

**AGENDA of the
Portfolio Committee: Infrastructure and Planning
17 November 2015
(Also the agenda for the Mayoral Committee Meeting: 25 November 2015)**

15.

**ERF 1462, 80 MAIN ROAD, SANDBAAI, OVERSTRAND MUNICIPAL AREA :
REMOVAL OF RESTRICTIONS AND PROPOSED REZONING : MESSRS PLAN
ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF JA & RC BAILEY**

1462 HSB (2872)

H Olivier

7 October 2015

(028) 313 8900

Hermanus Administration

1. Executive Summary

An application has been received on 30 March 2015 from Messrs Plan Active Town and Regional Planners on behalf of JA and RC Bailey for the removal of a restrictive title condition applicable to Erf 1462, Sandbaai to enable the owner to utilise the property for office use (veterinary laboratory). The application further entails the following:

- application for the rezoning of Erf 1462, Sandbaai from Residential Zone I to Local Business Zone III.

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

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Town- and Spatial Planning

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

Executive Mayor

5. Legal Requirements

- Removal of Restrictions Act 84 of 1967
- Section 17 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)

**AGENDA of the
Portfolio Committee: Infrastructure and Planning
17 November 2015
(Also the agenda for the Mayoral Committee Meeting: 25 November 2015)**

6. Background/Discussion/Evaluation

Background

Erf 1462, Sandbaai is situated on the corner of Main Road and Jan van Riebeeck Street.

The property is developed with an existing dwelling with single garage and is zoned Residential Zone I. The property measures approximately 1381m² in extend.

The applicant wants to operate offices (veterinary laboratory) from the premises. The Title Deed of the property, Title Deed T62338/09, contains restrictive conditions prohibiting the operation of offices. Application is therefore made for removal of the following title conditions:

Page 4 : Paragraph ii(a) – *“that the above erf or erven be used for residential purposes only”*

Page 4 : Paragraph ii(c) – *“that not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than one-half of the area of any of the above erven be built upon.”*

The property is zoned for Residential Zone I purposes, and application is also made to rezone the property to Business Zone II : Local Business purposes.

The application was advertised in the local press and Government Gazette, and registered notices were also sent to all surrounding affected property owners. Eight (8) letters of objection were received, but one (1) letter of objection was withdrawn.

The application was also circulated to relevant internal municipal departments, external institutions and state departments.

Discussion

As indicated in the “Background” the application was duly advertised and ultimately seven (7) objections were received against the application, such can be summarized as follows:

1. Objection

A laboratory should not be in a residential area, but in Hermanus CBD or industrial area. A laboratory does not comply with “economic opportunity”. Should the application be approved, additional buildings and land uses will be

**AGENDA of the
Portfolio Committee: Infrastructure and Planning
17 November 2015
(Also the agenda for the Mayoral Committee Meeting: 25 November 2015)**

promoted in a residential area, and ultimately the residential character of the area will be affected.

Applicants' Response

The area between End- and Long Street next to Main Road, Sandbaai has been identified for an "Economic Opportunity" in terms of the Overstrand Growth Management Strategy, 2010. The proposed veterinary laboratory practise is a professional use, similar to a doctor, dentist or office use, and therefore compatible with "Economic Opportunity".

2. Objection

The proposed business will increase traffic to this area.

Applicants' Response

The facility does not cater for patients and samples are collected at the clients' premises. Only approximately five (5) vehicles of staff will be arriving and leaving per day during office hours, and there is one (1) company vehicle. The number of trips generated is minimal.

3. Objection

It appears as if the sewerage system on the site is faulty and there is also leakage in the sewerage system of the larger Sandbaai. This could create contamination by the contaminated samples and chemicals used on the premises.

Applicants' Response

Approximately seven (7) people will be working on the premises, which will also not make use of shower or baths, and therefore the impact on the sewer system will be similar to that of a normal household.

Should any leaks be found in the existing tank at Erf 1462, Sandbaai it will be replaced. It is not reasonable to reject the application due to allegations about problems with the sewer system of Sandbaai.

4. Objection

The proposed business will be a nuisance to the surrounding area with noise, waste, bad smells and flies.

