

4.3**ERF 987, 30 MOFFAT STREET, HERMANUS (EASTCLIFF), OVERSTRAND MUNICIPAL AREA: REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: MESSRS PLAN ACTIVE TOWN- AND REGIONAL PLANNERS ON BEHALF OF PM HEYNS****987 HEC (3784)****P Roux****16 August 2018****(028) 313 8900****Hermanus Administration****1. EXECUTIVE SUMMARY**

An application has been received on 13 September 2017 from Messrs PlanActive Town- and Regional Planners on behalf of the owner of Erf 987, Hermanus (Eastcliff), PM Heyns, for the following:

- ❖ removal of restrictive title deed conditions in terms of Section 16(2)(f) of the Overstrand By-law on Municipal Land Use Planning, 2015 (By-Law) in order to conduct a dental practice from the residence and the retention of the existing carport; and
- ❖ departure in terms of Section (2)(b) of the By-Law to relax the lateral building line from 2m to 0m in order to retain the existing carport.

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

Erf 987, Hermanus (Eastcliff) is zoned as Single Residential Zone 1 and is developed with a dwelling and outbuilding. The wish to operate a dental practice from the residence will be in line with the primary use for home occupation. However, the Title Deed of the property has a restrictive condition which limits the use of the property to residential only. The applicant seeks to remove the restrictive condition. The applicant also seeks a departure from the lateral building line in order to legalize the existing carport structure.

4. SUMMARY OF APPLICANT'S MOTIVATION

The detailed motivation for the proposed application (attached as Annexure B to the item) must be read together with this summary below:

- ❖ Erf 987 Eastcliff is 694m² in extent and is held by Title Deed No. T48386/2017.
- ❖ The subject property is situated in a residential area and across the street from Hermanus High School.
- ❖ The Title Deed applicable to Erf 987, Hermanus is more restrictive in terms of building lines and use of the property than the current Zoning Scheme.
- ❖ The property owner seeks to operate a home occupation (dental practise) and retain the existing carport, therefore the following is proposed:

- departure in terms of Section 16 (2)(b) of the By-Law for the lateral building line from 2m to 0m in order to retain the existing carport on the lateral boundary; and
 - removal of title deed restrictions in terms of Section 16(2)(f) of the By-Law to conduct a dental practice from the residence and to allow the retention of the existing carport.
- ❖ Title Deed T48386/2017 applicable to the property Page 2, paragraph B.A.(a) stipulates restrictive conditions which relate to:
- *that this erf be used for residential purposes only;*
- and Page 2, paragraph B.A.(d) which stipulates restrictive conditions which relate to:
- *that no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 4,72m to the street line which forms a boundary of this erf. No such building or structure shall be situated within 1,57m of the lateral boundary common to adjoining erf.*
- ❖ The use and zoning of the property will remain unchanged and in line with the zoning of the neighbouring properties.
- ❖ The proposed dental practice will be in compliance with the parameters for home occupation as stipulated in the Zoning Scheme.
- ❖ Although removal of the title deed condition is requested for the proposed dental practice, the proposed use is not applied for as it is a primary right with the only restriction that which is stated in the Zoning Scheme.
- ❖ No additional structures will be built and no additional services will be required.
- ❖ The applicant further motivates that the proposal is in line with Overstrand Municipality's forward planning documentation and the planning principles as depicted in the planning legislation.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Notices	Yes	08/03/2018	20/04/2018
Ward councillor	Yes	14/03/2018	20/04/2018
Provincial Gazette	Yes	16/03/2018	20/04/2018
Local newspaper	Yes	13/03/2018	20/04/2018
Total letters of objection	One (1)		
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?			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
Ward Councillor	14/03/2018	If there is no approved plan for the carport, how could the sale have been legally passed? Should there be any objections forthcoming, I will not support this application.	Negative
Building Department	26/03/2018	Supported subject to compliance with SANS 10400 and heritage approval	Positive
Local Heritage	27/03/2018	No comment.	Positive
Environmental Section	04/04/2018	No objection	Positive
Engineering Services	25/04/2018	Annexure G.	Positive
Fire Department	22/05/2018	Annexure H.	Positive

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Two (2) objections were received against the application from two (2) adjacent property owners; however one (1) was withdrawn in support of the application. The remaining objection is from Mr and Mrs Romburgh, property owners of Erf 988, Hermanus (Eastcliff).

The full objection and response thereto is attached to this item and should be read together with the summary below:

Eastcliff and Moffat Street is an established old residential neighbourhood with no premises currently operating a home based business. The proposal will affect property value in the street and change the character of the quiet residential environment. Any advertising for the practice will be an eye sore. It will further create a precedent for future endeavours.

Applicant's response

The Overstrand Municipality Zoning Scheme Regulations makes provision for home occupation as a primary right subject to the restrictions as listed in the regulations. The proposed use will comply with all of the parameters as set forth and therefore the primary use will remain single residential. The retention of the primary use will allow the character of the area to be unchanged and therefore the dental practice will not have a negative effect on the residential character.

Advertising will be professionally designed and will also be submitted to the Municipality for their approval. The property owner will ensure that the signage is tasteful and that it would not retract from the current character and land values of the area.

Town Planner's response

The objection of the next door property owner is noted. This report will seek to establish whether the removal of the title deed restriction will have a negative impact on the character of the area.

Lack of sufficient parking available on site due to narrow driveways, and therefore vehicles will be parked across the street near the school. This would add to the busy intersection of arriving and departing cars during drop off and collection times.

Traffic issues may also occur due to traffic during peak times, this will be magnified by the coming and going of guests.

Applicant's response

A single garage and parking bay behind the garage is for the sole use of the owner of the subject erf. Two (2) additional parking bays are provided for patients that will not interfere with the vehicular movement of the owner's vehicles. The two (2) additional parking bays are allocated for the use of patients only, further the parking bays are positioned not to interfere with one another. Two (2) parking bays are sufficient as the patients will only be seen on appointment with one (1) patient being treated and the next patient waiting.

Vehicular impact will be minimal and not have a negative impact on traffic flow as only one (1) to two (2) vehicles are anticipated to exit and enter in an hour.

Town Planner's response

Parking bays are provided on the Site Development Plan. The application was also circulated to the traffic department who did not respond to the application, and to the Engineering Department who indicated that the roads and traffic are in order.

Noise pollution as there are high pitched noise coming from dentistry's drills and other equipment, the coming and going of staff and patients to be disruptive and irritating to the immediate neighbours.

Applicant's response

The high school causes a greater cumulative impact on noise levels than the dental practice will. This is due to the activities which take place on the sports fields. The applicant also states that the noise generated by the equipment will not be more than that of a typical conversation this is due to how the humans perceive noise.

Town Planner's response

The response provided by the applicant is noted. The property owner can also install mitigation measures to prohibit noise pollution caused by the dentistry.

Medical waste will be stored on the property and collected once a week which is a worrying factor. The potential exist for used hypodermic needles, etc. to be misplaced.

Applicant's response

Medical waste will be sorted into two (2) separate containers one for sharp objects and one for soft waste. The containers are kept in a sterilised room. Medical waste is collected by a specialized company and it will not be disposed with the domestic waste.

Town Planner's response

The response provided by the applicant is agreed with.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See comment above.

9. MUNICIPAL ASSESSMENT OF COMMENTS

Comment received from the Ward Councillor is as follows:

"If there is no approved plan for the carport, how could the sale have been legally passed? Should there be any objections forthcoming, I will not support this application."

