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ERF 2340, 15 ARUM ROAD, HERMANUS: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE: MESSRS WRAP CONSULTANCY ON BEHALF OF CONDERE PROPERTIES CC

2340 HIND (2965/2019)

SW van der Merwe

6 August 2020

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 26 February 2019 from Messrs WRAP Consultancy on behalf of Condere Properties CC, the owner of Erf 2340, Hermanus for the following:

- ❖ removal of restrictive title deed Condition C.5 (b), (c) and (d) as contained in Title Deed T1654/2009 in terms of Section 16(2)(f) of the Overstrand By-Law on Municipal Land Use Planning, 2015 (By-Law), and
- ❖ consent use in terms of Section 16(2)(o) of the aforementioned By-Law to conduct a restaurant from the property.

A Locality Plan of the property concerned is attached as Annexure A, the Motivation Report from the applicant in support of the application is attached as Annexure B and the Site Development Plan is attached as Annexure C. Title Deed T1654/2009 is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The subject property is zoned for Industrial Zone 1: General Industry (IND1) purposes and measures 1859m² in extent. The property is developed with an industrial building comprising several industrial units.

The applicant's client leases a portion of the subject property from which an industrial café (take away restaurant) has been operated for a number of years. The aforesaid does not allow serving of food to seated customers.

The current application seeks approval for a restaurant (76m²), thereby allowing the serving of meals and beverages to seated customers, including the serving of liquor. The applicant motivates that the restaurant will serve meals and non-alcoholic beverages between the hours of 07:00 and 15:00. Liquor will be served from 15:00 to 02:00 weekdays and 11:00 to 02:00 on Saturdays, Sundays and Public Holidays.

The title conditions contained in Title Deed T1654/2009 to be removed, reads as follows:

"C. 5. This erf shall be subject to the following further conditions....

- (b) this erf shall be used for industrial purposes only save that in connection with such purposes accommodation may be provided for use by any*

caretaker. No noxious, offensive, unhealthy or dangerous trade or industry shall be conducted on this erf.

- (c) (1) *not more than three-quarters of the area of this erf shall be built upon;*
 (2) *for the purpose of loading or unloading vehicles there shall be left on this erf a space or spaces amounting to not less than*
- (i) *20% of the total floor area of the building;*
 (ii) *or 25% of the area of the erf on which the building is to be erected;*

whichever is the lesser, and the linear dimensions of such space or spaces shall be such that the shortest distance measured at right angles between any two sides thereof is in no case less than 7,87 metres;

Such space or spaces shall have vehicular access to a street which form of access shall not be less than 47,72 metres wide and, if carried through a building, not less than 3,05 metres in height.

- (d) *No building or structure or any portion thereof except boundary walls and fences, shall be erected nearer than 7,87 metres to the street line which forms a boundary of this erf."*

4. SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation for the application is summarized as follows (the detailed report is attached as Annexure B):

- ❖ Approval of the proposed restaurant will confer the most appropriate land use rights on the subject property and maintain the prevailing urban fabric.
- ❖ Removal of restrictive title conditions will benefit the operator of the restaurant and the society.
- ❖ The primary right remains industrial, whilst restaurant is a consent use under the zoning.
- ❖ The proposal complies with the development parameters in terms of the Zoning Scheme.
- ❖ The structure encroaching the street building line will be demolished.
- ❖ On-site parking and loading in accordance with the Scheme Regulations will be provided.
- ❖ Municipal services are available.
- ❖ Employment opportunities will have a positive economic impact.
- ❖ Restaurant will have a positive social impact – i.e. social interaction.
- ❖ Scale of investment demonstrates the property owners' commitment to the built environment of the area.
- ❖ Safety, health and wellbeing of surrounding property owners and employees will not be adversely impacted.
- ❖ Conditions of approval would ensure surrounding property owners are not deprived from any land use rights.
- ❖ No impact upon sensitive heritage areas.
- ❖ Development is consistent with the applicable provincial and municipal forward planning and policy documents.
- ❖ The proposal is consistent with the planning principles.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local Newspaper	Yes	1 May 2019	7 June 2019
Gazette	Yes	3 May 2019	7 June 2019
Notices	Yes	29 April 2019	7 June 2019
Ward councillor	Yes	2 May 2019	7 June 2019
Total comments	NONE		
Total letters of support	NONE		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly?			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA?			Yes
In case of application for removal, amendment or suspension of restrictive title conditions if notices in accordance with Section 35(3)(d) of the By-Law on Municipal Land Use Planning was served on all persons mentioned in the title deed for whose benefit the restriction applies?			Yes

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

Name	Date received	Summary of comments
Building Department	6/05/2019	Supported.
Local Heritage	7/05/2019	Supported.
Health	18/06/2019	Supported.
Fire Services	26/06/2019	Supported.
Engineering Services	7/10/2019	Annexure E.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

N/A

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

N/A

9. MUNICIPAL ASSESSMENT OF COMMENTS

All relevant departments have provided positive comments.

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

N/A

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

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

Spatial Justice

The proposed restaurant will address spatial development imbalances in that it would provide access to opportunities, services, facilities and land.

Spatial sustainability

The proposal is in harmony with the spatial sustainability principles, highlighted in terms of LUPA and SPLUMA and will not impact upon high potential agricultural land, environmentally sensitive or biodiversity rich areas and will not contribute to urban sprawl.

Efficiency

The proposal promotes optimal utilisation on the subject property (land and services).

Spatial resilience

The application will ensure that the existing land resources are utilised in line with the Overstrand Municipality's forward planning documents, which is aligned with the principle of spatial resilience.

Good administration

The application followed the required planning procedures to ensure that land use activity is in line with Municipal By-Laws, including public participation.

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

Same as 10.2 above.

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

The applicant argues that the proposal is consistent with the principles of the SDF (2006), OGMS (2010) and IDF (2014). The primary use of the buildings on Erf 2340 will remain industrial. A portion of the subject property will be used for a restaurant (i.e. consent use) which is a business activity.

The SDF (2006) reserves the subject property for industrial purposes, whilst the OGMS earmarks the property as an area of economic opportunity. The opinion is however held that the economic opportunity does not per se refer to the introduction of non-industrial or commercial land uses within the Hermanus Industrial Area, but that it should be provided within the CBD. This is in line with the IDF that seeks to retain business uses within the CBD, whilst commercial clean light industrial and service industries should be located in the industrial area. The introduction of a commercial land use (i.e. a restaurant with a liquor license) is therefore not consistent with the applicable forward planning documents.

