water aerobics in the form of 20-30 minute sessions. The amount of children accommodated is four (4) per session. The school operates from Monday to Friday from 10:00 to 17:30. The applicant proposes a 15 minutes interval to ensure that at any stage no more than four (4) vehicles are parked on the erf.

The activity is located in existing buildings as per building plan approval. The activity complies with the home occupation parameters and the Single Residential parameters in as far as coverage and parking is concerned. The character of the

area will not be impacted on since the erf will remain residential with the owners occupying the property and being the operators of the swim school. A minimal impact is foreseen in terms of vehicle movement, but the owners made provision for parking on-site and thus should eliminate the parking on-street as is the case presently.

The property is ideally located in close proximity of the Primary School and the town, thus enabling parents to access the facility whilst they in town.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Press	Yes	17 November 2016	20 January 2017
Gazette	Yes	18 November 2016	20 January 2017
Notices	Yes	17 November 2016	20 January 2017
Ward councillor	Yes	17 November 2016	20 January 2017
Total comments	THREE (3)		
Was public participation undertaken in accordance with Section 45 - 49 of the Proposed Draft By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
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

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

Name	Date received	Summary of comments	Recommendation
Engineering Services	08/05/2017	See Annexure G.	Supported
Senior Manager : Hermanus Admin	25/01/2017	See Point 9.	Not supported
Fire Department	20/01/2017	No objection.	Supported
Building Control	22/11/2016	Supported. To comply with SANS 10400.	Supported
Local Heritage Committee	22/11/2016	No objection.	Supported

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Objections were received from the following three (3) individuals:

- G & GS Panebianco (Erf 4452)

- AG Murdoch (Erf 4440)
- W van Wyk (Erf 4441)

The objections can be summarized as follows:

- Parking associated with the swimming school activity results in the parking of vehicles on street in front of driveways of the adjacent erven or opposite of the road. The amount of vehicles obstructs the traffic flow and ability of seeing oncoming vehicles.
- The operating hours are not as per the application.
- The parking as shown on the site layout plan is not viable. Is the swimming pool safety according to National Building Regulations?
- The proposed activity will influence the character of the area.
- The children crossing the road are a safety risk.
- The proposed 15 minutes interval period will be ineffective since parents are socializing on the pavement and do not leave the premises as required.
- The business was started without the consultation of the neighbours and has escalated to an extensive use of water aerobics, which results more to a life style centre.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

The applicant responded as follows:

The parking on-street was brought under the attention of the owners and subsequently they have requested all parents to adhere to the parking requirements. The domestic worker and gardener were requested to encourage people to park on-site. This campaign is lodged on the swimming school website. The 15 minute interval should be effective if it is adhered to as per the application.

The Site Development Plan does make provision for two (2) parking bays for the owners and four (4) parking bays for the clientele (mothers of the children). The parking layout complies with the required parking measurements. The manoeuvring as required can be complied with should the clients adhere to the 15 minute interval.

The activity is restricted to the 25% as per the Zoning Scheme and the primary use remains residential within the existing dwelling and outbuildings, as per approved building plans. The movement of vehicles may have a limited impact on the traffic flow within the area. It is noteworthy that objections have been raised in terms of noise pollution.

The present activity does not constitute a lifestyle centre, but is restricted to the development parameters for home occupation. The proposed activity will not create a precedent, since it does comply with the Zoning Scheme. The zoning will remain residential and there is no request for a rezoning to commercial purposes. The land use is compatible with the residential area.

9. MUNICIPAL ASSESSMENT OF COMMENTS**Town Planner's comment on objections**

The Title Deed restriction applied for is in line with the procedure as per the Overstrand Municipal By-Law. The Zoning Scheme does make provision for a home occupation as a primary right and this option is available to all the residents in the Overstrand Municipality.

The parking may not be on-street and the objections are noted and have been addressed by the applicant. The aspect of children crossing the street in an unsafe manner is the responsibility of the parent with their child.

The 15 minute interval to address the parking on street may be difficult to implement if not managed properly.

The parking lay out has been approved by the Engineering Services Department.

A home occupation does not need any approval from the neighbours except where it does cause a disturbance. The aspect that the water aerobics entails a life style centre is not valid, since it is a stand-alone exercise.

Internal Departments

None

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

N/A

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

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

The objectives relating to:

Spatial Justice

N/A

Spatial sustainability

The existing structures are compatible with the character of the area and do not negatively impact on the area. The removal of the restrictive condition is to allow the owner to exercise its primary use and the anticipated impact of the swimming school is considered low.

Efficiency

The building is used as such and thus makes optimal use of the development parameters as defined in the Overstrand Zoning Scheme. The property is easily accessible and conveniently located close to the CBD and schools.

Spatial Resilience

N/A

Good administration

Procedure was followed and full public participation was applicable.

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

Same as Point 10.2.

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

Same as Point 10.2.

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

N/A

10.6 Impact on Municipal engineering services

None

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

A restrictive Title Deed condition is applicable and an application is being lodged in terms of the By-Law to remove the restriction.

10.8 Existing and proposed zoning comparisons and considerations

The application is in line with the Overstrand Spatial documents and follow due procedure of the removal of restrictive condition.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS**The financial or other value of the rights**

No financial values are applicable, however other values influenced may be the residential character of the residential area.

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

The personal benefit is that the applicant can exercised its home occupation from her home.

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

The social benefits are the possibility for parents to ensure water safety.

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

The rights enjoyed by the beneficiary will remain in place since the erf will remain residential and the right obtained will be subservient to the main activity, e.g. residential.

12. THE DESIRABILITY OF THE PROPOSAL

The application is to remove the restrictive title deed condition that restricts the property to residential use only. In terms of the Overstrand Zoning Scheme the right to practise a home occupation is a primary right subservient to the primary right of residential.

The swimming school has been on the property since 2009 and with new ownership, the applicant had to lodge an application for the swimming school. It should be noted that Hermanus town has limited facilities to teach babies and children throughout the year to swim and water safety. The facility is limited in the amount of children it can accommodate. The enclosed pool is heated and thus makes it possible to teach throughout the year.

The main objection is based on the parking of parents on the verge of Duiker Street in front of the erf and in front of the adjacent erven. This does create a disturbance for neighbours and impeding the traffic flow. Although the owners did request parents to park on-site, and not in front of driveways, this has not been properly managed by the owners of the swimming school.

The social gathering of parents on the pavement, and thus not leaving the premises i.e. not adhering to the 15 minute break between lessons, has also contributed to the vehicle congestion.