Town Planners' response

The sale of the property is not subject to the approval of building plans, unless the buyer and seller is in agreement that approved building plans must be furnished before the sale can take place. The Building Department cannot stop the sale of a property on account of illegal building work. Lastly the objections provided by the adjacent property owner are sufficiently addressed.

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

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

The proposed application is considered consistent in the following manner from a town planning perspective:

Spatial Justice

The proposed departure and removal of the restriction of the Title Deed will not further promote the spatial development imbalances. The proposed application is in character with the existing area where similar uses have occurred in the past and thereby the approval of the proposed application will not be spatial bias.

Spatial sustainability

The application is considered spatially sustainable as the existing property will be more optimally utilised without affecting natural vegetation. The existing structures are compatible with the character of the area and do not impact conservation worthy areas of Hermanus. The dental practice will be in close proximity to the high and primary schools and it would therefore be easily accessible for school children to obtain regular dental check-ups.

Efficiency

The proposed application only affects the current property and its immediate neighbouring properties, and therefore has limited impact. Further, the property has been in existence since 1995.

Spatial resilience

The application will ensure that the existing resource (land) is utilised in line with the Overstrand Municipality's forward planning documents.

Good administration

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

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

Same as above.

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

The primary uses are in line with the land use parameters in terms of the Zoning Scheme. The proposed application is further in line with the principles of the Overstrand Municipality Wide Spatial Development Framework, 2006 (SDF).

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

Not applicable.

10.5 Impact on municipal engineering services

Services are to be rendered as stated in the Services Report. No additional services will be required.

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

The proposed application does not trigger any listed activity in terms of NEMA.

10.7 Existing and proposed zoning comparisons and considerations

The subject property is zoned Single Residential Zone 1 and therefore Single Residential Zone 1 parameters as described in the Overstrand Municipal Zoning Scheme, 2013 are applicable.

10.8 The desirability of the proposal

Initially the applicant sought to acquire approval for the following proposals:

- ❖ departure in terms of Section 16(2)(b) of the By-Law for a building line relaxation from 2m to 0m to accommodate the existing carport on the lateral boundary;
- ❖ removal of restrictive title deed conditions in terms of Section 16(2)(f) of the By-Law applicable to the property, which read as follows:

Page 2, paragraph B.A.(a) which stipulates restrictive conditions which relate to;

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

Page 2, paragraph B.A.(d) which stipulates restrictive conditions which relate to:

“That no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 4,72m to the street line which forms a boundary of this erf. No such building or structure shall be situated within 1,57m of the lateral boundary common to adjoining erf.”

The first proposal is a building line relaxation from 2m to 0m to accommodate the existing carport. It is also proposed to remove Condition B.A.(d) of title deed in order to accommodate the existing structure.

A site inspection was done and it was noted that the carport in front of the garage was demolished. The applicant was contacted regarding the application to depart from the 2m lateral building line and the removal of condition Condition B.A.(d). The applicant stated that there was a miscommunication with the property owner and the application for the retention of the carport is not required. Thus the carport will not be considered in this evaluation.

10.9 ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

As stated previously removal of condition B.A.(d) will allow the property owner to retain the existing carport which is part of the departure application and can be considered positively.

A Conveyance's Certificate was submitted with the application indicating that it is required to remove the restrictive condition on Page 2, paragraph B.A.(a) to allow the property owner to utilize his property in line with primary rights as depicted in the Zoning Scheme. In this specific instance the property owner seeks to conduct a dental practice from the dwelling. The dental practice itself will comply with the provisions of the Zoning Scheme as motivated by the applicant. However, due to the restrictive title deed condition the property owner was obligated to submit an application. The issues as mentioned by the objector have been addressed by the applicant and can be managed by the property owner.

As stated by the applicant the subject property is situated next to the high school where various activities take place. Further, in the Eastcliff suburb various other activities are taking place in line with the primary right in terms of the Zoning Scheme.

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

Will financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement

The property owner will be able to act upon the rights provided to him/her through the Zoning Scheme, thus adding value to his/her property. It is further clear that the restrictive conditions were registered to create a residential character in Eastcliff. The proposed dental practice will be compliant with the Zoning Scheme Regulations and be situated in the existing dwelling and therefore the removal of the restrictive conditions is still considered to be in line with the character of the area.

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

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

The personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended

As stated earlier the property owner will be enabled to develop his/her property in line with the Scheme Regulations.

The social benefit of the restrictive condition remaining in place in its existing form and the social benefit of the removal, suspension or amendment of the restrictive condition

There is no social benefit should the condition remain in place. The proposed dental practice will however have a social (communal) benefit to the community living in the area due to the proximity to the school.

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 zonings, e.g. residential. The residential rights of the adjacent property owners will not be affected.

Given the abovementioned evaluation the opinion is held that if the restrictive conditions are removed as proposed, it will allow the property owner to retain the existing structure and to develop the property in line with the Zoning

Scheme parameters and operate a dental practice. The opinion is further held that the proposal is sufficiently evaluated in terms of Section 39(5) of LUPA, 2014 (Act 3 of 2014).

11. RECOMMENDATION

1. that, the application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title conditions B A (a) as contained in Title Deed T48386/2017 applicable to Erf 987, Hermanus (Eastcliff), in order to be in line with the primary rights and development parameters applicable to single residential properties as set out in the Overstrand Zoning Scheme, **be approved** in terms of the provisions of Section 61 of the By-Law and subject to the following conditions:
 - (a) that this approval is for the development as indicated on the Site Development Plan that was submitted with the application;
 - (b) that building plans be submitted to the Building Department for approval;
 - (c) that the conditions compiled by the Fire Department (Annexure H), be complied with;
 - (d) 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;
 - (e) that the dental practice complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;
 - (f) that should complaints be received, regarding noise pollution, the property owner at his/her cost appoint a specialist to conduct a noise impact assessment in accordance with SANS 10328 to establish whether the noise impact rating of the proposed land use or activity exceeds the appropriate rating level for a particular district as indicated in SANS 10103;
 - (g) that all the conditions in the Services Report (attached as Annexure G), be complied with, and;
 - (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.
2. that the applicant and objector be notified of their respective appeal rights in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditional approvals.

11. REASONS FOR RECOMMENDATION

- ❖ The encroachment of the lateral building line has a minimal impact on the adjoining neighbours.
- ❖ The objections received have been sufficiently addressed and any issues can be mitigated by the property owner.
- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ Local and provincial departments have provided supporting comments for the proposed application.
- ❖ The relevant legislation was considered with the removal of the restrictive conditions in the Title Deed.
- ❖ The proposal is compliant with the spatial policies contained in the SDF.
- ❖ The proposal is constant with the spatial principles as set out in SPLUMA and LUPA.