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

N/A

10.6 Impact on municipal engineering services

No additional services will be required.

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

The proposed application does not trigger any listed activity in terms of the National Environmental Management Act (NEMA).

10.8 Existing and proposed zoning comparisons and considerations

The subject property is zoned Industrial Zone 1 : General Industry. Industry and industrial café is a primary right, with restaurant a consent use.

Industrial café in terms of the Overstrand Integrated Zoning Scheme is defined as follows: *“means an enterprise that provides pre-prepared food and beverages for sale to the public in an industrial zone for offsite consumption.”*

Restaurant in terms of the aforesaid Scheme Regulations is defined as follows:

“means a licensed business in which mainly meals and beverages are primarily sold to seated patrons, and includes the on-site consumption of liquor but does not include premises used exclusively as a bar, a pub or tavern.”

In terms of the newly promulgated Overstrand Land Use Scheme, 2020 the definition of a restaurant remained the same, whilst the definition of an industrial café was changed as follows:

“Industrial café means an enterprise that provides food and non-alcoholic beverages for sale to the public in an industrial zone.”

The general development parameters applicable to an industrial café are limited to an area not exceeding 100m².

10.9 ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The relevant portion of the application property has for a number of years been utilized as a take away restaurant complimenting and providing a service to adjacent industrial properties. The removal of restrictive title conditions will bring the use and development of the premises in line with the provisions of the scheme regulations.

In view of 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 through the Zoning Scheme, thus adding value to his property.

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

There would be no personal benefit to the holder of the rights if the conditions are retained or removed.

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:

The only personal benefit to the property owner would be that the proposed removal of restrictive conditions will facilitate the development and use of the property in accordance with the provisions of the applicable zoning scheme.

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 remains in place. The community would however benefit by the removal in that the restaurant would provide a much needed facility in the industrial area that is subservient to the primary use of the property.

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

The proposal will result in the removal of some of the rights contained in the Title Deed.

Given the abovementioned evaluation the opinion is held that if the restrictive conditions are removed as proposed, it will allow the property owner to develop his property in line with the Zoning Scheme parameters. 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. THE DESIRABILITY OF THE PROPOSAL

The application property is situated in the industrial area of Hermanus and been utilized as an industrial café (take away restaurant) for a number of years. The property has recently been renovated and currently being utilised as a restaurant, contrary to the provisions of the Integrated Zoning Scheme Regulations. The industrial GLA on the subject property is 1072m² with an additional 76m² GLA taken up by the restaurant.

The proposed restaurant, being a business/commercial use that normally resorts within the CBD is not consistent with the applicable forward planning documents, as per the evaluation under paragraph 10.4, nor has the area been earmarked for densification purposes.

The area according to the applicant is characterised by a variety of industrial uses as well as shops, restaurants, fast food outlets and shops where alcohol is brewed. The applicant is also of the view that industrial areas are transitioning from exclusive industrial land uses to more mixed/multi-functional environments in which industrial land-uses still prevails. It will allow opportunity for employees in the industrial area to buy food and beverages, or have lunch and to function as a place of social interaction. It will also draw customers from outside the industrial area and will promote economic development through additional employment opportunities thereby benefitting the wider value chain.

The applicant's statement pertaining to the character of the area is not correct. The industrial area of Hermanus comprises industrial zoned properties. Under the industrial zone agri-industry (including a brewery), wholesale, industrial café, whole sale business and factory shops are accommodated as primary rights, whilst the definition applicable to a brewery permits tasting only and not a restaurant. Thus the predominant character of the Hermanus industrial area is for industrial uses in accordance with the Scheme Regulations and not business/commercial land uses (shops/restaurants) as per the applicant's motivation.

In Hermanus, as well as the surrounding towns of Gansbaai, Stanford and Kleinmond, limited industrial land is available. Although the industrial area is earmarked as an economic opportunity, such opportunity relates to industrial land uses opposed to pure commercial uses such as restaurants, shops, etc. The opinion is therefore held that the proliferation of the industrial areas by the introduction of non-industrial land uses is not desirable and not in accordance with the forward planning vision of the area.

The industrial area is situated adjacent to the Gateway Shopping Centre, that is zoned for commercial use that also provides for the provision of restaurants and shops as a primary right in terms of the current scheme. Currently there is adequate provision for zoned properties to accommodate restaurants in close proximity to the industrial area, which zoning also permits a liquor license. Thus, the opinion is held that the application to legalise the restaurant in the industrial area, is not desirable and that the use be limited to an industrial café in accordance with the Scheme Regulations.

The applicant intend to obtain a liquor license for serving liquor from 15:00 to 02:00 weekdays and 11:00 to 02:00 on Saturdays, Sundays and Public Holidays. The applicant motivates that liquor would be served only when employees are about to leave work, thus avoiding liquor consumption during break or lunch time, i.e. from 15:00 on weekdays and 11:00 on Saturdays, Sundays and Public Holidays.

The issue of a liquor license in the industrial area for on-consumption is not desirable and may result in intoxication of employees returning to work and associated health and safety concerns. Further it is unclear why a liquor license is proposed running to 02:00 in the morning. The assumption is made that the applicant intends to run a pub/bar or tavern, since restaurant kitchens close early (between 22:00 and 00:00) in the evening. As such, the operation after closing of the kitchen will not comply with the definition of a restaurant (i.e. serving food and beverages primarily to seated customers) and will constitute a pub/bar or tavern that is not desirable in the location.

Commercial mixed use areas situated within the CBD attracts customers outside normal business hours. These areas are typically well policed for compliance with legislation as well as public disorder, opposed to the industrial areas where there usually is no after hour's activities and little to no policing. The opinion is thus held that the issue of a liquor licence for a restaurant with on consumption in the industrial area is not desirable and could be accommodated within walking distance from the industrial area at the Gateway Centre.

In terms of the newly promulgated Overstrand Land Use Scheme, 2020 the current unauthorised restaurant falls within the ambit of an industrial café being smaller than 100m². In terms of the applicable definition the sale of food and non-alcoholic beverages for on-site consumption is permitted as a primary right and would the development still be consistent with the applicable planning principles and provide access to opportunities, employment and local economic development in line with the applicable forward planning and policy documents.

Access and egress is obtained from Arum Street to an on-site parking area that also provides a loading bay in accordance with the provisions of the Scheme Regulations as well as a disabled parking bay. Given the historic building plan approvals permitting two (2) separate accesses, the parking layout was referred to the Engineering Services Department who did not object on the basis of pedestrian or traffic safety.