The need for the facility does exist in the Hermanus area and there are limited swimming pools that are enclosed and heated to cater for swimming lessons. This is an important facility for parents and contributes to the social wellbeing of the community. The social benefit relates to children being taught water safety.

The water aerobics is an add-on to make optimal use of the facility, especially for the elderly. The applicant indicated that only four (4) children per lesson can be catered for in the swimming pool due to its size (50m²) and the impact is deemed minor.

The application does fill a dire need in the community and is desirable in terms of the location in close proximity of the CBD and the schools. The application is also desirable since the owner of the school resides on the property and is also the teacher. Thus supervision is excellent and will ensure that the activity remains subservient to the main right, namely residential.

The one aspect that needs attention is the proposed parking arrangement and the 15 minute interval that remains the responsibility of the owners. This aspect needs to be enforced to mitigate the objectors' concerns. It should be noted that the applicant did enlarge and pave the parking area on-site for the clientele. The gate to the erf is permanently open during the operational time of the home occupation activity to ensure that clientele have easy access to the parking. Although the parking arrangement may not be a standard layout, as usually enforced by the Municipality, it must be looked at whether it is possible and viable for not only the applicant, but the community to enforce a stricter layout. The erf is located in a street which has a substantial road reserve and is used on average by the residents only. Relaxation in terms of this specific erf is possible due to the aforementioned and the fact that it is restricted to the clientele (being babies and school going children), which make use of a facility of only 50m².

The application is therefore recommended for approval, however it is proposed that the condition is not removed, but rather amended.

The amendment should read as follows:

"The property is used primarily for residential purposes and a home occupation be allowed subservient to the residential use".

It further proposed that the application be approved, subject to a 12 month probation period to establish whether the owners of the erf and school are able to manage the vehicle congestion in Duiker Street due to the activity.

13. RECOMMENDATION

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 on Erf 4424, Hermanus for the removal of restrictive condition Clause C.1. of Title Deed T10790/2014 in order to operate a home occupation (swimming school) on the property concerned, **be amended**, to read as follows:

"The property is used primarily for residential purposes and a home occupation be allowed subservient to the residential use."

2. that the approval in Point 1. be subject to the following conditions:
 - (a) that the swimming school be allowed for a probation period of twelve (12) months after which it will be re-evaluated to ensure compliance by the owners to manage the parking of clientele;
 - (b) that the amount of pupils and other users be restricted to four (4) people per lesson;
 - (c) that the lessons be at 15 minutes intervals;
 - (d) that parking be provided on-site as per parking layout herm4424sdp-rev1.drw dated March 2017;
 - (e) that no parking of clientele in front of neighbouring erven be allowed;

- (f) that the owners manage the parking and ensure compliance with the proposed 15 minutes intervals;
 - (g) that the operation hours are Monday to Friday between 10:00 and 17:30;
 - (h) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (i) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
 - (j) that applicable rates and service tariffs, as determined by the annual budget be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (k) that all the conditions in the Services Report (attached as Annexure G), be complied with, and
 - (l) that the rights may not be transferred.
3. that the applicant and objectors 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.

14. REASONS FOR RECOMMENDATION

- ❖ The application has followed due procedure.
- ❖ Three (3) objections have been received.
- ❖ None of the internal departments have any objection.
- ❖ None of the municipal services will be needed.
- ❖ The twelve (12) month probation period is to ensure compliance with regard to managing of the parking and intervals between lessons.
- ❖ It is in line with policy documents.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Site Development Plan
Annexure C:	Motivation Report
Annexure D:	Title Deed T10790/2014
Annexure E:	Objections received
Annexure F:	Applicant's response to objections received
Annexure G:	Services Report

REGISTERED PLANNER

Name : **H VAN DER STOEP**

SACPLAN registration number: **A/1708/2013**

Signature : _____

Date: _____

ANNEXURE A



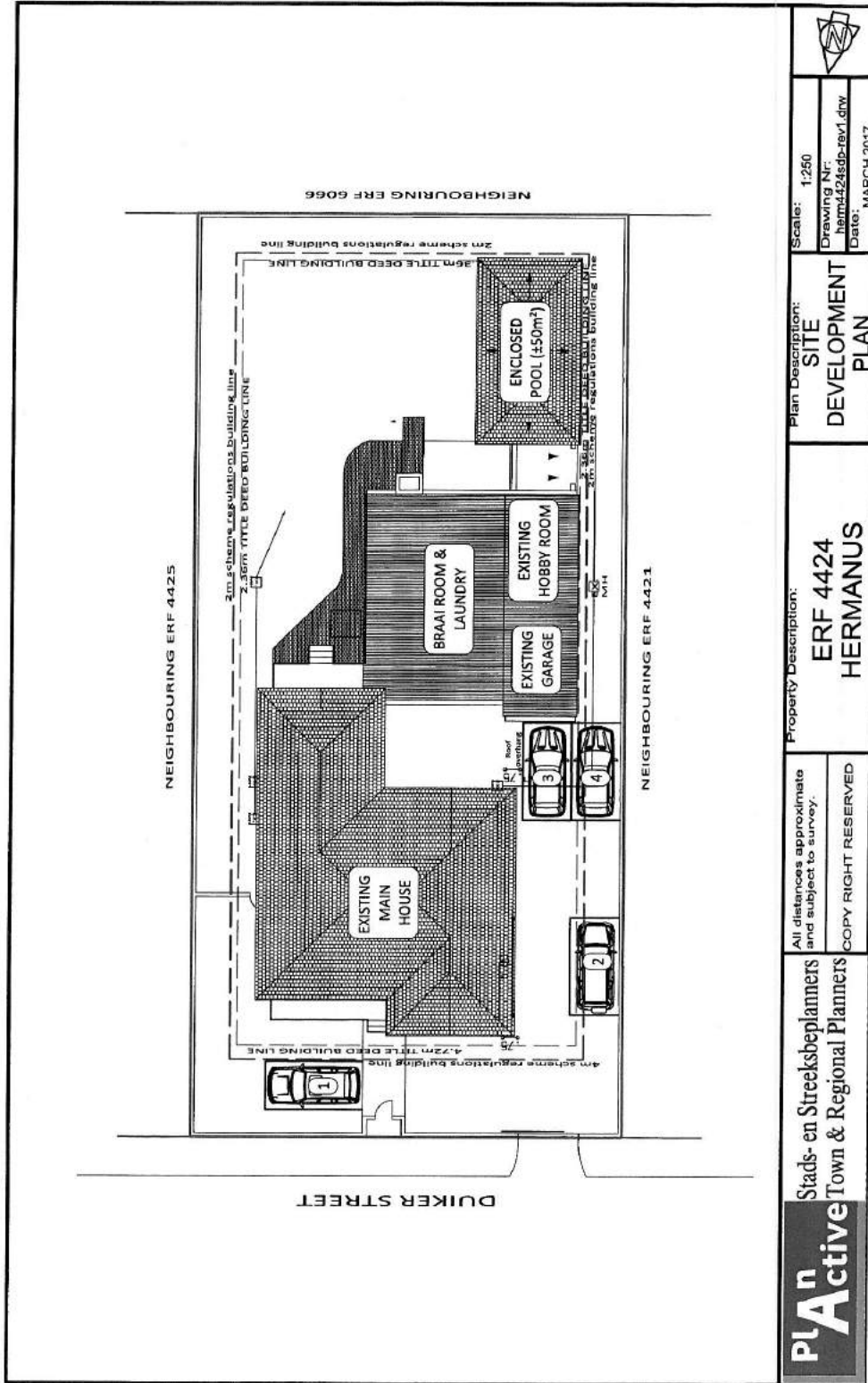
Scale: NTS
 Drawing Nr: herm4424.dwg
 Date: SEPTEMBER 2016