**AGENDA of the
Portfolio Committee: Infrastructure and Planning
17 November 2015
(Also the agenda for the Mayoral Committee Meeting: 25 November 2015)**

Applicants' Response

The business is a professional business like doctors, lawyers, etc. and will not create high noise levels.

All biological waste are disposed of in terms of strict regulations by the South African Veterinary Council, and the company is audited on a regular basis and do comply.

Any biological material that may decompose prior to removal is stored in a dedicated waste freezer, therefore there are no odours or flies.

5. Objection

Underground water and marine life can be contaminated. The applicant cannot proof that there are no risk for contamination, and even if there are safety protocols (which was not indicated in the motivation), contamination can happen due to human error.

Applicants' Response

Biosecurity, or controlling risk of disease form part of the audit by the Department of Agriculture, Forestry and Fisheries : Directorate Animal Health (DAFF), and are fully compliant. The majority of samples are also from normal animals, most originate from Walker Bay. Hand washing in the laboratory is by surgical scrub, destroying infection agents. Gumboots used on farms are disinfected and laboratory equipment are disinfected with household bleach.

Freshwater is lethal to many infection agents of marine aquatic animals, and even if infection agents overcome all the processes, it will not survive the intensely unfavourable environment of sewerage.

6. Objection

It will impact on the property values in Sandbaai.

Applicants' Response

The property purchased is a neglected building. The renovation of the building will uplift the surrounding area and will have a positive spinoff with reference to the value of surrounding erven.

7. Planner's Evaluation

Copies of the letters of objection are attached as Annexure D and the Applicants' response thereon as Annexure E.

**AGENDA of the
Portfolio Committee: Infrastructure and Planning
17 November 2015
(Also the agenda for the Mayoral Committee Meeting: 25 November 2015)**

The Ward Committee of Ward 7 also commented on the application at their meeting held on 13 August 2015. The comments were received after the closing date for objections, and therefore it cannot be dealt with as formal objections. The Ward Committee's objections are nevertheless a duplication of the objections received from other objectors, and therefore also addressed by the applicant and will be dealt with in the evaluation.

The application will be considered in terms of the criteria to determine desirability in terms of Section 36 of the Land Use Planning Ordinance 15 of 1985.

Location and Accessibility

Erf 1462, Sandbaai is situated on Main Road, Sandbaai on the corner with Jan van Riebeeck Street. The site is easily accessible via Main Road, which links up with Bergsig Street and the R43, linking this area with the Greater Hermanus area.

Access to the site will be from Jan van Riebeeck Street, and it is indicated on the Site Development Plan that eight (8) on-site parking bays will be provided. There is also an existing single garage on the property obtaining access from Main Road. This is an additional parking bay. This is sufficient parking in terms of the Overstrand Municipality Zoning Scheme Regulations.

Some of the objections received are directed to the creation of additional traffic. The scale of the proposed business is such that it will not have a major impact on traffic flow or safety.

No objections were received from the Municipal Engineering Department, Department of Transport or the Municipal Traffic Department.

Considering the above, the site has a good location for offices and is also considered accessible.

Existing Planning and Character of the Area

The property is situated in an area with existing shops, service trades and office sites situated to the south and south west of the site, residential sites to the west and east, and a mix of offices, service trades and residential sites to the north of the site.

The area next to Main Road, Sandbaai between End- and Long Street has been identified for Economic Opportunity in terms of the Growth Management Plan, 2010. Various occupational practises have opened in this area, and also some offices and businesses. The area is considered to have a mixed use character.

**AGENDA of the
Portfolio Committee: Infrastructure and Planning
17 November 2015
(Also the agenda for the Mayoral Committee Meeting: 25 November 2015)**

Some of the objectors argue that a laboratory should not be allowed in the Economic Opportunity area, and it should be in an industrial area or Hermanus CBD. The opinion is held that it will have a negative impact on the residential character, create noise, waste, bad smells and flies, and will ultimately have a negative impact on the character of the area and lead to a decrease in property values.

A portion of Main Road in Sandbaai is earmarked for Economic Opportunity with specific reference to office type activities. Such activities usually limit influx of people and also impact less on surrounding properties, as in the case of retail concerns. The applicant motivated that the proposed laboratory will not have any greater impact than a doctor's surgery, dentist or other professional office. It is clear that the concerns with regard to traffic and noise levels are unfounded.