The property is already serviced. The proposed development will not adversely impact upon municipal services, subject to compliance with the relevant conditions of the Engineering Services Department.

Having had regard to the evaluation above, the application for consent use (restaurant) that permits a liquor license in the industrial area is not desirable and should not be supported as per the recommendation below.

12. RECOMMENDATION

1. that, in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) the application for the removal of restrictive title conditions as contained in Title Deed T1654/2009 applicable to Erf 2340, Hermanus namely Condition C.5.(b), C.5(c) & C.5(d), **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that in terms of Section 16(2)(o) of the By-Law, the application for consent use to conduct a restaurant (76m²), **not be approved** in terms of the provisions of Section 61 of the By-Law; and
3. that the applicant be notified of his/her right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditional approvals.

13. REASONS FOR RECOMMENDATION:Reasons for approval of the application for removal of restrictive title conditions:

- ❖ The removal of restrictive title conditions would permit development of the property in line with the scheme regulations.
- ❖ None of the internal departments have any objection.
- ❖ 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, OGMS and IDF.
- ❖ The proposal is consistent with the spatial principles as set out in SPLUMA and LUPA.

Reason for non approval of the application for consent use (restaurant):

- ❖ The proposal is not consistent with the applicable forward planning and policy documents (SDF, OMGMS and IDF).
- ❖ Business/commercial land uses should be limited to the CBD/Business nodes
- ❖ Proliferation of industrial areas with non-industrial land uses is not desirable
- ❖ Restaurants are not in keeping with the character of the industrial area
- ❖ Provision for on-site consumption liquor license in the industrial area is not desirable
- ❖ The operations due to the proposed liquor trading hours to 2am in the morning will constitute a bar, pub or tavern
- ❖ Suitably zoned properties that will accommodate a liquor license is available in close proximity and should be situated in the designated CBD and business nodes

14. Annexures

- Annexure A: Locality Plan
- Annexure B: Motivation Report
- Annexure C: Site Development Plan
- Annexure D: Title Deed T1654/2009
- Annexure E: Services Report

SIGNATURE**REGISTERED PLANNER**

Name:

H VAN DER STOEP

SACPLAN Reg No:

A/1708/2013

Signature: _____

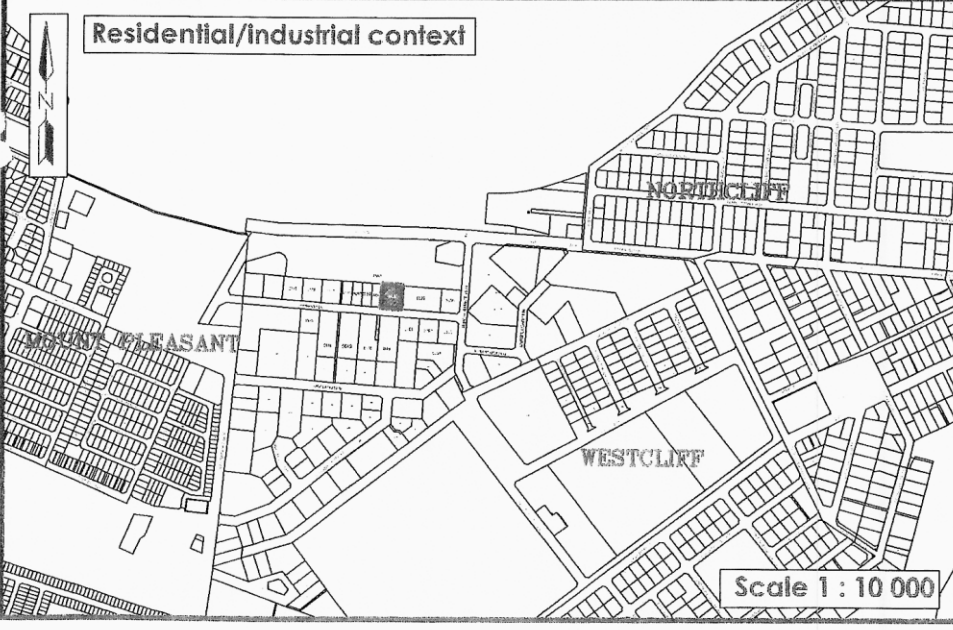
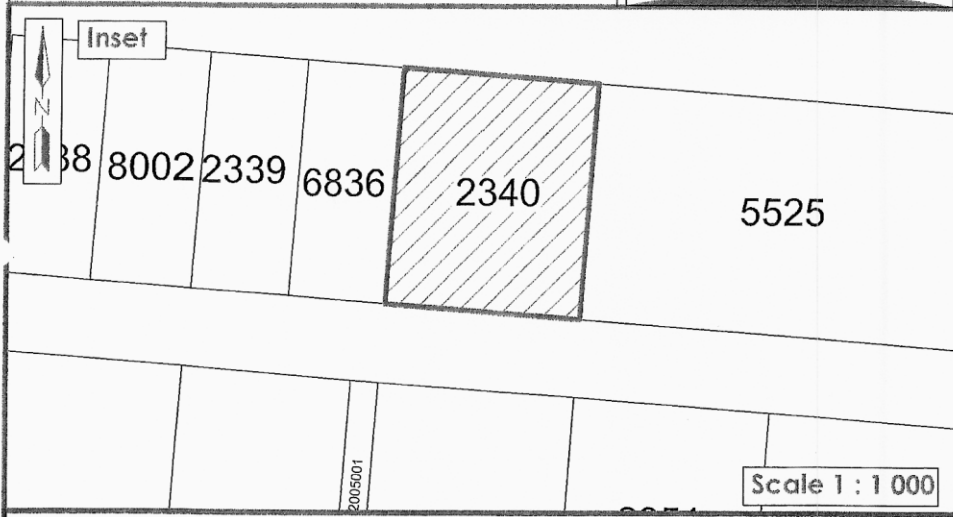
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Plan 1: Locality Plan Erf 2340 Hermanus

 Erf 2340 Hermanus

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35 Duiker Street, Hermanus, 7200
Plan prepared in February 2019
Plan prepared by: Reallehile Jankie
All distances are approximate
and subject to a survey


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6. URBAN FORM AND FABRIC

The subject property is located within the Hermanus industrial area which has an urban fabric which is predominantly characterised by a variety of industrial land uses. There are also land uses such as shops, restaurants, fast food outlets and shops where alcohol is brewed. The proposed restaurant is subservient and ancillary the dominant use on the property which is industrial. This proposal is therefore in harmony with the prevailing urban fabric of the Hermanus industrial area.