Plan Description:
LOCALITY MAP

Property Description:
**ERF 4424
 HERMANUS**

All distances approximate
 and subject to survey.
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Plan Active
 Stads- en Streeksbeplanners
 Town & Regional Planners



**PROPOSED REMOVAL OF RESTRICTIVE
TITLE DEED CONDITIONS**

ERF 4424 HERMANUS

**DIVISION: CALEDON
OVERSTRAND MUNICIPALITY**

MOTIVATION REPORT

1. BACKGROUND

Plan Active Town & Regional Planners has been appointed by C. & N. Mostert, the owners of erf 4424 Hermanus, to apply for the removal of restrictive title deed conditions of erf 4424 Hermanus.

Erf 4424 Hermanus is 1041m² in extent and held by title deed no. T10790/2014.

One of the owners of erf 4424 Hermanus, Mrs Mostert, currently operates a swimming school from the subject property. The swimming school is considered to be a home occupation as per the definition of a home occupation and as discussed with Mrs Hanneen van der Stoep at the Overstrand Municipality. However, the title deed of the subject property prohibits any form of home occupational practice on the subject property. It is therefore proposed to remove the relevant restrictive title deed condition to allow Mrs Mostert to practice a home occupation (swimming school) on the subject property.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the removal of the restrictive title deed conditions of erf 4424 Hermanus.

3. GENERAL APPLICATION INFORMATION

3.1 PROPERTY DESCRIPTION

Erf 4424 Hermanus is situated at 14 Duiker Street, Northcliff, Hermanus. Please refer to the locality plan attached. Erf 4424 Hermanus is 1041m² in extent and situated in a residential environment.

3.2 ZONING

The subject property is zoned Residential Zone I: Single Residential and is utilized as such.

Surrounding properties are zoned for Residential Zone I: Single Residential purposes.

3.3 LAND USE

Erf 4424 Hermanus

2



There is an existing single storey dwelling, single garage, hobby room, braai room, laundry and enclosed swimming pool situated on the subject property. All the existing structures as shown on the site development plan were built in line with the approved building plans. The subject property is therefore used for single residential purposes only.

Land uses that surround erf 4424 Hermanus are dwellings, apartments, a police station and public roads.

3.4 PROPOSED DEVELOPMENT

- The removal of the restrictive title deed conditions in terms of Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, to allow a home occupation (swimming school) on erf 4424 Hermanus.

There is an existing single storey dwelling, single garage, hobby room, braai room, laundry and enclosed swimming pool situated on the subject property. One of the owners of erf 4424 Hermanus, Mrs Mostert, currently operates a swimming school from the subject property. The swimming school is considered a home occupation as per the definition of a home occupation and as discussed with Mrs Hanneen van der Stoep, senior town planner at the Overstrand Municipality. A home occupation is a primary right on a Residential Zone I: Single Residential zoned property as stipulated in the Overstrand Zoning Scheme Regulations, 2013. However, the title deed of the subject property prohibits any type of home occupational practice on the subject property. It is therefore proposed to remove the relevant restrictive title deed condition to allow Mrs Mostert to practice a home occupation on the subject property. This application intends to address the aforementioned to allow Mrs Mostert to provide swimming lessons on erf 4424 Hermanus.

The Overstrand Zoning Scheme specifies the following primary rights for Residential Zone 1: Single Residential properties:

Day care centre, dwelling house, guest rooms, home occupation, second dwelling unit.

To practice a home occupation is therefore a primary right for Residential Zone I: Single Residential properties. However, title deed no. T10790/2014 has a condition that prohibits any form of home occupation on the subject property. It is therefore proposed to remove the condition in the title deed that prohibit home occupational practices (in this specific case a swimming school) on erf 4424 Hermanus since the title deed conditions contradicts the primary land use rights allowed for on erf 4424 Hermanus.

To accommodate a home occupation (swimming school) on erf 4424 Hermanus as part of the subject property's primary right in terms of the Overstrand Zoning Scheme Regulations (2013) it is proposed to remove the following condition in the title deed:

Title deed no. T10790/2014, page 2, paragraph C. 1.:

"Onderhewig verder aan die volgende voorwaardes bevat in gesegde Transportakte Nr. T12712/1945 opgelê deur die Administrateur van die Kaapprovinsie tydens die goedkeuring van Hermanus Dorpuitbreiding Nr. 4:

"As being in favour of the registered owner of any erf in the Township and subject to amendment or alteration by the Administration under the provisions of Section 18(3) of Ordinance No. 33/1934:

1. That this erf be used for residential purposes only.

The home occupation entails a swimming school on erf 4424 Hermanus. Details pertaining to the swimming school are as follows:

- The existing enclosed swimming pool in the south-western corner of the subject property is used for the swimming lessons.
- Swimming lessons are offered to children and adults (water aerobics) in the form of 20-30 minute sessions.
- Four children are accommodated per session.
- Operating hours: Mondays to Fridays from 10:00 to 17:30.
- A 15 minute interval is proposed between each session to ensure that no more than four vehicles are parked on erf 4424 Hermanus at any given time during the day.