It is also clear that waste will be dealt with in a professional way, and is highly regulated. Further concerns regarding odours and flies were sufficiently addressed by the applicant.

Considering the above, the nuisance level of the proposed laboratory will not be any greater than a doctor's surgery, which is acceptable to most people. It is therefore the opinion that the proposed laboratory use is compatible in the "Economic Opportunity" area.

The applicant indicated that this derelict house will be upgraded, and therefore the property values of surrounding properties will in all probability increase. Although this point can be debated, the opinion that the proposed laboratory will lead to a drop in property values, can also be debated. No factual evidence has been provided by the objectors.

Policy Plans

As indicated under the previous heading, the properties next to Main Road, Sandbaai between End- and Long Street has been earmarked for Economic Opportunity in terms of the Overstrand Growth Management Plan, 2010. The laboratory is considered to be a professional use/office, and the proposal is therefore in line with the Policy Plan.

Provision of Services

The property is situated in a developed area with existing services available.

The objections with regard to a possible leaking septic tank on-site and also claims that the municipal sewer system has leakage, is duly noted. The applicants did indicate that they will fix the septic tank if it leaks. This can then be dealt with as a condition of approval.

**AGENDA of the
Portfolio Committee: Infrastructure and Planning
17 November 2015
(Also the agenda for the Mayoral Committee Meeting: 25 November 2015)**

The applicants' opinion that they cannot take responsibility for the state of municipal services is supported. This matter should directly be dealt with the relevant municipal department.

Environment and Health

The objections with regard to possible contamination of groundwater and marine life, is duly noted.

The applicants' response thereon actually clearly shows that safety precautions are in place to ensure that no contaminations will take place. It is also clear that the samples tested at the facility is so sensitive to even fresh water, and even more to sewerage, that any contamination is extremely unlikely. The opinion of the applicant, a veterinary for more than twenty (20) years, that there is no risk of the introduction of an infectious disease do carry weight. This is a professional person dealing with these matters on a daily basis and highly regulated by legislation.

It is also to be noted that the Overberg District Health had no objection to the application.

Conclusion

Seven (7) objections were received against the application. The applicant did respond to the objections, and it is the opinion that the objections have been addressed sufficiently.

The proposal for the office use (veterinary office) is in line with the Policy Plan for the area, and it is the opinion that it would not have a negative impact on the character of his area. The application is considered desirable and is supported.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Overberg District Health

Application received and approved.

**AGENDA of the
Portfolio Committee: Infrastructure and Planning
17 November 2015
(Also the agenda for the Mayoral Committee Meeting: 25 November 2015)**

Building Department

Building older than 60 years. Building alterations to go to Heritage Committee and Heritage Western Cape and alterations to comply with SANS 10400.

Environmental Department

Approved.

Fire Department

Premises must comply with requirements of National Fire Protection Regulations SANS : 10400 TT : 2011

Waste Manager

Special provisions to be made for the removal of laboratory waste.

Operational Services

No objections.

Electrical Department

The fact that there are no changes made to services, there are no comments.

10. Annexures

- Annexure A: Locality Plan
- Annexure B: Proposed Site Development Plan
- Annexure C: Motivation Report
- Annexure D: Objections received
- Annexure E: Comment on Objections
- Annexure F: Comment: Telkom
- Annexure G: Comment: Department of Transport
- Annexure H: Comment: Eskom
- Annexure I: Services Report

RECOMMENDATION:

1. that, in terms of Removal of Restrictions Act 84 of 1967 the removal of a restrictive title conditions Paragraph ii(a) and ii(c) in Title Deed T62338/09, applicable to Erf 1462, Sandbaai to enable the owner to utilise the property for business (offices) purposes, **be recommended for approval** by the Provincial Government: Western Cape;

**AGENDA of the
Portfolio Committee: Infrastructure and Planning
17 November 2015
(Also the agenda for the Mayoral Committee Meeting: 25 November 2015)**