7. TITLE DEED CONDITIONS PROPOSED FOR REMOVAL

The applicable title deed restrictions which are proposed for removal as well as the rationale for the removal are the following:

Title deed restriction	C.5.(b) "this erf shall be used for industrial purposes only save that in connection with such purposes accommodation may be provided for use by any caretaker. No noxious, offensive, unhealthy or dangerous trade or industry shall be conducted on this erf."
Motivation	<p>Immediate intent The subject title deed restriction prevents the operation of the proposed restaurant. The immediate intent for the removal of the subject restrictive title deed condition can therefore be illustrated.</p> <p>Background This restrictive title deed condition was inserted in an era when the dominant land use pattern and trend was the promotion of segregated land uses which was characterised by industrial areas not having subservient and ancillary land uses.</p> <p>Current development trends The modern spatial planning policies which are responsive to the current development climate all promote densification and complementary mixed land uses. The operation of the proposed restaurant is in harmony with the prevailing modern principles promoted in spatial planning policies. The restaurant, in terms of noise levels will not be disruptive to the surrounding environment and it is not projected to change with the approval and implementation of this proposal. The removal of this restrictive title deed condition will however not permit noxious, offensive, unhealthy or dangerous trade as the primary rights in the IND 1 zoning applicable on the subject property prevent such land uses. The safety and wellbeing of neighbouring property owners will therefore not be adversely impacted with the approval of this proposal.</p>
Title deed restriction	<p>C.5.(c)(1) not more than three-quarters of the area of this erf shall be built upon; (2) for the purpose of loading or unloading vehicles there shall be left on this erf a space or spaces amounting to not less than (i) 20% of the total floor area of the building; or</p>

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	<p><i>(ii) 25% of the area of the erf on which the building is to be erected; whichever is the lesser, and the linear dimensions of such space or spaces shall be such that the shortest distance measured at right angles between any two sides thereof is in no case less than 7,87 metres; such space or spaces shall have vehicular access to a street which form of access shall not be less than 47,72 metres wide and, if carried through a building, not less than 3,05 metres in height.</i></p>
Title deed restriction	<p>C.5.(d) No building or structure or any portion thereof except boundary walls and fences, shall be erected nearer that 7,87 meters to the street line which forms a boundary of this erf.</p>
Motivation	<p>Immediate intent The existing restaurant building encroaches on the 7,87 meters title deed building line. The immediate intent for the removal of the title deed restriction can therefore be illustrated.</p> <p>Background The building line restrictive title deed condition was inserted in an era when the prevailing development trend was to have industrial buildings with a longer offset distance from the street building line. The loading bay requirements in the title deed were also inserted in 1969 in an era when there was low vehicle and truck ownership. The building line and space requirements for loading bays contained in the title deed are therefore not in harmony with the current development trends in the Hermanus industrial area.</p> <p>Current development trends The modern spatial planning policies promote complementary mixed land uses. This results in pressure being exerted for restaurants to be located closer to the street boundary line as the atmosphere in the restaurant can be seen by pedestrians and hopefully attract more customers and the subject restaurant is a case example of this. The restaurant is currently located close to the boundary line, however all parts of the building which are within 5m from the street boundary are proposed for demolition to leave space open for a loading bay. Considering that the restaurant will be located 5m from the street boundary, the removal of this restrictive title deed condition is an imperative.</p>

Requirements for the amendment, suspension or removal of restrictive conditions:

Section 35(4) of the Overstrand By-Law on Municipal Land Use Planning, 2015, highlights the relevant Municipal considerations for the removal, suspension or amendment of restrictive title deed conditions. Herewith are the relevant considerations assessed in conjunction with this proposal.

(a) The 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 vests in the persons of the owner of a dominant tenement.

This restrictive condition does not have a beneficial financial or other value for the property owner or anyone else.

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(b) The personal benefits which accrue to the holder of rights in terms of the restrictive condition.

There are no personal benefits which accrue to the holder of these restrictive title deed conditions.

(c) The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if removed.

The removal of these restrictive title deed conditions will enable the property owner to derive the following benefits:

- The property owner and restaurant operator will be conferred with the most appropriate land use rights which permit the operation of the subject restaurant;
- The restaurant operator will also be able to market the restaurant extensively to be able to attract more clients.

(d) The social benefit of the restrictive condition remaining in place.

There is no social benefit if the restrictive conditions remain in place.

(e) The social benefit of the removal of the restrictive condition.

Herewith are the social benefits;

- There are currently people employed on the subject property and the approval of this proposal will enable the restaurant operator to retain the existing employment opportunities; and
- The value of the subject property is also projected to increase if this application is approved which will result in the OM collecting more rates and taxes from the owner/and restaurant operator of the subject property. The taxes will be used for service delivery which is a positive impact.

8. ZONING

The following zoning parameters of the subject property were assessed in conjunction with this proposal:

Industrial Zone 1: General Industry (IND 1)			
	Parameters	Proposal	Comply or deviate
Primary use	Industry, agricultural industry, builders' yard, care takers accommodation, factory shop, funeral parlour, heavy vehicle service station, industrial café, motor repair garage, rooftop base station, service trade, service station, transmission tower, transport use, utility services, warehouse, wholesale business, workshop;	Industrial	Comply



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Consent use	abattoir, adult entertainment business, aquaculture, business premises, container site, crematorium, dwelling unit, informal trading, mining, noxious trade, place of assembly, place of entertainment, place of instruction, recreational facilities, restaurant , sale of alcoholic beverages, scrap yard.	Restaurant	Comply
Development rules			
Floor Factor	The maximum floor factor on the land unit shall not exceed 2.	1 Storey	Comply
Coverage	The maximum coverage for all buildings on the land unit shall not exceed 75%.	54%	Comply
Height	(i) The maximum height of any building measured from the base level to the top of the roof is 12,0 m, provided that; (ii) Where a structure of greater height is required for the industrial function of the property, Council may grant approval for such greater height; and (iii) The general provisions relating to retaining structures and earth banks in 16.6 apply.	(i) 6,3m; (ii) N/A; (iii) Comply	Comply
Building lines	(i) The street building line shall be 5,0 m; (ii) The side and rear building line shall be 2,0 m; (iii) Where a land unit abuts a zone that is not an industry zone, the building lines of the particular zone, whichever is the greater shall apply; (iv) Notwithstanding the above, Council may stipulate greater building lines for considerations of public health and safety, fire control and in order to enforce any law or right; and (v) The general building line exemptions in 16.1 apply.	(i) 5m (ii) 1m on the side and 0,2m on the rear (previously approved refer Plan 4) (iii) N/A; (iv) Subject to the request of Council; (v) N/A	(i) Comply (ii) Approved (iii) N/A (iv) Subject to the request of Council; and (v) N/A
Setback	(i) A setback of 8,0 m from the centre line of the road applies;	(i) 12,5m; and	Comply