12. Annexures

Annexure A:	Locality Plan
Annexure B:	Site Development Plan
Annexure C:	Motivation Report
Annexure D:	Title Deed
Annexure E:	Objection received
Annexure F:	Comment on objection
Annexure G:	Engineering Services
Annexure H:	Fire Services

SIGNATURES**AUTHOR:**Name: **PETRUS ROUX**SACPLAN Reg No: **A/2246/2015**

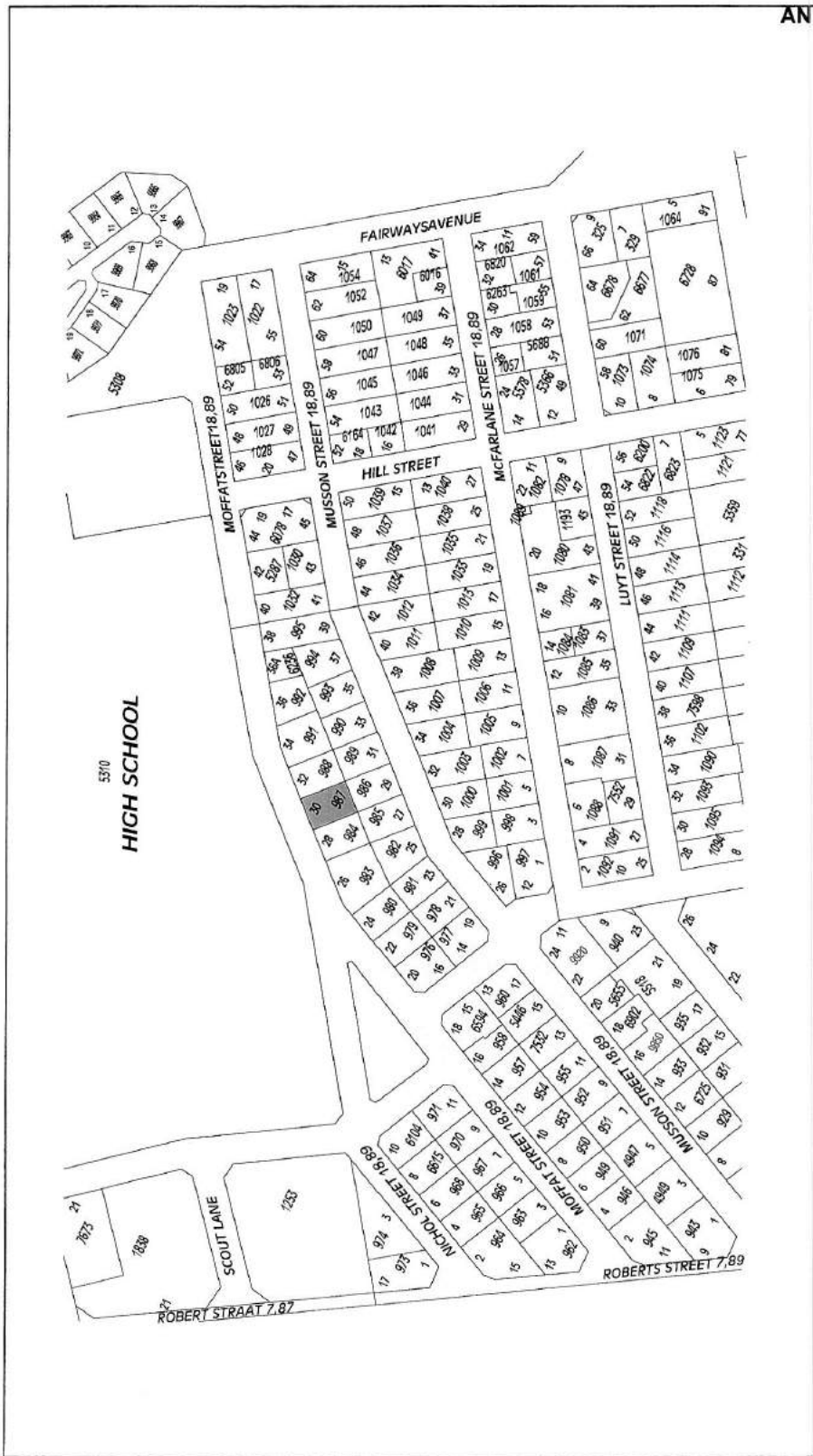
Signature: _____

Date: _____

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

Signature : _____

Date: _____



Plan n Active

Stads- en Streeksbeplanners
Town & Regional Planners

Property Description:
**ERF 987
HERMAUS**

Scale: **NTS**
Drawing Nr: **HER987L.drw**
Date: **xxxxxxx**

Plan Description:
LOCALITY MAP

All distances approximate and subject to survey.
COPY RIGHT RESERVED

**DEPARTURES AND PROPOSED
REMOVAL OF RESTRICTIVE TITLE
DEED CONDITIONS**

ERF 987 HERMANUS

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

The owner of Erf 987 Hermanus, Mr. P.M. Heyns has instructed the company Plan Active to apply for the departures and removal of the restrictive Title Deed conditions applicable to the subject erf.

It is the intention of the owner to legalize the existing carport built on the 0m western lateral building line and he further wants to utilize a section of the dwelling situated on Erf 987 Hermanus as a dental practice for his wife. The Title Deed applicable to Erf 987 Hermanus contains restrictions re the building lines and it also stipulates that the erf be used for residential purposes only. The Title Deed conditions are more restrictive than the current land use rights and development parameters prescribed in the Overstrand Municipality Zoning Scheme.

Erf 987 Hermanus is 694m² in extent and it is held by title deed number T48386/2017.

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2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the departures (building lines and permanent departure from the provisions of the Overstrand Zoning Scheme) of Erf 987 Hermanus;
- 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.

3. DESIRABILITY

3.1 PROPERTY DESCRIPTION

The subject property is situated at 30 Moffat Street, Eastcliff, Hermanus. Please refer to the enclosed locality plan. Erf 987 Hermanus is 694m² in extent and it is situated in a predominantly residential area in close proximity to the Hermanus High School.

3.2 ZONING

Erf 987 Hermanus is zoned Residential Zone I and there is a dwelling and a garage with carport situated on the property. Surrounding properties are zoned for single residential purposes and are being used as such. The Hermanus High School is situated across the road of the property.

3.3 LAND USE

A dwelling and garage with carport are situated on Erf 987 Hermanus.

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Land uses that surround Erf 987 Hermanus are single dwellings, public roads, a public park and a public school. It is therefore evident that Erf 987 Hermanus is situated within a predominantly residential area.

3.4 PROPOSAL

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the departures (building lines and permanent departure from the provisions of the Overstrand Zoning Scheme) of Erf 987 Hermanus to relax the western lateral building line from 2m to 0m in terms of the Overstrand Zoning Scheme Regulations and from 1.57m to 0m in terms of the Title Deed restriction to make provision for the carport built on the 0m building line;
- Deviation from the provisions of the Overstrand Zoning Scheme Regulations as stipulated in Chapter 16.1.1 b (iii) to accommodate the existing outbuilding of longer than 9m within the western lateral building line;
- 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 to accommodate:
 - ✧ A dental practise on Erf 987 Hermanus;
 - ✧ The existing carport on the 0m western lateral building line.

It is the intention of the owner of erf 987 Hermanus to develop the erf within the current primary land use rights as prescribed in the Overstrand Municipal Zoning Scheme Regulations that includes a portion of the dwelling to be used for home occupation purposes. In order to do so it would be required that we apply for the removal of the restrictive Title Deed condition that is more restrictive than the Overstrand Municipal Zoning Scheme Regulations.