The home occupation complies with all conditions as specified in the Overstrand Zoning Scheme Regulations (2013):

- Only Mrs Mostert is employed as part of the home occupation;
- The owner (Mrs Mostert) permanently resides on the subject property;

- The dominant use of the subject property will remain for the living accommodation of a single family;
- The total area to be used for home occupation (swimming school) purposes does not exceed 25% of the total floor area of the structures on the subject property. The swimming pool of $\pm 50\text{m}^2$ only amounts to 14% of the total area of the existing structures ($\pm 370\text{m}^2$);
- The swimming school is not associated with noxious trade, risk activities or the sale of alcoholic beverages;
- On-site parking must be provided (a minimum of two) and parking for clients must be provided to the satisfaction of the municipality. Provision is made for a single garage, one additional parking bay (shown as no. 5 on the site development plan) for the owners and four parking bays (shown as no. 1 – 4 on the site development plan) for the clients (adult swimmers or parents of children at the swimming school).

Please refer to the site development plan (SDP) attached.

The coverage of erf 4424 Hermanus, does not exceed the maximum coverage of 50% applicable to single residential erven. The coverage of erf 4424 Hermanus is $\pm 36\%$ ($\pm 370\text{m}^2$). Furthermore the existing structures were built in line with the approved building plans and no deviations from the zoning scheme regulations are required to accommodate the existing structures. The enclosed swimming pool does not encroach the title deed building lines – *the site development plan indicates the roof overhang.*

The zoning of erf 4424 Hermanus will remain unchanged (Residential Zone I: Single Residential).

The proposed removal of the restrictive title deed condition of erf 4424 Hermanus is not in contrast to the existing land uses tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

3.5 CHARACTER OF THE ENVIRONMENT

It is not proposed to change the land use of the subject property. The primary land use of erf 4424 Hermanus will remain (single residential). It is simply proposed to diversify the existing land use by allowing the owner to practice a home occupation from the subject property. The impact on the character of the area will therefore be kept to a minimum. It is foreseen that the vehicles travelling to the premises can have a slight impact on the immediate area if the vehicles were to park in the street. However, as mitigation measure the parking layout plan was compiled in such a manner to ensure that no more than four vehicles can be parked on the subject property (i.e. all four cars have to leave the premises simultaneously and the people coming for the next session cannot park in / block the vehicles since there is no space allowed for the aforementioned). Furthermore the second mitigation measure is the proposed 15 minute intervals between the swimming lessons and water aerobic classes to ensure that no vehicles are parked in the street – this interval will give the parents' time to leave and access the premises without having to wait for other parents to leave the premises before they can park on the subject property.

The swimming lessons and water aerobic classes are presented in a structured manner to keep noise levels to a minimum. It is therefore concluded that the home occupation (swimming school) will not have a negative impact on the privacy of neighbours.

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

The subject property's zoning and land use will remain unchanged. The location of the subject property within a single residential area allows the property to be developed (in future) for low impact land uses only such as a bed-and-breakfast, guesthouse, home occupation, etc. The removal of restrictions application will not hinder any future land use applications on erf 4424 Hermanus.

Since the land use and zoning will remain unchanged the impact on the surrounding properties will be kept to a minimum. Property values of surrounding erven will therefore not be negatively affected by the proposed application.

In addition the subject property is ideally located in Northcliff, close to the Main Road, residential areas and schools which also proves the subject property to be ideal to operate a swimming school. Also refer to Section 3.4 where the compliance with the requirements of a home occupation is described – further evidence that a portion of the existing structures has the potential to be utilized as swimming school.

3.7 IMPACT ON EXTERNAL ENGINEERING SERVICES

3.7.1 PROVISION OF SERVICES

All services on the subject property already exist. Additional services (if required) will be provided to the satisfaction of the Overstrand Municipality.

3.7.2 TRAFFIC IMPACT, PARKING AND ACCESS

Erf 4424 Hermanus takes access from Duiker Street. Visitors (clients) to the swimming school will make use of the existing access point. Consequently no new access points are proposed and the existing access point will remain unchanged.

The Overstrand Zoning Scheme Regulations stipulates that a minimum of two parking bays are required for single dwellings. Provision is made for a single garage on erf 4424 Hermanus. Furthermore there is ample space in front of the existing garage to accommodate one more parking bay for the owners (parking bay no. 5 on the SDP).

Since the home occupation (swimming school) will accommodate four children / adults per session, provision was made for one parking bay per client / parent. Four parking bays are therefore provided for on-site for use by the clients and parents of the children (parking bays no. 1 – 4 on the SDP). As previously mentioned it is foreseen that the vehicles travelling to the premises can have a slight impact on the immediate area if the vehicles park in the street. However, as mitigation measure the



parking layout plan was compiled in such a manner to ensure that no more than four vehicles can be parked on the subject property (i.e. all four cars have to leave the premises simultaneously and the people coming for the next session cannot park in / block the vehicles since there is no space allowed for the aforementioned). Furthermore the second mitigation measure is the proposed 15 minute intervals between the swimming lessons and aerobic classes to ensure that no vehicles are parked in the street – this interval will give the parents / clients time to leave and access the premises without having to wait for other parents / clients to leave the premises before they can park on the subject property.

The subject property will still be used for single residential purposes only and the swimming school will have a low impact on the traffic flow in the area.

3.8 TITLE DEED

As previously mentioned title deed no. T10790/2014 has a restrictive title deed condition that need to be removed in order for this application to be approved. Please refer to the conveyancer's certificate compiled by H.L. van Zyl from VZK Attorneys dated 27 September 2016. For detail pertaining to the removal of the restrictive title deed condition application refer to Section 3.4 of this report.

There is a bond registered at SA Homeloans against the subject property. The bondholder's consent was requested and will follow.

3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.9.1 HERITAGE VALUE



Erf 4424 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.

The existing structures on the subject property are not older than 60 years. Furthermore the existing structures will remain unchanged. 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.

In the light of the abovementioned it is evident that the proposed removal of restrictive title deed conditions will not have a negative impact on the heritage value of the Hermanus area.

3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed removal of the restrictive title deed condition does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

3.10 FORWARD PLANNING AND LAND USE DOCUMENTS

The *Overstrand Spatial Development Framework (2006)* earmarks the area where erf 4424 Hermanus is situated, for residential purposes. Please refer to the Spatial Development Framework Plan (2006) attached. The zoning of the subject property will remain unchanged (Residential Zone I: Single Residential) and therefore the proposed application falls within the existing planning for the Hermanus area.



The *Overstrand Municipal Growth Management Strategy (OMGMS, 2010)* specifies that erf 4424 Hermanus forms part of Planning Unit no. 9. This application does however not propose to create any additional portions, nor does it propose the construction of an additional dwelling unit on the subject property. The density will therefore remain unchanged.

From the above it is evident that the proposed removal of restrictive title deed conditions adheres to the spatial planning policies for the Hermanus area and consequently falls within the existing planning for the Hermanus area.