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	(ii) Notwithstanding the above Council may stipulate a setback for considerations of public health and safety, fire control and in order to enforce any law or right; and (iii) The provisions of 16.2 apply.	(ii) Subject to the request of Council; and (iii) Comply	
Boundary walls	A wall of 2,5 m high to be erected where, a land unit has a common boundary with another land unit that is not zoned General Industry (IND1) or Risk Industry (IND2); or Hazardous substances are stored on site.	There is a high boundary wall on the side and rear of the property which abuts a property zoned for commercial purposes.	Comply
Parking and access	Parking and access shall be provided on the land unit in accordance with 17.1. Restaurant 6 bays per 100m ² of GLA Industry 2 bays per 100m ² of GLA	The GLA of the restaurant is 78m ² which requires 4,6 parking bays; The GLA of the industrial part of the building is 800m ² which requires 16 parking bays. There is a total of 20,6 parking bays required and 21 parking bays are provided. Most businesses in the industrial area close at 17:00 and ample parking is available in the area if additional parking is required.	Comply
Loading bays	Loading bays must be provided in accordance with 17.2. The minimum off street loading requirements are 1 bay per 500m ² for the first 1000m ² of GLA, thereafter 1 bay per 1000m ²	878m ² of GLA requires 1 loading bay.	Comply
Screening	Screening must be provided in accordance with 16.7.	This is subject to the request of Council.	Comply

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Factory shop	The occupant of an industrial property or a portion of an industrial property may operate a shop for the sale of goods which have been completely or partially manufactured on the property, and such other goods as the Council may permit, provided that: (i) The total floor space of the property or portion thereof may be devoted to the sale of goods shall not exceed 10% of the total floor space of all buildings on the land unit; and (ii) Such other goods that are offered for sale, but have not been manufactured on the property, are connected with the goods that are manufactured on the property.	(i) The factory shop constitutes less than 10% of the total floor space of all buildings; and (ii) Comply	Comply
Service station	The development rules in 7.3.2 apply.	N/A	N/A
Environmental considerations	An environmental study and/or environmental management plan may be required by Council for its consideration and approval in accordance with 16.4. No activity that includes the storage of on-site hazardous substances shall be permitted unless a risk management and prevention plan has been approved by Council. Council may impose conditions of approval to mitigate the environmental impact of industrial activities on adjacent properties, for considerations of public health and safety, fire control and in order to enforce any law or right.	There are no noxious land uses on the subject property.	Comply
Site development plans	Council may require that a site development plan be submitted for approval in accordance with 16.3.	An SDP is submitted with the town planning application.	Comply

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9. SERVICES

9.1 Electricity

Electricity on the subject property is provided by the Overstrand Municipality and the approval of this application will not alter the status quo.

9.2 Water

Water on the subject property is provided by the Overstrand Municipality. The approval of this application will not alter this.

9.3 Sewage

The subject property is connected to the Municipal sewage network.

9.4 Access and egress

Access and egress to the subject property can be gained from Arum Street.

10. DESIRABILITY

Section 66(1)(c) of the OM By-Law as indicated below highlights that desirability is a relevant consideration which must be addressed in a town planning application in accordance with the guidelines issued by the Provincial Minister.

DEADP issued the "Provincial support document on Relevant Considerations 2015" which should be considered before the Municipality makes a decision. The desirability guideline in the document will be used to assess the desirability of the approval and implementation of this proposal.

Element for consideration	Motivation of the impact of the approval and implementation of this proposal.
Economic impact	The proposed restaurant will employ several employees who will be reliant on the income derived from employment. This income will be spent by the employees at other local businesses and ensures that the subject restaurant has a positive impact on other businesses in the area.
Social impact	The subject restaurant will not only function as a place which provides people with meals and alcoholic beverages but will function as an area of social interaction among people from diverse backgrounds. This will therefore promote integration and enhance the social fabric of people within the subject industrial area.
Scale of the capital investment	The subject building has already been constructed and the take-away restaurant is already in operation. The scale of the capital investment has therefore already been invested which illustrates the commitment of the owner of the subject property towards the built environment of Hermanus.
Compatibility with surrounding uses	The surrounding land uses are predominantly industrial. This proposal for a restaurant is subservient and ancillary to the surrounding dominant land use and is therefore compatible.

WRAP

MOTIVATION

Impact on safety, health and wellbeing of the surrounding community;	<p>The subject restaurant is projected to attract people during the day and late in the afternoon when the subject industrial area is a ghost town. The additional people will be additional surveillance on the street scape which will contribute to enhancing the safety and security in the area.</p> <p>The proposed restaurant is not a noxious land use and is not projected to adversely impact on the surrounding land uses. The food which will be prepared in the restaurant complies with all relevant health standards and is therefore not projected to adversely impact on the health of the patrons.</p> <p>There are no permanent residents in the subject industrial area. The operation of the restaurant after working hours will therefore not disadvantage anyone.</p>
Impact on heritage	<p>The subject property and surrounding industrial areas are not in any way heritage sensitive. The operation of the restaurant on the subject property will therefore not have any heritage impact.</p>
Whether the imposition of conditions can mitigate an adverse impact of the proposed land use	<p>The following conditions of approval are proposed to ensure that the subject restaurant has no adverse impact on the surrounding property owners.</p> <ul style="list-style-type: none"> • That all signage comply with the Overstrand Municipality By-Law on Signage. This will ensure that all signage will not be visually intrusive; • That all development parameters in the IND1 zoning and other title deed restrictions be complied with. This will ensure that the scale of the subject development remains within reasonable bounds; • That building plans be submitted to the Building Department for approval as that will ensure that building is designed in accordance with prescribed legislation; • That all prescripts of the fire department be complied with to ensure that the subject building does not become a fire risk to the occupant as well as clients; • That all land uses on the subject premises not interfere with the peace, comfort or become an unbearable nuisance to surrounding property owners; • That all other health regulations pertaining to the preparation of food be complied with. This is to ensure that the food prepared on the subject premises does not make patrons fall ill; and • That all other relevant legislation be complied with.
Aspects which impact on quality of life (including views, sunlight, privacy, visual impact, character)	<p>The proposed restaurant is within the immediate scale of the surrounding urban environment and is not a visual imposition on the prevailing industrial landscape.</p>

WRAP

11. SPATIAL PLANNING DOCUMENTS

Spatial planning documents

This proposal was assessed in terms of the existing spatial planning documents. This is to ensure that this proposal is in harmony with the urban form and urban fabric which is envisaged by the local and provincial authorities.