The definition of a home occupation as per the Overstrand Scheme regulations is as follows:

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"the practicing of an occupation, profession, art or trade, or the conducting of an enterprise, which includes an estate agency, from a dwelling unit by one or more of the occupants of a dwelling unit; provided that the dominant use of the dwelling concerned shall remain for the living accommodation of a single family, and the property complies with the requirements contained in this zoning scheme for a home occupation; but it does not include adult entertainment;"

The following provisions are applicable where a portion of the property is used for the purposes of a home occupation:

- The dominant use of the dwelling house or dwelling unit shall be for the living accommodation of a single family;
- The total area used for a home occupation shall not exceed 25% of the total floor area of the buildings on the property;
- No more than 3 persons in total shall be engaged in home occupation activities on the property, including the occupants or the occupant and any assistants;
- No portion of such dwelling, and no home occupation shall be used for the purposes of noxious trade, risk activity or sale of alcoholic beverages;
- No advertising sign shall be displayed without the written consent of the Council other than a single un-illuminated sign or notices affixed to the building or boundary wall or fence, and such sign must be in line with the Overstrand by-law relating to outdoor advertising and signage;
- The hours of operation are restricted to 07h30 to 17h30 Monday to Friday and 07h30 to 13h00 on Saturdays;
- On site parking must be provided to the satisfaction of Council, provided that at least one on site parking bay is provided.

It is the intention of the owner to utilise a portion of 23.6m² of the dwelling for home occupation / dental practice purposes, the following areas are included:

Reception - 8.8m²

Dental Practise Workroom - 14.8m²

The two areas to be utilised for the home occupation are indicated on the site plan attached.

The above mentioned two areas to be utilised for the dental practise is less than the maximum of 25% of the total area of the buildings on the property allowable to be

Motivation report

used for a home occupation. It is therefore evident that the dominant use of the property will remain for the use of a dwelling house.

Only 3 persons, of which one will be the occupant of the dwelling, will be engaged in the home occupation, namely the dentist, the assistant and the receptionist.

Please take note that the proposed removal of the restrictive Title Deed condition is because it is more restrictive than the land use restrictions under the current zoning of the property that is Residential Zone 1.

Mr Pieter Heyns purchased the property in August 2017 and it came to his notice that there is no approved building plan for the existing carport situated in front of the garage, on the 0m western lateral building line. This application therefore also intends to legalize the existing carport situated on the western lateral boundary line as specified in the Overstrand Zoning Scheme Regulations and the subject property's title deed.

The existing carport is $\pm 15\text{m}^2$ in extent and it is situated on the 0m western lateral building line. The Overstrand Scheme Regulations stipulate that 2m lateral building lines apply to Residential Zone 1: Single Residential properties larger than 400m^2 in extent.

Application is therefore made for a departure:

- ◇ To relax the western lateral building line from 2m to 0m to accommodate the existing carport.

The existing carport is $\pm 4.7\text{m}$ long on the boundary and 4.48m wide. The length of the existing outbuilding $\pm 10.7\text{m}$ (combined garage and carport) does however exceed the maximum length of 9m on the 31.550m western boundary line. Application is therefore made for a departure from the Overstrand Zoning Scheme Regulations to accommodate the existing carport within the western lateral building line.

3.4.1 Proposed Removal of Restrictive Title Deed Conditions

Erf 987 Hermanus is 694m² in extent and it is held by title deed number T48386/2017. It is the owner's intend to utilize a portion of the existing dwelling to be used as a professional dental practice by the owner's wife and to legalize the existing carport on the western lateral building line.

The Title Deed, T48386/2017 contains the following Title Deed restrictions of which B A.(a) and (d) will have to be addressed:

- Page 2, paragraph B A.(a):

That this erf be used for residential purposes only.

- Page 3, paragraph B. A (d);

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 1,57 metres of the lateral boundary common to adjoining erf.

The reason to have the above mentioned Title Deed restriction B A.(a) removed is to give the owner the opportunity to utilise the property to its fullest potential in terms of the primary land use rights and development rules under the current zoning of Residential Zone 1. The primary rights and development rules referred to are as follow:

6.1 RESIDENTIAL ZONE 1: SINGLE RESIDENTIAL (SR1)

Use of the property

6.1.1 The following use restrictions apply to property in this zone:

- (a) **Primary uses** are: day care centre, dwelling house, guest rooms, home occupation, second dwelling unit;

(b) **Building lines**

(i) Street building line

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

Net erf area	Street building line
Less than 400 m ²	2,0 m
400 m ² and greater	4,0 m

If paragraph B A.(a) of the above mentioned Title Deed is not removed the owner will be restricted to use the property for single residential purposes only and will not have the possibilities to exploit his other primary land use rights such as the use of a portion of the dwelling as home occupation or guest rooms (2).

The title deed of erf 987 Hermanus also has a restrictive title deed condition with regards to the lateral building line that has to be relaxed to accommodate the existing carport. Title deed no. T48386/2017 stipulates that a 1.57m lateral building line applies to the subject property. As previously mentioned the existing carport is situated on the 0m western lateral building line.

The carport that encroaches the western lateral building line is existing and consequently the proposed departure and removal of the restrictive title deed condition will not have a negative impact on the surrounding properties.

The proposed departures and removal of restrictive title deed conditions of erf 987 Hermanus are 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 impact on the character of the area will therefore remain unchanged. The proposed use of a portion of the dwelling for a home occupation / professional dental practice is compatible with the use of the surrounding erven.

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Furthermore the proposed home occupation will not be accommodated in a separate or new structure on the subject property and therefore visually the proposed home occupation will not have a detrimental impact on the character of the area.

Furthermore the carport that encroaches the western lateral building line is existing and will also not have a negative impact on the area.

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 proposed home occupation will not hinder any future land use applications on erf 987 Hermanus.

Since the land use and zoning will remain unchanged the impact on the surrounding properties will be kept to a minimum.

3.7 IMPACT ON EXTERNAL ENGINEERING SERVICES

3.7.1 PROVISION OF SERVICES

Due to the fact that Erf 987 Hermanus is within an already developed residential area municipal services already exist to which the erf is connected.

There is an existing municipal water and electricity connection to the subject property. The subject property is also connected to the municipal sewerage system. Refuse is removed once a week by the Overstrand Municipality. The aforementioned services will remain unchanged.

The removal of the medical waste will be out sourced to a professional medical waste removal company and will be collected weekly.

We are not applying for any additional land use rights, but only to have the restrictive Title Deed conditions removed in order to utilise the erf for home occupation

Motivation report

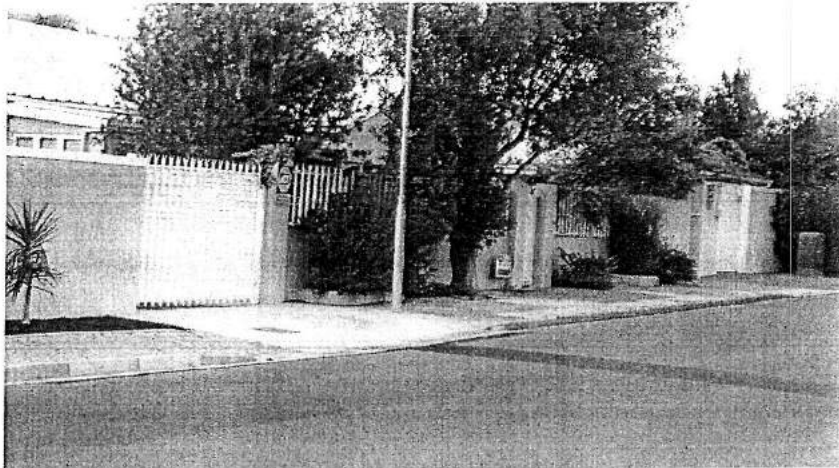
purposes as prescribed in the Overstrand Municipality Zoning Scheme Regulations and to legalize the existing carport on the western lateral building line. Because we are not applying for a change of land use by means of a rezoning or consent use or creating additional erven the current services provided to Erf 987 Hermanus will be sufficient.