2. that, in terms of Section 16 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the application for the rezoning of Erf 1462, Sandbaai from Residential Zone I to Local Business : Business Zone III, **be approved**;
3. that the approval of Point 2 be subject to the following conditions:
 - (a) that approval of the rezoning be subject to the removal of the restrictive title conditions;
 - (b) that the development be restricted to Drawing No. sand1462.drw dated 10/03/2015 submitted with the application;
 - (c) that land use be limited to office use (including the laboratory) only;
 - (d) that the approval be obtained from Heritage Western Cape for any alterations to the building;
 - (e) that commercial rates and service tariffs, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (f) that a single non-illuminated sign that complies with the Municipal By-Law on Signage, may be displayed on the premises;
 - (g) that all other development parameters, as prescribed in the relevant Zone Scheme, be complied with;
 - (h) that the approval does not absolve the applicants from compliance with any other relevant legislation and/or Title Deed conditions;
 - (i) that all conditions imposed in the Services Report (attached as Annexure I), be complied with;
 - (j) that all the conditions imposed by Telkom (attached as Annexure F), be complied with;
 - (k) that all the conditions imposed by Eskom (attached as Annexure H), be complied with;
 - (l) that the septic tank on Erf 1462, Sandbaai be tested for leakages prior to the operation of the business, and proof be provided to the Municipality that there is no leakages in the tank, and
 - (m) that all laboratory waste be removed from the property by the owner and in compliance with the regulations of the South African Veterinary Council.

**AGENDA of the
Portfolio Committee: Infrastructure and Planning
17 November 2015
(Also the agenda for the Mayoral Committee Meeting: 25 November 2015)**

5. that the applicant be notified of his right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above conditions of approval.

RESPONSIBLE OFFICIAL :	H OLIVIER
TARGET DATE FOR IMPLEMENTATION :	9 DECEMBER 2015
TARGET DATE TO INFORM APPLICANT :	9 DECEMBER 2015
TARGET DATE TO INFORM OBJECTOR :	9 DECEMBER 2015

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
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**ERF 1462, 80 MAIN ROAD, SANDBAAI, OVERSTRAND MUNICIPAL AREA :
REMOVAL OF RESTRICTIONS AND PROPOSED REZONING : MESSRS PLAN
ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF JA & RC BAILEY**

1462 HSB (2872)

H Olivier

7 October 2015

(028) 313 8900

Hermanus Administration

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
17 NOVEMBER 2015, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL :

H OLIVIER

TARGET DATE FOR IMPLEMENTATION :

9 DECEMBER 2015

TARGET DATE TO INFORM APPLICANT :

9 DECEMBER 2015

TARGET DATE TO INFORM OBJECTOR :