PSDF

The aim of the PSDF is to give spatial expression to the national and provincial development agendas and serves as a basis for coordinating, integrating, and aligning ground delivery of national and provincial departmental programmes. The framework also aims to communicate the government's spatial development intentions to the private sector and civil society.

Policy proposals which are pertinent to this proposal can be recorded as follow.

Capitalise

The PSDF promotes the preservation of the local built form, natural typologies, character and heritage of an area. The Hermanus industrial area is predominantly used for industrial purposes which creates a valued built form and character. The proposed restaurant is of a small scale and subservient to this dominant valued industrial fabric.

Economic connections

The creation and establishment of economic connections is cited in the PSDF as integral towards achieving socio-economic integration. The management of the proposed restaurant will purchase food, beverages and other consumer items from other businesses within and outside of Hermanus. This ensures that the subject restaurant is economically connected to other enterprises in the area.

Settlement transition

The transition of settlements from segregated land uses to more integrated and complementary land uses is promoted. This proposal promotes the integration of industrial, restaurant land uses on the subject property. The premises is located in a very visible place from the streetscape and the dominant industrial use which is located towards the rear of the property both promote the transition of the Hermanus industrial area from an area with segregated land uses to integrated land uses.

SDF

The objective of the SDF is to formulate strategic spatially based policy guidelines and proposals where the needs, changes and growth in the area can be managed to benefit the inhabitants and the environment in the Overstrand Municipality. The SDF is guided by a set of objectives and the consistency of this proposal will be assessed with these core objectives.

Policy proposals which are pertinent to this proposal can be recorded as follow.

Contain

The urban footprint of Hermanus is proposed to be contained within the well-defined urban edge. This proposal is located within the urban edge and complies with this development proposal.

Protect

The protection and maintenance of the character of Hermanus is promoted. This is proposed to be attained by balancing the need for urban growth while conserving the biophysical and existing heritage assets. The approval and implementation of this proposal will protect the character of the Hermanus industrial area while appropriately balancing the need for a restaurant land use in the industrial area in a manner which is contextually appropriate and sensitive to the prevailing locational setting of the area.

Spatial proposal plan

The subject property is earmarked for industrial purposes. The approval and implementation of this proposal will ensure that the industrial use on the property remains dominant and that the proposed restaurant remains subservient. This will therefore ensure that the industrial use earmarked for the subject property is not altered.

OMGMS

The purpose of the Growth Management Strategy is to improve the Overstrand Municipalities' overall environmental sustainability by enhancing the quality and efficiency of the built environment. It will be outlined how the proposed development will contribute towards the aims and objectives of this strategy.

Policy proposals which are pertinent to this proposal can be recorded as follow.

Enhance

The OMGMS cites that the built environment and landscapes in Hermanus should be enhanced and well managed. The subject property is visually appealing as the restaurant operator continually renovates and maintains the condition of the property to impress and appease patrons. This by implication ensures that the aesthetic appeal of the property becomes a visual asset to the Hermanus industrial area which is aligned with the policy proposal in the OMGMS that the built environment in Hermanus should be enhanced and well managed.

Mixed land uses

The mixture of land uses is encouraged in the OMGMS to provide for vitality, opportunities and integrated living environments. The mixture of the industrial and restaurant land use on the subject property is aimed at providing for vitality in the Hermanus industrial landscape.

Scale of developments

The OMGMS proposes that the scale and character in terms of bulk, height and architectural styling be appropriate within the immediate context. The subject restaurant is of a smaller scale in comparison with the surrounding large industrial buildings in the Hermanus industrial area. The aesthetic appeal and vibrancy which the subject restaurant is projected to bring into the industrial area is also projected to enhance the prevailing ambiance in the industrial area.

Spatial proposal plan

The spatial proposal plan earmarks the subject property for local economic development purposes. The existing business on the subject property and the subject restaurant are both economic enterprises which serve the consumer needs of people in the local economy. This

is in harmony with the local economic designation of the subject property in the spatial proposal plan.

IDF

The IDF addresses specific planning needs identified and not currently addressed within the existing spatial planning context. The integrated approach of the document therefore contributes to combatting the fragmentation within the legislative and policy environment of the Overstrand Municipality.

Policy proposals pertinent to this proposal can be recorded as follow.

Local employment opportunities

The IDF highlights the significance of local employment opportunities in the Overstrand Municipality being provided by diverse commercial, industrial, agricultural and tourism activities that are strategically located across the Municipal area. The strategic location of the subject restaurant within the industrial area contributes significantly towards these local employment opportunities cited in the IDF.

Strategically well-located land

The IDF cites that there needs to be a provision or allocation of strategically well-located land for economic functions in order to ensure that the price of commercial and industrial land remains competitive and transportation costs are minimised. The subject property is well located which ensures that the price of industrial/commercial land remains competitive. The walking distance proximity of the subject property to the labour force in the surrounding residential areas guarantees a minimisation of transport costs and travel distances as employees can walk to and from work to home.

Development of industrial/business hives

The IDF cites that the development of industrial/business hives which accommodate a large number of small manufacturers should be encouraged. The Hermanus industrial area predominantly comprises of light industrial land uses which accommodated a large number of small manufacturers as encouraged by the IDF. The consent use application for a restaurant therefore introduces a subservient business component to this dominant industrial use as promoted by the IDF.

Spatial proposal plan

The spatial proposal plan highlights that no additional erven over and above the existing approved properties should be approved. The existing area zoned for industrial activities is proposed to be restricted to low intensity services and clean light industries. The existing Discount Boards Express on the subject property is a clean light industry and the subject restaurant is a low intensity service. The subject proposal is therefore aligned with this land use designation for the subject property.

Consistency with the various planning principles

The analysis of the spatial planning documents has provided a clear and complete explanation of the alignment of the proposal with the relevant development frameworks. The proposal is consistent with the PSDF, SDF, OMGMS and IDF and can be deemed as encompassing the core objectives of planning as set out in the documents.