3.7.2 TRAFFIC IMPACT, PARKING AND ACCESS

The property is situated at 30 Moffat Street and access to the property for the garage, carport and on site parking bays will be from Moffat Street. There is an existing garage and carport situated on the property and parking for 1 vehicle can be provided inside the garage. The second parking for the owner's use will be in front of the garage under the carport.

The Overstrand Municipality Zoning Scheme, under a Residential Zone 1 zoning requires that one on site parking bay must be provided for home occupation purposes. As per the attached parking plan two parking bays are being provided.

There are currently two existing access points to 30 Moffat Street and they have been in place for more than 20 years, they are indicated as per the photograph below:



The on-site parking bays for the dental practice will get access through the gate on the left (at the ADT) sign as the access is wider than the garage driveway entrance and it would therefore be easier to reverse back in front of the house and leave the property without having to reverse into the street. The manoeuvring will thus be done on the erf - refer to the attached parking plan.

The scale of the home occupation is of such a limited nature that there will be no impact on the traffic in Moffat Street.

3.8 TITLE DEED

The title deed T48386/2017 has 2 restrictions that needs to be removed in order for the owner to utilise the subject property for home occupation / professional dental practice purposes and to legalize the existing carport on the western lateral building line.

The Title Deed restrictions that we are applying to have removed is:

- Page 2, paragraph B A.(a):

That this erf be used for residential purposes only.

- Page 3, paragraph B. A (d);

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 1,57 metres of the lateral boundary common to adjoining erf.

The reason for the removal of the restrictive Title Deed conditions have already been covered as per paragraph 3.4.1 above.

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3.9 FORWARD PLANNING

3.9.1 OVERSTRAND MUNICIPAL WIDE SPATIAL DEVELOPMENT FRAMEWORK

In terms of the Overstrand Wide Spatial Development Framework the subject property is earmarked for residential purposes. The residential zoning of the subject erf will be retained and no additional land use rights are applied for with this application. No additional erven will be created.

3.9.2 OVERSTRAND GROWTH MANAGEMENT STRATEGY

With reference to the Overstrand Growth Management Strategy the subject erf falls within Planning Unit 14 that consists of the erven on the eastern side of the Hermanus CBD and it includes the Eastcliff high income residential area. Densification of this planning unit is proposed by incremental development through subdivision to allow for a second and third dwelling unit respectively for about 20% of the area/dwellings in this planning unit. The gross density can be increased from 4.9 to 6.4 dwelling units per hectare, potentially adding a 128 additional dwelling units.

However the proposed application for the removal of the restrictive Title Deed conditions for a portion of the dwelling to be used for a professional dental practice/ home occupation and the legalizing of the existing carport on the western lateral building line do not relate to the densification of the planning unit and it is therefore in line with the proposals of the Overstrand Wide Spatial Development Framework and the Overstrand Growth Management Strategy.

It is therefore our opinion that the proposed removal of the restrictive Title Deed conditions can be supported and that the proposal is also in line with the current land use trends for the area.

3.10 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.10.1 HERITAGE VALUE

Erf 987 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 Overstrand Heritage Survey Report (2009).

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 the restrictive title deed conditions do 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 above mentioned it is evident that the proposed removal of the restrictive Title Deed conditions will not have a negative impact on the heritage value of the subject property or the greater area of Hermanus.

3.10.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed removal of the restrictive Title Deed conditions do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

3.11 PLANNING PRINCIPLES

12

The planning principles of spatial justice, spatial sustainability, efficiency and spatial resilience of this application can be described as follows:

Spatial Justice: The proposed departures and removal of the restrictive Title Deed conditions will be in line with the current land use tendencies. One of the restrictive Title Deed conditions, relating to home occupation, to be removed is more restrictive than the land use restrictions prescribed in the Overstrand Municipality Zoning Scheme under the current zoning that is Residential Zone 1. It is therefore proposed that only the land use restrictions in terms of the Overstrand Municipal Zoning Scheme under a zoning of Residential 1 apply and not the restriction prescribed in the Title Deed.

Spatial sustainability: The proposed departures and removal of the restrictive Title Deed condition for the establishment of a home occupation / dental practice and the legalizing of the existing carport on the western lateral building line are in line with the current character of the established residential area. The proposed applications will have no impact on the conservation worthy areas of Hermanus. The dental practice will be in close proximity to the high and primary schools and it would therefore be easily accessible for school children to obtain regular dental check ups.

Efficiency: The restrictive Title Deed condition, relating to home occupation, to be removed is more restrictive than the land use restrictions prescribed in the Overstrand Municipality Zoning Scheme under the current zoning that is Residential Zone 1. It is therefore proposed that only the land use restrictions in terms of the Overstrand Municipal Zoning Scheme under a zoning of Residential 1 apply and not the restriction prescribed in the Title Deed.

Spatial Resilience: Spatial resilience is not applicable to this application.

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.