9 DECEMBER 2015

Scale: NTS
 Drawing Nr: sand1462L.drw
 Date: 23/03/2015

Plan Description:
LOCALITY MAP

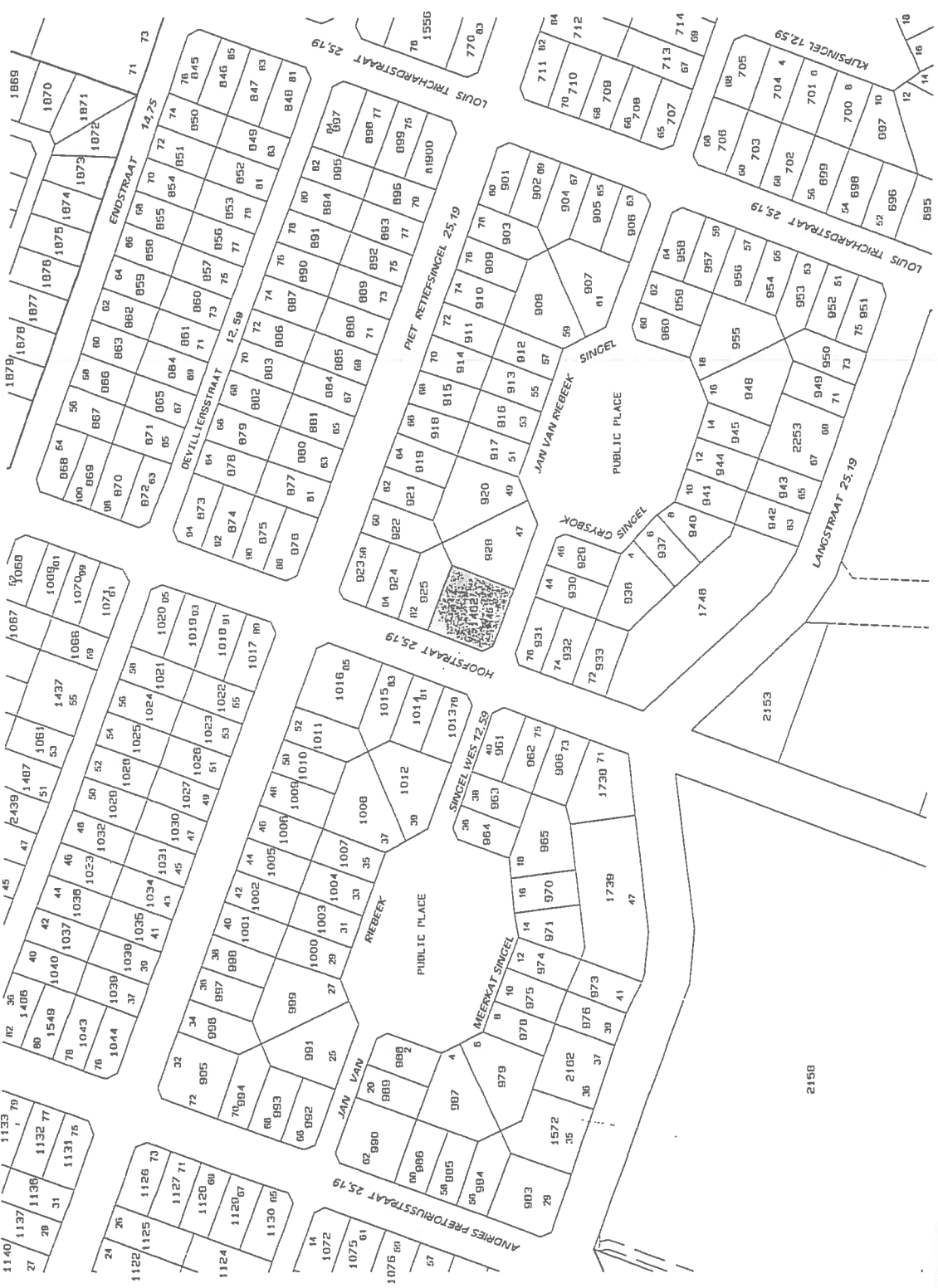
Property Description:
**ERF 1462
 SANDBAAI**

All distances approximate
 and subject to survey.
 COPY RIGHT RESERVED

Stads- en Streeksbepanners
 Town & Regional Planners



NOTES:
 The Site





NOTES:

- Existing Erf Boundaries
- New Building Lines
- Proposed Parking Area
- Existing Buildings

Total area of existing dwelling and outbuilding = ±200m²
 Total GLA = ±130m²

Parking requirement for offices:
 6 Parking bays per 100m² GLA
 Parking bays required = 7.8
 Parking bays provided = 9



All distances approximate and subject to survey.
 COPY RIGHT RESERVED

Property Description:
**ERF 1462
 SANDBAAI**

Plan Description:
**SITE DEVELOPMENT
 PLAN**

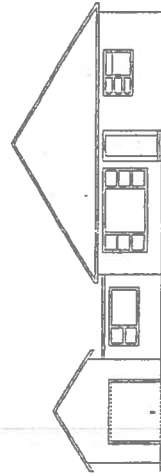
Scale: **1:500**
 Drawing Nr: sand1462.drw
 Date: 10/03/2015

PLAN
Active

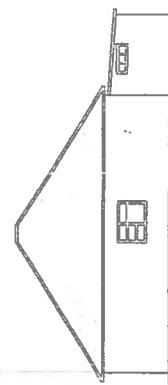
Stads- en Streeksbeplanners
 Town & Regional Planners