12. COMMON LAW

In terms of common law, a restaurant operated on a property which is zoned IND 1 may not use his land in a manner which would interfere with the rights of others (sic utere tuo ut alienum non laedas). In other words, an application can become a nuisance when the implementation thereof is projected to reasonably interfere with the neighbour or public wellbeing, health and comfort in the occupation of land. An objector should however illustrate that he/she is not oversensitive.

The test of reasonableness becomes applicable. The question which would be posed is that, would a reasonable person or the public be of the opinion that a small restaurant on a property where the dominant use is industrial within an industrial area tolerate the subject land use. Would the health, wellbeing and comfort in the occupation of the neighbour or public be compromised should this application be approved and implemented. The subject restaurant is of a small scale and is contextually appropriate. The subject proposal is not for a place of entertainment which would unreasonably lead to an emission of ear shattering cacophonous sounds which would unreasonably be a huge discomfort to the neighbours in the occupation of their land.

13. PLANNING PRINCIPLES

The proposal was analysed for consistency with the planning principles to provide a recommendation to the OM for the application in terms of Section 42 of SPLUMA and Chapter VI of LUPA.

Spatial Justice

Spatial justice refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access opportunities, facilities, services and land. Some of the employees in the subject establishment are historically economically marginalised. The subject restaurant therefore contributes to employees being able to afford access to opportunities, facilities, land and services. The existing land uses on the subject property therefore enable the operator of the subject restaurant to contribute to addressing spatial development imbalances caused by apartheid land use and spatial planning. The approval of this proposal is therefore instrumental in creating and enabling environment for the operator of the subject restaurant to continue addressing spatial development imbalances caused by apartheid land use and spatial planning.

Spatial Sustainability

A spatially sustainable settlement will be one which ensures the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas and ultimately limits urban sprawl. The subject property is located on land which is not agriculturally viable, will not compromise on environmentally and biodiversity areas and does not promote urban sprawl. The approval of this proposal is therefore aligned with the principles of spatial sustainability.

Efficiency

Efficiency proposes the optimal utilisation of land and services. This proposal promotes the optimal utilisation of land on the subject property within the services capacity limits of the

subject site as well as within the applicable development envelope to serve a greater number of people who will be the patrons to the subject property.

Spatial Resilience

The proposed restaurant which is subservient to the dominant residential land use on the subject property which is industrial, is aligned with the PSDF, SDF, OMGMS and IDF resilience policy proposals pertinent to the subject site. The approval of this proposal will therefore enable the resilience on the subject property to comply with all prescribed town planning standards.

Good Administration

The proposed development will promote consultative planning as the Municipality will advertise the proposal to the public to allow the comments of the public to be taken into consideration. WRAP will also respond to the comments of the public and take the comments into consideration in the planning of the project. All these measures will ensure that a joint planning approach is pursued to the benefit of the operator of the subject restaurant and the community.

Erf 2340 Hermanus Plan 3 : SDP		35 Duiker Street, Hermanus, 7200 Plan prepared in February 2019 Plan prepared by: Reatlehle Janke All distances are approximate and subject to a survey
Subject property (1859m ²) Part of the building which will be demolished		



7568

6836

5525



Scale 1 : 250

P.E. Du Plessis Prokureurs
Attorneys

Prokureurs en Aktevervaardigers / Attorneys and Conveyancers

DEED OF TRANSFER NO. T1654/2009

in favour of

CONDERE PROPERTIES CC

in respect of

ERF 2340 HERMANUS

Posbus 4 / PO Box 4
Onrusrivier / Onrus River 7201

Arumstraat 11 / 11 Arum Street
Onrusrivier / Onrus River 7201

Tel: +27 (0) 28 316 4545
Faks / Fax: +27 (0) 86 542 6565

E-pos / E-mail: pierre.duplessis@onrus.co.za

62. PIER BLOMMAERT ATTORNEYS

Handwritten scribbles and "800 cc" in a box

Verw: PBB/cv

Opgestel deur my
Handwritten signature
A T MAREE
Transportbesorger

TRANSPORTAKTE

kragtens 'n prokurasie

Stamp: 001054/09

HIERMEE WORD BEKEND GEMAAK

dat JACOBUS PETRUS VAN ZYL voor my verskyn het te Kaapstad behoorlik daartoe gemagtig deur 'n volmag uitgevoer te ONRUSRIVIER op 4 Desember 2008 en aan hom verleen deur

**DIE TRUSTEES INDERTYD VAN DIE
ATTIE LOUW TRUST**
Registrasienommer IT 3964/1995

DATA / CAPTURED
27 JAN 2009
NGCOWANA PENELOPE

Handwritten initials "PB"

- 2 -

EN DIE KOMPARANT het verklaar dat nademaal sy lasgewer op 20 November 2008 werklik en wettiglik verkoop het, hy hiermee in volle en vrye eiendom seeder en transporteer aan en ten gunste van

CONDERE PROPERTIES BK
 Registrasienommer CK 2002/031527/23

Hul opvolgers in titel of regsverkrygendes

ERF 2340 HERMANUS geleë in die Overstrand Munisipaliteit, Afdeling Caledon, Provinsie Wes-Kaap

GROOT 1 859 (Een Duisend Agt Honderd Nege en Vyftig) vierkante meter

AANVANKLIK OORGEDRA deur Transportakte Nr T 12237/1969 met Kaart Nr 6846/1968 wat daarop betrekking het en gehou kragtens Transportakte Nr T 5946/1996

A. ONDERHEWIG aan die voorwaardes waarna verwys word in Transportakte Nr 12237/1969.

B. ONDERHEWIG VERDER aan voorwaardes nrs 2, 3 en 4, vervat in die Grondbrief uitgereik kragtens die bepalings van Artikel 10 van Wet Nr 15 van 1887 op 5 Augustus 1922 (Caledon Eiendomsbriewe Volume 3 Nr 8), welke voorwaardes soos volg lees:

- "2. That all roads and thoroughfares over the land, wither or not described in the plan or diagram thereof, shall remain free and uninterrupted unless closed, diverted or altered by competent authority.
3. That all rights to minerals, mineral products, mineral oils and precious stones, precious or base metals on or under the land hereby granted are expressly reserved to the State, together with the right of access to any mines or works undertaken for mining or prospecting purposes by any person duly authorised in that behalf.

The land is subject to such further rights as the public or the Government now may or may hereafter have or be entitled to obtain under or by virtue of any law relating to the prospecting, digging, mining or exploitation of minerals, mineral products, mineral oils, precious stones, precious or base metals on or under the land hereby granted, which rights shall not be impaired or in any way affected by the title deed.

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 Government in respect of the said land as at the date hereof."