13

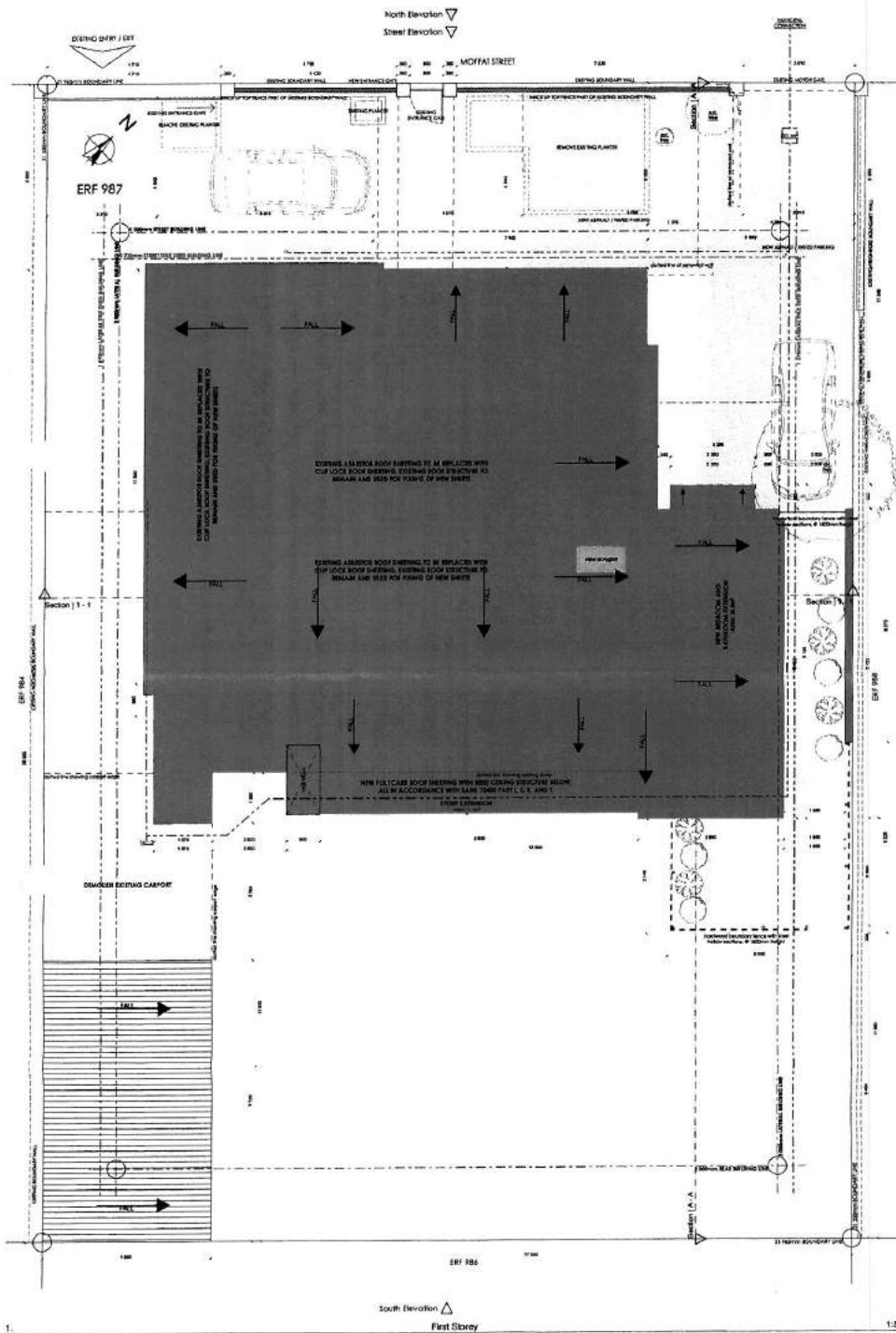
4. RECOMMENDATION

When these applications are evaluated it is important to take note of the following:

- The proposed departures and removal of the restrictive Title deed conditions of Erf 987 Hermanus falls within the existing land use tendencies in the area;
- There will be no impact on services;
- The proposed departures and removal of the restrictive Title Deed conditions will not have a negative impact on the current character and land values of the surrounding erven;
- The dental practice will be in close proximity to the high and primary schools and it would therefor be easily accessible for school children to obtain regular dental check ups.

With regards to the above mentioned it would be appreciated if the Overstrand Municipality would consider the applications favourably for the departures and removal of the restrictive Title Deed conditions applicable to Erf 987 Hermanus.

ANNEXURE C-2



GENERAL NOTE
ANNEXURE C-2

NOTES:
 1. Refer to the approved by authority plan and section drawings for all details.
 2. All work to be done in accordance with the relevant provisions of the Building Act 2003 and the Building Regulations 2004.
 3. The contractor shall be responsible for obtaining all necessary permits and approvals from the relevant authorities.
 4. The contractor shall be responsible for ensuring that all work is completed in accordance with the approved drawings and specifications.
 5. The contractor shall be responsible for ensuring that all work is completed in accordance with the relevant provisions of the Building Act 2003 and the Building Regulations 2004.
 6. The contractor shall be responsible for ensuring that all work is completed in accordance with the relevant provisions of the Building Act 2003 and the Building Regulations 2004.
 7. The contractor shall be responsible for ensuring that all work is completed in accordance with the relevant provisions of the Building Act 2003 and the Building Regulations 2004.
 8. The contractor shall be responsible for ensuring that all work is completed in accordance with the relevant provisions of the Building Act 2003 and the Building Regulations 2004.
 9. The contractor shall be responsible for ensuring that all work is completed in accordance with the relevant provisions of the Building Act 2003 and the Building Regulations 2004.
 10. The contractor shall be responsible for ensuring that all work is completed in accordance with the relevant provisions of the Building Act 2003 and the Building Regulations 2004.

REVISIONS:

ARCHITECT'S SIGNATURE:

DATE: 15/11/2011

PROJECT: HOUSE HEYNS

ADDRESS: 30 MOFFAT STREET, EASTPORT, HEMEREA, 7202

PROJECT NAME: HOUSE HEYNS

ADDRESS: 30 MOFFAT STREET, EASTPORT, HEMEREA, 7202

DRAWING NAME: ROOF / SITE STOREY

DRAWING DATE: 15/11/2011

COUNCIL SUBMISSION

Drawn by: [Signature]

Checked by: [Signature]

Approved by: [Signature]

Drawing Scale: As shown @ A1


Drawing No.: 2616

Sheet No.: CS B

CTN01293 Sharing Box 264

JOOSTE & SEMER ATTORNEYS
167 MAIN ROAD
SOMERSET WEST

7129		Endorsement	
Purchase price/Value	Amount	Off to fee	
	3500000.00	1215.00	
Mortgage capital Amount	R.	R.	
Register for exemption	Can	Section	Act

Prepared by me

CONVEYANCER
Charlotte Margaret Cillie Blake

DATA / VERIFY
28 AUG 2017
MURIE LORRAINE

DEED OF TRANSFER T 000048386 / 2017


BE IT HEREBY MADE KNOWN THAT

JENNIFER NORRIS

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at HERMANUS on 21 JUNE 2017 granted to him by

- 1. GEORGE AUBREY MOORE**
Identity Number 3905075059086
Married, which marriage is governed by the laws of ENGLAND and duly assisted herein by his spouse MARGARET MOORE insofar as needs be
- 2. MARGARET MOORE**
Identity Number 4605180063085
Married, which marriage is governed by the laws of ENGLAND and duly assisted herein by her spouse GEORGE AUBREY MOORE insofar as needs be

DATA / CAPTURE
24 AUG 2017
LARNEY FATGEYAH


GhostConvey 16.0.5.3

And the appearer declared that his said principal had, on 2 June 2017, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

PIETER MOHR HEYNS
Identity Number 8903165110088
Married out of community of property

his Heirs, Executors, Administrators or Assigns, in full and free property

ERF 987 HERMANUS
 IN THE OVERSTRAND MUNICIPALITY
 DIVISION CALEDON
 WESTERN CAPE PROVINCE

IN EXTENT 694 (SIX HUNDRED AND NINETY FOUR) Square metres

FIRST TRANSFERRED by Deed of Transfer Number T 14334/1944 with Diagram No. 2267/42 relating thereto and held by Deed of Transfer Number T54904/2015

- A. SUBJECT to the conditions referred to in Certificate of Registered Title No T3966/1940.
- B. SUBJECT FURTHER to the following special conditions contained in Deed of Transfer No T14334/1944, imposed by the Administrator of the Cape Province, namely:-
- A. AS BEING in favour of the registered owner of any Erf in the Township and subject to amendment or alteration by the Administrator under the provisions of Section 18(3) of Ordinance No 33/1934:-
- (a) That this erf be used for residential purposes only.
 - (b) That only one dwelling together with such outbuildings as are ordinarily required to be used therewith, be erected on this erf.
 - (c) That not more than half the area of this erf be built upon.
 - (d) 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 1.57 metres of the lateral boundary common to adjoining erf.



B. AS BEING in favour of the Administrator:-

(e) That this erf be not subdivided except with the consent in writing of the Administrator.

C. AS BEING in favour of Hermanus Municipality:-

(f) That the owner of this erf shall be obliged to allow the drainage and/or sewerage of any other erf or erven to be conveyed over this erf if deemed necessary by 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."