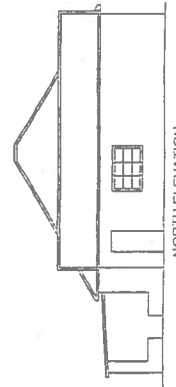
FLOOR PLAN
1:100



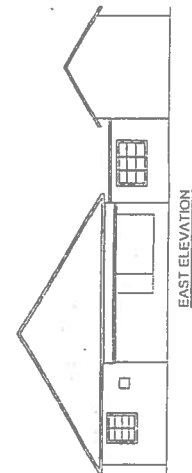
WEST ELEVATION
1:100



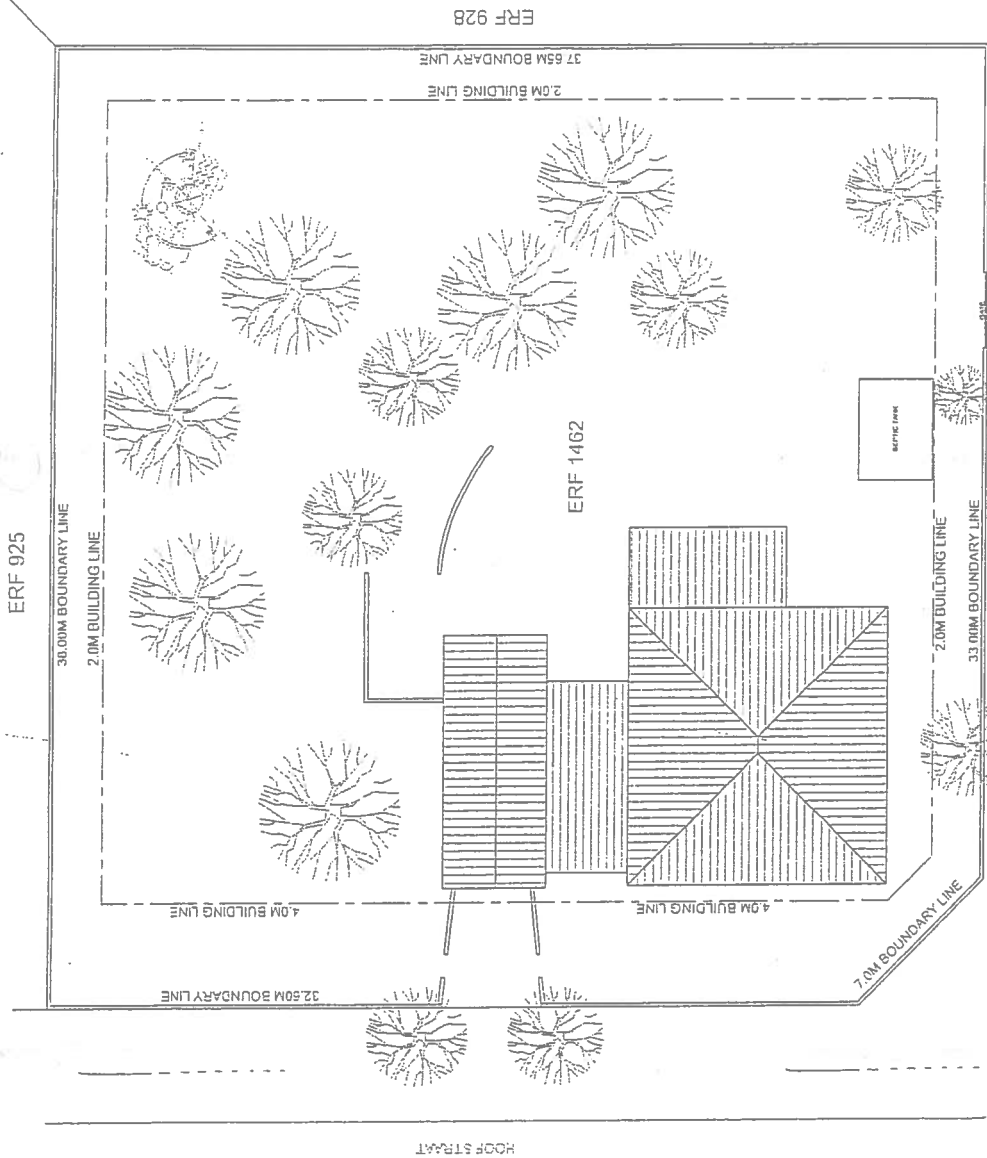
SOUTH ELEVATION
1:100



NORTH ELEVATION
1:100



EAST ELEVATION
1:100



SITE PLAN
1:100

JAN VAN HIERREEN STRAAT

Drawn: O.L.	GENERAL PLAN
	- AS BUILT
Client: A. MOUTON	
Scale: 1:100 E.L. 1462	SAYIDAN - HERMANUS
	GIG DESIGN
	1015 0002511 - 5404 1312
	101 211111111312@GIGDESIGN

COVERAGE	1419m ²
TOTAL ERF	2000m ²
EXISTING DWELLING	14%
TOTAL COVERAGE	14%

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

ERF 1462 SANDBAAI

**DIVISION: CALEDON
OVERSTRAND MUNICIPALITY**

MOTIVATION REPORT

1. BACKGROUND

The owners of Erf 1462 Sandbaai, J.A. & R.C. Bailey have instructed the company Plan Active to apply for the rezoning and removal of restrictive title deed conditions in order to change the current land use of the dwelling to offices.