3.11 PLANNING PRINCIPLES

The planning principles of spatial justice and spatial resilience do not apply to this application.

Spatial sustainability: The existing structures are compatible with the character of the area and do not impact negatively on the rights of anyone else. The removal of the restrictive condition of the title deed is to allow the owner to exercise a primary right in terms of the existing zoning of erf 4424 Hermanus. The anticipated impact of the home occupation (swimming school) is considered low. The impact on the biophysical environment will also be kept to a minimum. Furthermore the extent of the subject property, low impact on the privacy of neighbours, compliance with the land use restrictions applicable concerning parking, coverage, height, street building lines, etc. allows for the consideration and approval of the removal of the restrictive title deed condition without having an adverse impact on the spatial sustainability of the area.

Efficiency: The subject property is easily accessible and conveniently located close to the Hermanus CBD, Main Road, residential areas and schools.

The removal of the restrictive title deed condition application proves to be efficient since it brings the title deed in line with the land use restrictions specified in the



Overstrand Zoning Scheme Regulations (2013). It is anticipated that the home occupation (swimming school) will have a low impact on the surrounding properties.

Good administration: Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation.

4. RECOMMENDATION

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


- A home occupation is a primary right on erf 4424 Hermanus. This application entails the removal of the restrictive title deed condition to allow the owners to exercise their primary right (in line with the minimum requirements of the relevant scheme regulations);
- All services on the subject property already exist. Additional services if required will be provided to the satisfaction of the Overstrand Municipality;
- The access point will remain unchanged and the impact on the traffic will be kept to a minimum;
- The existing structures are compatible with the character of the area and do not impact negatively on the rights of anyone else;
- Mitigating measures are proposed to ensure that no vehicles park in the street when arriving at the subject property for the swimming lessons;
- The proposed removal of the restrictive title deed condition will not have a negative impact on the current character and land values of the surrounding erven.

With regards to the above mentioned it would be appreciated if the delegated authority / the municipal planning tribunal would approve the removal of the restrictive title deed condition of erf 4424 Hermanus.

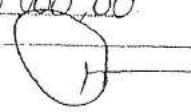
40

ROUX & VAN DYK
8 Sunbird Kantoorpark
Pasitlaan
Bellville
7530

Opgestel deur my


TRANSPORTBESORGER
ALISON CARON FORTUIN

Totale aankoopprys		Offisiële fee
Aankoopprys	Offisiële fee	
Purchase price/Value	R. 1 400 000,00	R. 900,00
Mortgage capital Amount		
Reason for exemption	Exempt from	

VERBOND	MORTGAGED
VIR R. 1 300 000,00	
B 000006665 / 2014	
2014-03-05	

DATA / CAPTURE
12 MAR 2014
MADAMAL

T 000010790 / 2014

TRANSPORTAKTE

HIERBY WORD BEKEND GEMAAK DAT

LINDA ANNE BIRCH. LOUIS PAUL VAN SCHALKWYK

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

1. WILLIAM JOHN BISHOP
Identiteitsnommer 690718 5022 084
Ongetroud
2. DEBORAH ANNE BISHOP
Identiteitsnommer 610428 0621 081
Ongetroud

geteken te HERMANUS op 23 AUGUSTUS 2013

DATA / VERIFY
17 MAR 2014
LARNIEY FATGEYAN

- 2 -

En genoemde Komparant het verklaar dat sy prinsipaal, op 22 Julie 2013, waarlik en wettiglik verkoop by Privaat ooreenkoms, en dat hy, in sy voorgenoemde hoedanigheid hierby sedeer en transporteer aan en ten gunste van

1. **CONRAD MOSTERT**
Identiteitsnommer 780903 5037 081
Getroud buite gemeenskap van goed
2. **NELMARI MOSTERT**
Identiteitsnommer 820116 0053 084
Getroud buite gemeenskap van goed

hulle Erfgename, Eksekuteurs, Administrateurs of Regverkrygendes, in volkome en vrye eiendom

ERF 4424 HERMANUS
GELEë IN DIE OVERSTRAND MUNISIPALITEIT
AFDELING CALEDON
WES-KAAP PROVINSIE

GROOT 1041 (EEN DUISEND EEN EN VEERTIG) Vierkante Meter

OORSPRONKLIK GETRANSPORTEER kragtens Transportakte Nr T12712/1945 met 'n Kaart nr 4149/45 wat daarop betrekking het EN GEHOU kragtens Transportakte Nr. T17120/2002.

- A. **ONDERHEWIG** aan die voorwaardes waarna verwys word in Transportakte Nr. T12712/1945, gedateer 19 September 1945;
- B. **ONDERHEWIG VERDER** aan die volgende voorwaardes bevat in Grondbrief uitgereik kragtens die bepalings van Artikel 10 van Wet nr 15/1887 op 5 Augustus 1922 (Caledon Eiendomsbriewe Boekdeel 3 Nr 8), naamlik:
 - (2) THAT all roads and thoroughfares over the land, whether or not described in the plan or diagram thereof, shall remain free and uninterrupted unless closed, diverted, or altered by competent authority.
 - (4) THAT the land hereby granted shall be subject to all rights and servitudes which now affect or at any time hereafter may be found to affect the title of the land hereby granted, or which may be binding on the State in respect of the said land as at the date hereof.
- C. **ONDERHEWIG VERDER** aan die volgende voorwaardes bevat in gesegde Transportakte Nr. T12712/1945 opgelê deur die Administrateur van die Kaapprovinsie tydens die goedkeuring van Hermanus Dorpuitbreiding Nr 4:

"As being in favour of the registered owner of any Erf in the Township and subject to amendment or alteration by the Administration under the provisions of Section 18(3) of Ordinance No. 33/1934:

- "1. That this erf be used for residential purposes only.
- "2. That only one dwelling together with such outbuildings as are ordinarily required to be used therewith be erected on this erf.
- "3. That not more than half the area of this erf be built upon.

GhostConvey 14.9.9.11

- 3 -

"4. That no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf. No such building or structure shall be situated within 2,36 metres of the lateral boundary common to any adjoining erf.

"As being in favour of the Administrator:

"5. That this erf be not subdivided except with the consent in writing of the Administrator.

"As being in favour of the Municipality:

"6. That the owner of this erf shall be obliged to allow the drainage or sewerage of any other erf to be conveyed over this erf if deemed necessary by the Council of the Municipality of Hermanus, and in such manner and in such position as may from time to time be reasonably required by the said Municipality.