WHEREFORE the said Appearer, renouncing all rights and title which the said

- 1. **GEORGE AUBREY MOORE, Married as aforesaid**
- 2. **MARGARET MOORE, Married as aforesaid**

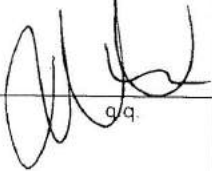
heretofore had to the premises, did in consequence also acknowledge them to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

PIETER MOHR HEYNS, Married as aforesaid

his Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R3 500 000,00 (THREE MILLION FIVE HUNDRED THOUSAND RAND).

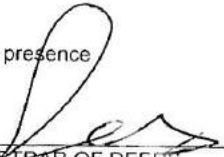
IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 23 August 2017



 g/q.

In my presence



 REGISTRAR OF DEEDS





TRATheart
(HOLIVIER)

FILE NO:	EL 987
SCAN NO:	Hermanus
	HMS 987
BALLABRATOR NO:	1148091

Municipal Manager
Overstrand Municipality
Hermanus Administrative
P.O.Box 20
Hermanus
7200

ATT: Mr P.Roux

ANNEXURE E 1/4

MM le Roux
28 Moffat Street
Eastcliff
Hermanus
7200
Ph 0729416394

Objection to the removal of title deed restrictions of erf 987, 30 Moffat Street, Hermanus.

In accordance with the provisions of sections 51 and 52 of the Overstrand By-law on Municipal Land Use Planning, I, MM le Roux of 28 Moffat Street, Eastcliff, Hermanus would in my capacity as neighbour to erf 987, object to the removal of title deed restrictions of erf 987 for the following reasons:

- 1) **Insufficient parking on property.**
As indicated on the applicants plans the property does not have enough parking space to accommodate even the staff. *Some employees and all patients will therefore have to park outside the property.*
There is no parking facilities outside the property. Nor is it possible to park in the street as the street is too narrow. The sidewalk opposite 30 Moffat Street does not lend itself to vehicle parking because of trees growing opposite the property and the main exit from the school is situated there as well. The only parking will be *opposite the next door neighbour's properties or in the neighbour's driveway.*
- 2) **Gate exit from property directly into oncoming one way exit from high school grounds.**
The property lies directly opposite the main exit from the school sport grounds. The main exit gate of the proposed dentistry therefore makes for an extremely dangerous traffic situation, putting the school children's life in danger every day of the week.
- 3) **Gate exits from property right after turn in road.**

TP 11 APR 2018

The property lies directly after a turn in the road and utilizing the main gate from the property would in effect result in a four way crossing, situated after a blind turn, with a one way exit from the school heading directly into the gate exit. All this with no stop signs. This can only be described as the perfect setup for multiple accidents.

4) **Noise from dentist drills and other equipment**

As the houses in Eastcliff are situated close to each other, it is unavoidable that the noise from the dental drills and other dental equipment, staff and increased traffic would become a hindrance to all neighbours. This will also have a negative effect on the value of the properties in the street.

5) **Neighbourhood with many cats. Medical waste danger to cats.**

Most, if not all the neighbours to 30 Moffat Street, have cats. By nature, cats will explore and end up visiting and entering houses in their vicinity. Having a dentistry in this neighbourhood will put the cats in danger of coming in contact with medical waste. The possibility also exists that medical equipment can in turn, be contaminated by the cats.

1) **Safety issues** due to increase of unknown visitors to property.

2) **Property already over the building line** as a single residential dwelling, even before adding a dental practice. The property will transform into an overcrowded erf with the addition of a dental practice.

3) The existing carport was built without my consent on the western (zero) 0 m building line. This has already had (and still have) a negative impact on my property.

4) **Character of the residential environment will be totally changed.** Eastcliff has always been a quiet residential environment. By allowing a residential house to be used as a dental practice, the environment will be changed to a business environment totally out of character with Eastcliff. The existing carport that encroaches on the western lateral building line, remains to have a negative impact on my property.

5) **Medical waste will be stored on property.** As the medical waste will only be removed once a week it implies that medical waste will be stored for 6 days a week on an already cramped property being used as a residential and dental practice.

Yours faithfully



MM le Roux



TR-Heart
(P Roux)

ANNEXURE E 3/4

32 Moffat Street

Eastcliff

Hermanus

7200

17/04/2018

Municipal Manager
Overstrand Municipality
Hermanus Administrative
PO Box 20
Hermanus
7200

FILE NO:	EL 987
	Hermanus
SCAN NO:	56
COLLABORATOR NO:	1153946

Attention: Mr P Roux

REF: PA17053

Objection to the removal of the Title Deed restrictions of ERF 987, #30 Moffat Street, Eastcliff, Hermanus.

In accordance with the provisions of sections 51 & 52 of the Overstrand By-law on Municipal Land Use Planning: We, David John Romburgh & Kim Venetta Romburgh, of 32 Moffat Street, Eastcliff, Hermanus as neighbour to Erf 987, object to the removal of title deed restrictions of ERF 987 for the following reasons:

- 1) **Residential Neighbourhood** – Eastcliff and Moffat Street in particular, is a well-established old residential neighbourhood with no premises currently operating a home based business. **The establishment of such a business would most definitely affect the property values of houses in the street** as it would change the character of this established quiet residential environment. Any form of advertising for the dental practice (on the boundary walls or exterior of the house) would be an eye sore and affect the character of the residential neighbourhood. It would also establish a precedent for future such endeavours – something we would not want to occur in Eastcliff.
- 2) **Lack of sufficient parking** – Despite the claims on the proposal - there is minimal parking available on this premises as cars would be restricted to parking in tandem due to the nature of the narrow driveways. Inevitably vehicles would then be parked across the street. As the

17 APR 2018

ANNEXURE E 4/4

premises is directly opposite the High School, this would only add to the already busy intersection of arriving and departing cars during drop off and collection times.

- 3) **Noise Pollution** – As the houses bordering #30 Moffat are in close proximity to each other there is the potential for the continuous high pitched noise from the dentistry drills and other equipment, the comings and goings of staff and patients to be disruptive and irritating to the immediate neighbours.
- 4) **Medical Waste** – the fact that medical waste will be stored in a residential neighbourhood for collection once a week is a worrying factor. The potential exists for used hypodermic needles etc to be misplaced.
- 5) **Traffic issues** – the property is directly opposite the high school and situated just before a blind corner. The road can be exceptionally busy at peak times and is already a dangerous intersection. This situation would be magnified by a continual flow of patients coming and going.

Yours Faithfully



David Romburgh

073 755 1169

romburgh@whalemail.co.za



Kim Romburgh

066 235 8074

romburgh@whalemail.co.za

PLAN Town & Regional Planners
Stads-en Streeksbeplanners
Active



ANNEXURE F 1/5

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

TP-A Theart
(P Roux)

Your reference: 987 HEC (3784)

29 May 2018

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

For attention: Mr. P. Roux

FILE NO: EL 987-HM
SCAN NO: HMS 987
COLLABORATOR NO: 1163624

**COMMENTS ON OBJECTION: ERF 987 HERMANUS: REMOVAL OF RESTRICTIVE TITLE
DEED CONDITIONS**

Your letter dated 2 May 2018 with the objections from M.M. Le Roux and D & K Romburgh attached thereto refers. M.M. Le Roux has withdrawn her objection. Please refer to the enclosed letter of consent to withdraw the objection for your records.

Our comments on the objections are in the same order as received from D & K Romburgh and are as follow:

Residential Neighbourhood

- Erf 987 Hermanus is located within a well established residential township that consists of single residential erven and the Hermanus High School is situated directly north and abutting Moffat Street.