Erf 1462 Sandbaai is 1381m² in extent and is held by title deed number T62338/09. Erf 1462 Sandbaai was recently purchased by Amanzi Biosecurity Veterinary Services who would use the existing dwelling to establish their offices. The offices will be used as their laboratory.

Amanzi Biosecurity Veterinary Services is a non profit organisation which exists to support the sustainable development of aquaculture through the provision of veterinary services.

Detail of the proposal will follow.

2. APPLICATION DETAILS

Application is made in terms of:

- Section 17 of the Ordinance on Land Use Planning, Ordinance 15 of 1985 for the rezoning of Erf 1462, from Residential Zone I to Business Zone III;
- The Removal of Restrictions Act, Act 84 of 1967 as amended, for the removal of the restrictive title deed conditions applicable to Erf 1462 Sandbaai.

3. DESIRABILITY

3.1 PROPERTY DESCRIPTION

Erf 1462 Sandbaai is situated on the corner of Main Road and Jan van Riebeeck Crescent, Sandbaai. Please refer to the locality plan attached. Erf 1462 Sandbaai is 1381m² in extent and is situated in a mixed land use area.

3.2 ZONING

Erf 1462 Sandbaai is zoned Residential Zone I. Surrounding properties are zoned for single residential purposes, home based business uses, local business uses and offices.

3.3 LAND USE

Erf 1462 Sandbaai is used for residential purposes.

Examples of surrounding land uses other than single residential uses are:

- Offices
- Doctor's Consulting Rooms
- Convenient Store

- Estate Agents
- Optometrist
- Coffee Shop
- Hairdresser
- Internet Café and Computer Sales
- Retirement Village
- Apartments

3.4 PROPOSAL

- The rezoning of Erf 1462 Sandbaai, from Residential Zone I to Business Zone III in terms of Section 17 of the Land Use Planning Ordinance, Ordinance 15 of 1985;
- The removal of the restrictive title deed conditions in terms of the Removal of Restrictions Act, Act 84 of 1967 as amended applicable to Erf 1462 Sandbaai.

The detail of the application can be described as follow:

3.4.1 Proposed Rezoning

It is the intention of Amanzi Biosecurity Veterinary Services who purchased Erf 1462 Sandbaai to rezone the subject property from Residential Zone I to Business Zone III (Local Business) in order to relocate their offices that will be used as their laboratory.

Amanzi Biosecurity Veterinary Services involve the diagnosis, treatment and prevention of diseases in farmed fish and shellfish. Their services benefit the South African aquaculture industry, including everyone employed both directly on farms and those involved in ancillary businesses, for example feed production and processing of products.

Amanzi Biosecurity Veterinary Services has offices and laboratories and their

laboratory services are primarily based on preparation of tissue sections of fish and shellfish, for surveillance and diagnosis of diseases. They employ two veterinarians, an office manager and four technical support staff.

Their clients include all the abalone farms in Hermanus, Gansbaai and Buffelsjachts, as well as abalone farms in other areas, stretching from Kleinzee to Haga Haga. They also do work for other fish and shellfish farmers throughout South Africa, as well as Namibia and Lesotho.

It is the intention of Amanzi Biosecurity Veterinary Services to renovate the existing dwelling to accommodate their offices that will be utilised as their laboratory. Their clients do not visit the premises for appointments as with ordinary veterinary clinics. With Amanzi Biosecurity Veterinary Services the Veterinarians go out to the various aquatic farms where the fish and shell fish are inspected and treated on site and where samples of the fish and shell fish are taken to be analysed at their laboratory. Therefore traffic to and from Erf 1462 Sandbaai will be minimal.