D. ONDERHEWIG VERDER aan die volgende spesiale voorwaardes bevat in gesegde Transportakte Nr T12712/1945 opgelê deur die Raad van die Munisipaliteit van Hermanus vir sy eie voordeel:

(a) No person, Company or Syndicate shall at any time own more than four vacant erven in this Extension (Hermanus Township Extension No. 4).

(b) No person shall construct a dwelling with the necessary outbuildings at a cost of less than One Thousand Two Hundred (R1 200,00) on this erf.

E. NIE ONDERHEWIG aan voorwaarde B (3) op bladsy 3 van Transportakte Nr T17120/2002 weens die bepalings van Artikel 53 van die Myntitels en Registrasie Wysigingswet Nr 24 van 2003.

- 4 -

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

1. WILLIAM JOHN BISHOP , Ongetroud
2. DEBORAH ANNE BISHOP , Ongetroud

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

1. CONRAD MOSTERT , Getroud soos vermeld
2. NELMARI MOSTERT , Getroud soos vermeld

hulle Erfgename, Eksekuteurs, Administrateurs of Regverkrygendes, tans en voortaan daartoe geregtig is, ooreenkomstig plaaslike gebruik, behoudens die regte van die Staat en ten slotte erken hulle dat die verkoopprijs die bedrag van R1 400 000,00 (Een Miljoen Vier Honderd Duisend Rand) beloop.

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

ALDUS GEDOEN EN VERLY op die Kantoor van die REGISTRATEUR VAN AKTES te Kaapstad op 5 Maart 2014

In my teenwoordigheid

REGISTRATEUR VAN AKTES

Certified a true copy of the original filed of record in this Registry in terms of	
REG. 66	
Deeds Registry Cape Town	15/8/16
	Registrar of Deeds

objection

ANNEXURE E 1/6

Loretta Gillion - objection - Erf 4424, Hermanus

From: "S Panebianco" <spanebianco@telkomsa.net>
To: <loretta@overstrand.gov.za>
Date: 16/01/2017 08:10 PM
Subject: objection

TP- A Theart
(H Olivier)



Overstrand Municipality

Dept. Town Planning

16 Paterson Street

Hermanus 7200

17/01/2017

January 2015.

FILE NO:	Erf 4424 Hermanus
SCAN NO:	03
COLLABORATOR NO:	985646

Re: Application of removal of restrictive title conditions with ref. To clause C 1 of the title deed T10790/2014 in terms of section 16(2)(F) applicable to Erf 4424 Hermanus: To operate a home occupation i.e. a swimming school on the said property.

We Mr. G. and Mrs. S.S. Panebianco are the owners of a property on Erf 4425 which is adjacent to the property on which a swimming school have been in operation since 2015. Our tenants have been complaining to us about the traffic problem since then.

On some days cars are parked on either side of the road and also in front of our tenants gate. As much as nine cars have been counted on many days with children running across the road causing danger for themselves and other customers. They arrive and leave in intervals of 30 minutes. Their staff also leaves at 18.30 and not 17.30 as suggested in the application. On site parking is limited, and staff also park in the road.

From the application we see that they propose to also extend the swimschool through water aerobics into a lifestyle and health centre that will surely increase traffic and hours of operation. The plans provided are vague and without proper description. The plans also reflect that parking will be available but we do not see that this will be possible. We feel that the new application will even aggravate the traffic problem which already exist.

Have the proper regulations been followed when the swimschool was started? We do not think so and therefore feel that lifting the restrictive conditions as proposed will encourage more problems than already exists. The application should in our opinion not be granted and even considered.

Kind regards

TP

file:///C:/Users/loretta/AppData/Local/Temp/XPgrpwise/587D28AAHermanusMunpo... 2017/01/17

objection

ANNEXURE E 2/6

Mr. Giuseppe and Mrs S.S.Panebianco

Tel:0283121058



This email has been checked for viruses by Avast antivirus software.
www.avast.com

ANNEXURE E 3/6



TR A Theart
C H Olivier)

15 Duiker Street
Hermanus
7200

18 January 2017

The Town Planner
16 Paterson Street
Hermanus
7200

FILE NO:	EL 4424
	Herm
SCAN NO:	04
COLLABORATOR NO:	987432

Dear sir/madam,

PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS OF ERF 4424 HERMANUS

With regards to the above mentioned application for the removal of restrictive title deed conditions of erf 4424 (14 Duiker Street, Hermanus), I, the owner and fulltime inhabitant of 15 Duiker Street wish to register my strongest objections.

To begin with and as mentioned in the application, all of the surrounding properties are only zoned for residential purposes and thus allowing the applicant to continue operating their business will fundamentally change the nature of the street and indeed the suburb. My family

has lived at 15 Duiker Street for many decades and it has always been a quiet, peaceful and safe street. Since the arrival of the swimming school however, this is no longer the case.

Residents are being subjected to a bombardment of cars (many of them huge SUVs) that park all over the street and on the pavement, and in so doing obstruct driveways and the ability of residents to see oncoming traffic when coming out of their driveways.

Furthermore, the often rude drivers/parents do not adequately supervise their children, who regularly simply run into the street, thus endangering not only their own lives, but also those of residents leaving/arriving at their homes.

While the proposal mentions four off street parkings, the size of the SUVs and the likelihood that parents will not want to be parked in are unlikely to solve the parking/visibility problems. Also, the rudeness of the drivers encountered thus far means that they are unlikely to listen and park in the designated spots. The proposed 15 minute interval is also unlikely to be effective, since departing and arriving parents often stand and talk for extended periods of time and those arriving early will inevitably park in the street because the off street parkings are already occupied.

With respect to the property value, while the proposal states that the removal of the restrictions will have no negative impact on the neighbours' property value, this is at best speculation.

TP

13 JAN 2017

What is perhaps most concerning about the whole situation though, is the fact that the business was started without ever consulting or informing the neighbours and now that it is 'up and running', suddenly the owners are following the legal channels. Allowing them to continue to operate/removing the restrictions will thus set a dangerous precedent whereby people can simply start operating a business from their property and get it approved retrospectively without any concern for the other residents and the neighbourhood.

Yours faithfully,

AG Murdoch

AG MURDOCH

ANNEXURE E 5/6

To: Overstrand Municipality
 Department: Town Planning
 16 Paterson Street
 Hermanus 7200

loretta@overstrand.gov.za

From: Willem van Wyk
 13 Duikerstr
 Hermanus 7200
 Tel: 0834757290

bellini@telkomsa.net



TP - A Theart
 CH Olivier)

FILE NO:	EL 4424
SCAN NO:	
COLLABORATOR NO:	987668

16 January 2017

Dear sir/madam,

Re: Application of removal of restrictive title conditions with reference to Clause C.1 of the Title Deed T10790/2014 in terms of section 16(2)(f) applicable to Erf 4424, Hermanus, to operate a home occupation (swimming school) on the property.