The Overstrand Municipality Scheme Regulations makes provision for home occupation as a primary right subject to specific restrictions that reads as follow:

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 Nr.10908; SACPLAN Tch.Pln B/8250/2014
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)
Meriké Lerm: B. Art et Scien Cum Laude (Town Planning) UNW; SACPLAN Pr.Pln A/158/2009

ANNEXURE F 2/5

"home occupation" means the practicing of an occupation, profession, art or trade, or the conducting of an enterprise, which includes an estate agency, from a dwelling unit by one or more of the occupants of a dwelling unit; provided that the dominant use of the dwelling concerned shall remain for the living accommodation of a single family, and the property complies with the requirements contained in this zoning scheme for a home occupation; but does not include adult entertainment;

The following provisions shall apply where a portion of the property is used for the purposes of home occupation:

- (a) The dominant use of the dwelling house or dwelling unit shall be for the living accommodation of a single family;
- (b) The total area used for a home occupation shall not exceed 25% of the total floor area of the buildings on the property;
- (c) No more than 5 persons in total shall be engaged in home occupation activities on the property, including the occupants or the occupant and any assistants;
- (d) No portion of such dwelling, and no home occupation shall be used for the purposes of noxious trade, risk activity or sale of alcoholic beverages;
- (e) No advertising sign shall be displayed without the written consent of the Council other than a single un-illuminated sign or notices affixed to the building or boundary wall or fence, and such sign must be in line with the Overstrand by-law relating to outdoor advertising and signage;
- (f) The storage of products, goods, or supplies connected to the home occupation shall be inside a building or screened from neighbours and public streets;
- (g) The hours of operation are restricted to 07h30 and 17h30 Monday to Friday and 7h30 to 13h00 on Saturdays;
- (h) On site parking must be provided to the satisfaction of Council, provided that at least two on site parking bays are provided;
- (i) No more than one vehicle, not exceeding 3 500 kg gross weight, shall be utilised for the home occupation; and
- (j) The Council may impose additional conditions in order to minimise any potential public nuisance.

Our application for the removal of restrictive Title Deed conditions in order to accommodate a dental practice within the existing dwelling will conform to all the above land use parameters and therefore the primary land use of Erf 987 Hermanus will remain single residential. Retaining the primary single residential land use will have the effect that the character of the area and surrounding land uses will not be negatively impacted upon.

Any advertising on the subject erf will be professionally designed and will also be submitted to the Overstrand Municipality for their approval before being erected on site or attached to any structure. The signage will be similar to that of other professional home occupation establishments and doctors located in Hermanus. The owner of Erf 987 Hermanus will ensure that the signage will be tasteful and that it would not retract from the current character and land values of the area.

Lack of sufficient parking

- A single garage and parking bay behind the garage will be for the sole use of the owner of the subject erf. 2 Additional parking bays are provided for patients that will not interfere with the vehicular movement of the owners' vehicles.

The 2 additional parking bays allocated for the use of patients only are not in tandem and would therefore also not interfere with each other. Provision is made for only one consultation room and patients will be seen by appointment only. Subsequently one patient will be treated in the consultation room and a second patient will be waiting in the waiting area. Therefore the 2 onsite provided parking bays would be sufficient and on-street parking would not be required.

The vehicular impact of the proposed dental practice will be minimal and will not have a negative impact on the flow of traffic of the school during peak times and 1-2 motor vehicles entering and exiting the site an hour is anticipated.

Noise and Pollution

- The compressors used in modern Dentistry are "silent" dental compressors and the new dental handpieces (drills) are electric and not air driven. The typical noise levels of a high-speed air driven handpiece are 70-80 dB and the noise level of an electric handpiece is 55-60dB. Every 10dB reduction is perceived by humans as a 50% reduction in noise. A typical conversation ranges between 50-60dB and as such the noise pollution would not be more than the noise generated when we communicate with each other.

The subject property and that of the objector is located opposite the Hermanus High School that has a much greater cumulative impact on the surrounding environment than what the small dental practice would have. The children play during break, sport is coached after school, matches are played during the week and weekends and there is the high volume of traffic generated at peak times. The school also hosts other functions such as the CANSA Relay For Life and the Cape Epic Mountain Bike Cycle Tour.

Medical Waste

- Medical waste will be kept in two different containers. The sharps bin, used for needles etc. It is a hard-plastic waste container that is completely sealed off. The

other container is a waste box that used for gloves etc. Both these bins will be stored in a specifically built and fitted sterilization room. BCL Medical Waste Management Services (Pty) Ltd will be contracted to remove the said waste bins from the premises on a weekly basis. The waste will go directly from the sterilization room to the BCL vehicle. Medical waste and domestic waste will not be mixed.

Traffic Issues

- As mentioned earlier in this letter, 1-2 motor vehicles entering and exiting the site an hour is anticipated. In relation to the current traffic flow in the vicinity of Erf 987 Hermanus generated by the High School, residential traffic to the Hermanus CBD and Eastcliff Spar the impact of the traffic generated by the dental practise (home occupation) will be insignificant.

We trust that you would find our comments in order and that the application will dealt with favourably.

Yours faithfully



John Mc Lachlan

LETTER OF CONSENT / WITHDRAWAL OF OBJECTIONERF 987 HERMANUS - REMOVAL OF TITLE DEED RESTRICTIONS

Name & surname (in print): M.M. LE ROUX

Address: 28 Moffat Street, Hermanus

I, Marlene le Roux, the owner of Erf 984, herewith consent to the proposed Removal of Restrictions for a professional dental practise and building line departure from the provisions of the Overstrand Zoning Scheme Regulations, 2013) as stipulated in the notice letter with attachments (motivation report and site development plan) I received from Overstrand Municipality for the land use application on Erf 987 Hermanus.

Comments:

Signed


M.M Le Roux

At

Hermanus

Date

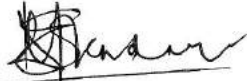
17 May 2018

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIONS: ERF 987, EASTCLIFF
(3784)**

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, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
3. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Area Manager: Hermanus for written approval;
4. that stormwater be allowed to discharge through Erf 987, Eastcliff, unobstructed;
5. that no on-street parking be allowed.



**DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES**

25/4/2018
DATE

ANNEXURE H 1/1

Munisipaliteit • U. Msipala • Municipality

OVERSTRAND

File reference:	3784
Date:	12.03.2018

INTERNAL MEMORANDUM

From	: Town Planning Department
Town Planner	: P Roux

TO:

Area Manager	Building Department	District Health	Electrical Department
Environmental Officer	Fire Department	Infrastructure and Planning (Onrus)	Local Heritage Committee
Operational Services	Traffic Department	Ward Councillor (K Brice)	Waste Management

Applicant	Plan Active obo PM Heyns
Property Details	Erf 087, 30 Moffat Str, Eastcliff, Hermanus
Application Description	Proposed Removal of Restrictions

ATTACHMENTS :

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

YOUR DEPARTMENT'S COMMENTS:

①	The consulting rooms area must be separated from dwelling area by a 60 minute roof height beam filled fire wall with a 60 minute SANS 1253 class A self closing fire door. - Table 4 of SANS 10400 T: 2011
②	No objection to shade port on boundary.
Signature:	Date:

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

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

COMMENTS REQUIRED BY: 20 April 2018
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