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C. **ONDERHEWIG VERDER** aan die volgende voorwaardes vervat in Transportakte Nr T 12237/1969, opgelê deur die Administrateur tydens die goedkeuring van die stigting van Hermanus Dorpsuitbreiding Nr 6, naamlik:

- "1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Administration Notice No 401 dated 17th October 1935, and in the memorandum which accompanied the said regulations.
2. The owner of this erf shall without compensation be obliged to allow electricity and water mains and the sewage and drainage, including stormwater of any other erf or erven within or without this Township to be conveyed across this erf, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.
3. The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.
4. In the event of the provisions of a Town Planning Scheme being made applicable to this erf which provisions are more restrictive than the provisions contained in the above then the provisions of such scheme shall apply.
5. This erf shall be subject to the following further conditions provided especially that where, in the opinion of the Administrator after consultation with the Townships Board and the Local Authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation subject to compliance with such conditions as he may impose:
 - (a) it shall not be subdivided;
 - (b) this erf shall be used for industrial purposes only save that in connection with such purposes accommodation may be provided for use by any caretaker. No noxious, offensive, unhealthy or dangerous trade or industry shall be conducted on this erf.
 - (c)
 - (1) not more than three-quarters of the area of this erf shall be built upon;
 - (2) for the purpose of loading or unloading vehicles there shall be left on this erf a space or spaces amounting to not less than
 - (i) 20% of the total floor area of the building; or

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- (ii) 25% of the area of the erf on which the building is to be erected;

whichever is the lesser, and the linear dimensions of such space or spaces shall be such that the shortest distance measured at right angles between any two sides thereof is in no case less than 7,87 metres;

such space or spaces shall have vehicular access to a street which form of access shall not be less than 47,72 metres wide and, if carried through a building, not less than 3,05 metres in height.

- (d) No building or structure or any portion thereof except boundary walls and fences, shall be erected nearer than 7,87 metres to the street line which forms a boundary of this erf."



D. ONDERHEWIG VERDER aan die volgende voorwaardes vervat in Transportakte Nr T 642/1971, opgelê deur die Munisipaliteit van Hermanus en afdwingbaar daardeur, wat die Transportnemer en sy opvolgers in titel bind (wat almal ingesluit is in die hiernavermelde uitdrukking "owner") met spesiale voorsiening dat die gemelde Munisipaliteit, met die toestemming van die Administrateur en onderhewig aan sodanige voorwaardes as wat hy mag goedkeur altyd die reg sal hê om deur ooreenkoms met die eienaar die gemelde voorwaardes te wysig, op te skort of te verslaap, welke voorwaardes soos volg lui:

"(i) That the said land shall be utilised for the erection and use thereon of factories or workshops as defined in Section 2 of the Cape Municipal Ordinance No 19 of 1951, and Section 3 of Act 22 of 1941 and for no other purpose. The said land shall not, however, nor shall any factory or workshop thereon be used for the carrying on of an offensive, unhealthy or dangerous trade as defined in any Government Regulations relating to offensive trades or any amending or other law, and the owner shall be bound to take such steps as the Municipality in its opinion may deem necessary or expedient to prevent or abate any nuisance which may be caused by any factory or factories which may be erected on the land. The owner may, however, in erecting such factories or workshops as are permitted to be erected in terms of this paragraph:

- (a) erect buildings to be used for office accommodation and for purposes incidental to the manufacture and production of goods by the owner;
- (b) erect the necessary dwelling house for the use of a caretaker but no other dwelling house.

(ii) The said land shall not be subdivided except with the consent of the Administrator and then only under the circumstances provided in condition (iii).

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- (iii) In the event of the owner wishing to utilise only a portion of the area comprising the land transferred and desiring to dispose of any portion not utilised the said owner shall not dispose of such area unless it shall have first offered it in writing, to the Municipality at a price equal to the original price per 99 square metres at which the land was sold, namely at the rate of R 30,00 per 99 square metres;
 - (iv) The owner shall not sublet the use of the land nor any portion thereof or any premises thereon without the sanction in writing of the Municipality.
 - (v) That every fence or enclosing wall on or near the boundary line of the land shall be constructed to the satisfaction of the Municipality and the erection of such fence or wall shall not be commenced unless and until the design thereof shall have been submitted to and approved by the Municipality.
 - (vi) That no buildings, fences or other erection shall be constructed or erected on the said land save upon levels as shall be approved by the Municipality.
 - (vii) The Municipality shall have the right, after notice to the owner, to lay, erect and maintain any necessary water and sewerage pipes, stormwater drains and power lines through and across the said land and at all times have access to the pipes, drains and lines for removal, maintenance, extension or repair without compensation to the owner or occupier."
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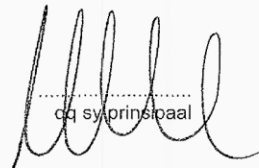
WESHALWE die komparant afstand doen van al die regte en titel wat die gesegde Transportgewer voorheen op die eiendom gehad het, en gevolglik ook erken dat die transportgewer geheel en al van die besit daarvan onthef is en nie meer daartoe geregtig is nie en dat kragtens hierdie akte die bogenoemde Transportnemer, hul opvolgers in titel of regverkrygendes tans en voortaan daarop geregtig is ooreenkomstig plaaslik gebruik en behoudens die regte van die Staat.

TEN SLOTTE erken hy dat die koopprys die som van R 2 750 000,00 (Twee Miljoen Sewe Honderd en Vyftig Duisend Rand) beloop, wat behoorlik betaal of verseker is.


TEN BEWYSE waarvan ek, die genoemde Registrateur, tesame met die komparant hierdie akte onderteken en met die ampseël bekragtig het.

ALDUS gedoen en verly in die kantoor van die Registrateur van Aktes te Kaapstad,

op hierdie dag van 21 JAN 2011


.....
of sy prinsipaal

in my teenwoordigheid


.....
Registrateur van Aktes

10

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED
CONDITIONS & CONSENT USE: ERF 2340, HERMANUS INDUSTRIAL
(2965/2019)**

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 developer'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 developer's cost;
3. that any commercial food preparation facilities (e.g. restaurant / guest house etc.) must be provided with a grease trap, which must comply with the standards and specification of the Department: Operational Services;
4. that only the two existing, approved vehicle entrances will be available to the development, no new development will be allowed over the sewer pipeline in Arum Street;
5. 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;
6. that stormwater be allowed to discharge through Erf 2340, Hermanus Industrial, unobstructed;
7. that no on-street parking be allowed.

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

07/10/2019
DATE