As neighbours living opposite number 14, we feel the impact of increased traffic and parking in the road due to the business being run at 14 Duiker Street is much worse than the minimal amount purported by the application.

Since January 2015 the swimming school has been operating outside of the Zoning Scheme not in accordance with the now handed in application to remove deed restrictions. Furthermore, neighbours' suggestions to reduce the nuisance have been ignored.

Deviations from the Zoning Scheme and application are as follows:

- Up to 9 cars are parked in the road, on both sides, and facing in both directions.
- Entrances are blocked and unsupervised children run across the road, causing danger for themselves and others.
- Customers arrive and leave in 30 minute intervals.
- Last customers and staff leave at 18h30 (not 17h30).

Other causes for concern include the following:

- At least on person besides Mrs Mostert seems to be involved in the business and parks her car in the road daily.

✓
HNC

TP 19 JAN 2017

- Public advertisements and the application show the intention to extend the swim school through water aerobics into a lifestyle and health centre, that will increase traffic and hours of operation.
- Plans provided with the application are without measurements and proper description. They don't reflect clearly the actual buildings and, for example, pretend the on-site parking bays are already existing.
- It is impossible to determine from these plans whether or not the maximum coverage for all buildings on the land unit is exceeded.
- The newly built covered pool was obviously built for commercial purposes. Were safety, health and building regulations adhered to?

By not even catering for half of the volume of traffic currently generated by the business, the proposed "mitigating parking system" reads like a joke and accepting the proposed onsite parking system with timeslots to remove cars etc., with no provision for emergencies, makes a fool of anybody as it is NOT a practical proposition.

It is clear that the applicant ignored all rules and regulations - from building the pool to operating the swimming school. Thus, lifting of restrictive conditions as proposed will encourage more nuisance than already exists.
The application should thus not be granted.

Yours faithfully

A handwritten signature in black ink, appearing to read 'M. J. ...', is written below the text 'Yours faithfully'.

PLAN Active
Town & Regional Planners
Stads- en Streekskiedkundige



ANNEXURE F 1/6

TP-A Theert
CH vld stoep

6 Magnolia St / Str
PO Box / Posbus 296
HERMANUS
7200
Tel: (028) 313 1673
Fax / Faks: (028) 312 1351
Email: planactive@hermanus.co.za
Website: www.planactive.co.za

Our reference: PA16067/ML
Your reference: 4424 HNC (3479)

16 FEBRUARY 2017

THE MUNICIPAL MANAGER
OVERSTRAND MUNICIPALITY
P.O. BOX 20
HERMANUS
7200

FILE NO:	EL 4424 HNC
SCAN NO:	50
COLLABORATOR NO:	995271

FOR ATTENTION: MRS HANNEEN VAN DER STOEP

Sir

PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: ERF 4424 HERMANUS

- **C. & N. MOSTERT**

Reference is made to our application dated 13 October 2016 as well as your letter dated 25 January 2017 with objections attached thereto.

Objections were received from G. & S.S. Panebianco, A.G. Murdoch and W. van Wyk. The objections can be summarized as follows:

- *The vehicles of the people visiting the swim school are parked on opposite sides of the road, on the pavements and in front of the neighbours' gate. The aforementioned obstruct driveways and the ability of residents to see oncoming traffic. The application to accommodate the swim school and water aerobics (lifestyle and health centre) will aggravate the existing problem.*
- *The operating hours are not as described in the application (staff only leave at 18:30 and not 17:30 as suggested).*
- *The plans reflect that parking will be available on site but the objector questions the viability thereof. The plans do not reflect the measurements and coverage. Was the swimming pool built in line with safety, health and building regulations?*
- *The proposed land use will change the character of the street and the suburb (quiet, peaceful and safe street / area).*
- *There is a safety risk for unsupervised children as well as residents crossing the road.*
- *The 15 minute interval between classes will be ineffective since departing and arriving parents stand and talk for extended periods of time (leaving the demarcated parking bays occupied for new visitors). The "mitigating parking system" is not practical.*
- *The business was started without consulting the neighbours and is being operated outside of the zoning scheme. The proposal will set a dangerous precedent for the area where people*

Divine Inspiration Trading 329 (Pty) Ltd. trading as Plan Active
Reg. No. 2006/030921/07
Vat. No. 4770250340

John Mc Lachlan: Ndip (Town Planning) Tech Witwatersrand; MSAPI
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)
Meriké Lerm: B. Art et Scien Cum Laude (Town Planning) UNW; SACTRP

can simply start operating a business from their property and get it approved retrospectively without any concern to the other residents and the neighbourhood.

Our response to the objections is as follows:

1. Parking, safety risk and operating hours

The abovementioned was brought under the attention of our client. Since the objection letters were received the owners of erf 4424 Hermanus have undertaken the following actions to ensure that they meet the requirements of the Overstrand Zoning Scheme Regulations (2013):

- Various emails were sent to their clients (see example attached) making them aware of the potential problem and requesting that they keep to the applicable parking arrangements.
- Since January 2017 all classes after 17:30 were cancelled.
- The parking bays on site were made available for parking since end of January 2017.
- Verbal and Whatsapp messages were sent to clients to remind them to park within the premises.
- The domestic worker and gardener were requested to encourage clients to park on the premises.
- The owners have lodged a pledge campaign (www.hermanusaquakids.co.za/home/pledge) requesting all clients to park their vehicles within the premises (refer to list of clients names that already undertook the pledge).

The parking mitigating system (15 minute intervals between sessions) will be effective if all clients adhere to the proposed parking arrangements on site. As stipulated above our client has (and is still) going through extreme measures to ensure compliance with the parking requirements. Staff and the owners themselves will keep on encouraging visitors to the swimming school to adhere to the parking arrangements proposed with this application.

2. Parking layout and building plans

The site development plans makes provision for four (4) parking bays for use by the visitors to the swimming school. As mentioned in our report, groups of four children / adults will be accommodated at each class (hence four parking bays on site will suffice). The measurements of the parking bays (3m x 5,5m) meet the requirements of the size of a parking bay (2,5m x 5m). Since the vehicles will simultaneously arrive and depart from the property (with the 15 minute interval allowing sufficient time in between sessions / classes), the deviation from providing maneuver space on site for each parking bay can be considered.

The coverage of erf 4424 Hermanus was mentioned in our motivation report and is $\pm 36\%$ ($\pm 370m^2$). Furthermore the existing structures (including the swimming pool) were built in line with the approved building plans, no new structures are proposed and no deviations from the zoning scheme regulations are required to accommodate the existing structures.