With reference to the as built plan that was drawn by GIG Design the total coverage of the existing dwelling and garage is $\pm 200\text{m}^2$. Please refer to Addendum A. The total area of the site is 1381m^2 in terms of the S.G. Diagram and therefore the coverage is 14.5%. The gross leasable floor area was calculated and provides $\pm 130\text{m}^2$ of office space.

Parking will be provided on site at a ratio of 6 parking bays per 100m^2 gross leasable floor area. The existing entrance at Jan van Riebeeck Crescent will be utilised to gain access to the new proposed parking area. This entrance will also be used as the exit point. The existing garage that gains access from Main Road will also be utilised for the provision of parking. Further detail of access and parking will be discussed under paragraph 3.5 below.

3.4.2 Proposed Removal of Restrictive Title Deed Conditions

The Title Deed applicable to Erf 1462 Sandbaai contains restrictive conditions that will have to be removed in order to establish the proposed offices for Amanzi Biosecurity Veterinary Services to be used as a laboratory.

The title deed restrictions to be removed are as follow:

Title Deed T62338/09:

Page 4: Paragraph ii (a): "That the above erf or erven be used for residential purposes only."

With the proposal for rezoning the land use will change to offices and a parking area. The above mentioned restriction clearly prohibits this use and it is therefore required that this condition be removed.

Page 4: Paragraph ii(c): "That not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than one-half of the area of any of the above erven be built upon."

The existing dwelling on Erf 1462 Sandbaai will be used as offices and parking area will also be constructed on site. The property will not be solely used for single residential uses and it is therefore required that the above mentioned restriction be removed.

3.5 ACCESS & PARKING

Parking will be provided on site at a ratio of 6 parking bays per 100m² gross leasable floor area that is ±130m². A total number of 8 parking bays will have to be provided. With reference to the site development plan 8 parking bays are provided within the proposed parking area. The existing entrance at Jan van Riebeeck Crescent will be utilised to gain access to the new proposed parking area. This entrance will also be used as the exit point.

The existing garage that gains access from Main Road will also be utilised for the provision of 1 additional parking bay. A total of 9 parking bays are therefore provided on site that will be sufficient.

3.6 SERVICES

All services on the subject property already exist. Additional services will not be required and especially the electricity connections will be sufficient to provide the proposed offices to be used as a laboratory with electricity.

Services related to water, sewage and refuse removal are also provided by the Overstrand Municipality and would be sufficient. Special provision will however be made for the removal of laboratory waste.

3.7 FORWARD PLANNING

The Overstrand Municipal Growth Management Strategy (OMGMS) indicates Erf 1462 Sandbaai within Planning Unit 7. Planning Unit 7 consists of the heart of Sandbaai along the collector road, Main Road, giving access to Sandbaai. Erf 1462 Sandbaai also falls within a Development Node in terms of the Opportunities and Constraints and it is also earmarked for economic opportunity in terms of the Strategic Growth Management Interventions Plan and the Proposal Plan. Local business opportunities such as office will therefore be supported within this development node and economic opportunity corridor.

The Overstrand Municipal Wide Spatial Development Framework (2006) earmarks Erf 1462 Sandbaai for single residential purposes.

With reference to the above it should be noted that the Overstrand Municipal Growth Management Strategy is an extension of the Overstrand Municipal Wide Spatial Development Framework and we are of the opinion that the proposed land use is compatible with the above mentioned proposals and current land uses of the area.

This proposed use for offices that will be used as a laboratory will not have a negative impact on the surrounding land owners.

4. RECOMMENDATION

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

- All services on the subject property already exist and no additional services would be required;
- The proposal is in line with the Overstrand Municipal Growth Management Strategy that is an extension of the Overstrand Municipal Wide Spatial Development Framework.
- The proposed rezoning and removal of restrictive title deed conditions falls within the existing land use tendencies in the area;
- The proposal is compatible with the existing built character of the area;
- The impact on the traffic and services will be kept to a minimum;
- The proposed rezoning and removal of restrictive title deed condition will not have a negative impact on the current character and land values of the surrounding erven.

With regards to the above mentioned it would be appreciated if Council would recommend the rezoning and removal of restrictive title deed conditions application for Erf 1462 Sandbaai for approval to the Department of Environmental Affairs & Development Planning.