3. Impact on the character of the area

It is not proposed to change the primary land use of the subject property. The primary land use of erf 4424 Hermanus will remain (single residential). It is simply proposed to diversify the existing land use by allowing the owner to practice a home occupation from the subject property. The impact on the character of the area will therefore be kept to a minimum. It is foreseen that the vehicles travelling to the premises can have a slight impact on the immediate area if the vehicles were to

park in the street; hence mitigating measures are proposed to address the impact the traffic to the site will have.

It is worth noting that none of the objectors complained about the possible noise associated with the swimming lessons / water aerobic classes. The aforementioned confirms that the swimming lessons and water aerobic classes are presented in a structured manner to keep noise levels and the possible impact on the privacy of neighbours to a minimum.

4. Illegal swimming school and the precedent it creates

We would like to emphasize that this application does not propose a Lifestyle and Health Centre (this statement from the objectors is ludicrous). The swimming school is already operational since it is considered a home occupation as per the definition of a home occupation. However, the title deed of the subject property prohibits any type of home occupational practice on the subject property and consequently a land use (removal of restrictive title deed conditions) application was submitted.

The removal of the restrictive title deed conditions application does not propose more land uses than what is allowed for under Single Residential Zone 1. The zoning will remain unchanged and the primary right is still for the use of living purposes of a single family. To exercise an additional right in terms of the zoning scheme is considered a low impact land use (hence it is called an additional right and not consent use right). A property owner does not require the consent from the neighbours to exercise a home occupation from his / her premises. In this case the subject property's title deed restricts the home occupation and hence a public participation process was followed to notify the neighbours of the proposed removal of the restrictive title deed condition application. The correct land use procedures are being followed.

No commercial enterprise or commercial zoning is proposed with this application. Consequently the statement that the swimming school creates a precedent should be dismissed. The land use (home occupation) is compatible with the residential area.

We trust that you find the above in order and that you will be able to proceed with the further processing of the application.

Yours faithfully

**M. LERM Pr. Pln. (A/158/2009)
PLAN ACTIVE**

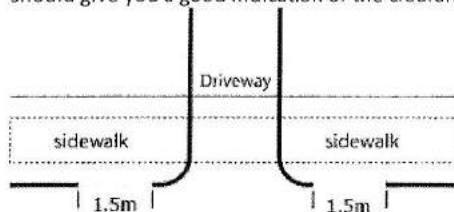
ANNEXURE F 4/6

Subject: Aqua Kids Parking - IMPORTANT NOTICE!
From: "Hermanus Aqua Kids" <info@hermanusaquakids.co.za>
Sent: 2016/08/17 05:56:12 PM
To: "Aqua Kids" <info@hermanusaquakids.co.za>;

Dear parents

It has been recently brought to our attention that some of our neighbours are a bit unhappy about the parking situation during swimming sessions and logged a complaint with the municipality about the matter. After subsequent discussions with Town Planning we are embarking on a process of trying to obtain permission from the Municipality for the lifting of some restrictions which would allow us to create three or four parking bays inside our property. With this being a rather lengthy process we really urge you to be considerate to our neighbours when parking in the street, otherwise we could be forced to close the Swim School.

Please, at all cost, try to avoid parking in front of the house opposite to ours (13 Duiker Street)! Town Planning also suggested that we try and keep to one side of the road (preferably our side). With some SUV and 4x4 vehicles parking opposite each other, it is very difficult for other road users to pass each other without one giving way. At the same time it is also safer by eliminating the chances of children trying to cross the street by themselves. The two houses to the left of ours (10 & 12 Duiker Street) are both holiday homes which should allow for parking on the same side of the road. Should you need to park in front of 16 Duiker Street (house to our right) which is **not** a holiday home, please ensure you do not park too close to the driveway as it makes it very difficult to see any oncoming traffic when trying to get out. The image below should give you a good indication of the clearance distance.



Please keep yellow area clear

We thank you in advance for your consideration and hope you will make an effort to help us in this regard. PS, please share this communication with any other family members that might bring your children for swim lessons.
 Kind regards,
 Nelmari

ANNEXURE F 5/6

FirstName	LastName	MobileNumber	EmailAddress
Selmari	Slot	824991092	selmari.slot@gmail.com
Anneline	Hugo	722440233	annelinehugo@gmail.com
Markolize	Volschenk	828779931	markolize@suregiltedge.com
Jacques	Du Toit	832294723	jacques@gtlaw.co.za
Jolene	Piek	833081799	jolenedeklerk@gmail.com
Leanne	McConnell	731476494	leannesteinmann@yahoo.com
Amanda	Hofmeyr	824477946	amandambest@hotmail.com
Andy	Roodt	847263974	Andyon7a7@gmail.com
Bernice	Zietsman	844980779	bernicezietsman@gmail.com
Karen	Isted	764680445	k.isted@gmail.com
Gary	Youell	823328897	gary@creating.co.za
nandie	swarts	827839357	nandieduplooy@gmail.com
Anita	Taylor	824308134	conceptsadmin@hermanus.co.za
Sheraleen	Corbett-Meyer	829261386	sheraleenmeyer@gmail.com
Amanda	Vd merwe	839804915	amanda@subseasa.com
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Louisa	Kruger	826567273	fransenlouisa@gmail.com
VANESSA	FERREIRA	824699305	overbergreinforcing@telkomsa.net
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Ezel	Kotze	721480470	ezelkotze@gmail.com
Wilna	Calitz	848500082	calitzwilna@gmail.com
Nicole	du Toit	795091538	nickydt@yahoo.com
Jessica	Faircliff	834692966	jess@databias.co.za
Amanda	Ellwanger	795996870	Amanda.ellwanger@gmail.com
Mags	Combrinck	825739923	magscombrinck@yahoo.com
Philip-Ben	Kotze	823217888	capedutch@hermanuspharmacy.co.za
Anine	Van der Westhuizen	711650514	anine@vgimmigration.com
Kate	Niemantinga	722958447	kateniemantinga@gmail.com
Susan	Van Schouwen	728786537	susanpeiser@gmail.com
Melanie	Joubery	793787713	Mmjoubert@gmail.com
Linda	Koekemoer	725900992	linkoekemoer80@gmail.com
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ANNEXURE F 6/6

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**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIONS: ERF 4424,
NORTHCLIFF (3479)**

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

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the owner's cost;
3. that stormwater be allowed to discharge through Erf 4424, Northcliff, unobstructed;
4. that no on-street parking be allowed.



**DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES**



DATE