



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

A G E N D A

DATE:	29 APRIL 2025
VENUE:	TEAMS
TIME:	15:00

OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT
Civic Centre
HERMANUS
7200

22 April 2025

TO : THE MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

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

NOTICE IS HEREBY GIVEN that the **Municipal Planning Tribunal (MPT)** will go into session virtually on **Tuesday, 29 April 2025** at **15:00** to consider the attached agenda.

H JANSER (MS)
CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL

Distribution:

1. Ms H Janser (Chairperson)
2. Mr S Müller (Vice Chairperson)
3. Mr H Blignaut (Member)
4. Ms R Louw (Member)
5. Mr R Kuchar (Authorised Official)
6. Mr S van der Merwe (Senior Town Planner)
7. Ms H van der Stoep (Senior Town Planner)
8. Secretariat

MUNICIPAL PLANNING TRIBUNAL (MPT)

29 April 2025

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- 1. OPENING**

- 2. APPLICATIONS FOR LEAVE OF ABSENCE**

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 - 3.1 Minutes of a Municipal Planning Tribunal Meeting held on 1 April 2025**

- 4. ITEMS FOR CONSIDERATION**
 - 4.1 ERF 4586, 25 HARMONY AVENUE, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE, DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF W & SK LOOTS**

Report attached

4.1

**ERF 4586, 25 HARMONY AVENUE, HERMANUS, OVERSTRAND MUNICIPAL AREA:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT
USE, DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY PLAN
ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF W & SK LOOTS**

4586 HNC (4544/2023)

H van der Stoep

8 April 2025

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

The **initial application** was received on 6 December 2023 from Plan Active Town & Regional Planners on behalf of W & SK Loots on Erf 4586, Hermanus in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:

- ❖ **Determination of Administrative Penalty** in terms of Section 16(2)(q) of the By-Law for the determination of an administrative penalty for the illegal additions on the property.
- ❖ **Removal of a Restrictive Title Deed Condition** in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the removal of restrictive title deed conditions C.I.2. and C.I.4. of Title Deed no. T7972/2018 of the property to:
 - Accommodate the main dwelling position on the 4,5m Street building line.
 - Accommodate the existing second dwelling unit (change of use of the approved double garage to a habitable area):
 - a. To allow more than one dwelling unit on the subject property.
 - b. To address the encroachment of the second dwelling unit over the 4,72m title deed street building line (positioned 4,352m from the erf boundary).

The above application initially addressed the unlawful proposed second dwelling unit. Following the public participation period, it was evident that the property owner's intent for the subject property was to provide tourist accommodation rather than a second dwelling unit. It was decided that the best way forward was to apply for a consent use to accommodate a guesthouse on the subject property and not a second dwelling. A few alterations to the As Built structures will create a larger interleading dwelling house on the subject property. It is then proposed to make four (4) bedrooms available to guests on short-term rental basis.

A **revised application** was subsequently received on 16 May 2024 from Plan Active Town & Regional Planners on behalf of W & SK Loots on Erf 4586, Hermanus in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:

- ❖ **Removal of a Restrictive Title Deed Condition** in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the removal of restrictive title deed condition C.I.1. and C.I.4. of Title deed no. T7972/2018 of the property to:

- Accommodate the approved main dwelling's change of use to guesthouse positioned on the 4,5m Harmony Avenue and Mossie Avenue Street building line;
- Accommodate the extended main dwelling (change of use of the approved double garage and main dwelling to guesthouse):
 - a. To allow a four-bedroom guesthouse on the subject property;
 - b. To address the encroachment of the proposed guesthouse (change of use from approved double garage to guesthouse) over the 4.72m title deed street building line (positioned 4.352m from the Mossie Avenue erf boundary).

The restrictive title deed conditions read as follows:

"C. SUBJECT FURTHER to the following conditions contained in Deed of Transfer No T5340 dated 27th April 1945:

- 1. Imposed by the Administrator of the Cape Province when approving the establishment of Hermanus Township Extension No 4 in terms of Ordinance No 33 of 1934 namely:*

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

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

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

- ❖ **Consent Use** in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to accommodate a four (4) bedroom guesthouse on the property.
- ❖ **Departure** in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to allow a second access point from Mossie Avenue to accommodate the parking layout for the proposed guesthouse.
- ❖ **Determination of Administrative Penalty** in terms of Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the determination of an administrative penalty for the illegal additions on the property.

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

Plan Active Town & Regional Planners has been appointed by W. & S.K. Loots, the owners of Erf 4586 Hermanus, to apply for the administrative penalty, consent use, departure and removal of the title deed conditions of the subject property.

There is an existing single storey dwelling, second dwelling in progress and swimming pool situated on the subject property. The property owners were in the process of converting the approved double garage into a second dwelling unit (change of use) without the necessary building plan approvals. The approved main dwelling and unlawful second dwelling encroach the title deed street building line.

The initial application submitted in December 2023 addressed the unlawful proposed second dwelling unit. Following the public participation period, it was evident that the intent of the consultant's clients for the subject property was to provide tourist accommodation rather than a second dwelling unit.

After meeting with the client and the municipality, it was decided that the best way forward was to apply for a consent use to accommodate a guesthouse on the subject property and not a second dwelling. A few alterations to the As Built structures will create a larger interleading dwelling house on the subject property. It is then proposed to make four (4) bedrooms available to guests on short-term rental basis.

4. SUMMARY OF APPLICANT'S MOTIVATION

CONSENT USE AND DEPARTURE

As mentioned, the owners have rented out two (2) guestrooms within the dwelling in the past. Due consideration was given to the concerns raised by neighbours, while still meeting the requirements of our client. It was evident that our client's intent for the subject property was to provide tourist accommodation rather than a second dwelling unit as per the previous application. After meeting with the client and the municipality, it was decided that the best course of action is to apply for a consent use to operate a guesthouse on the subject property.

To accommodate this, our client plans to make a few alterations to the existing structures, creating a larger interleading dwelling (instead of a main dwelling with second dwelling unit). It is then proposed to make four (4) bedrooms available to guests on a short-term rental basis.

A guesthouse can be accommodated as a consent use under the Residential Zone 1: Single Residential zoning. Application is therefore made for a consent use to establish a four-bedroom guesthouse on Erf 4586 Hermanus.

The guesthouse will consist of four (4) guest bedrooms, one en-suite bedroom for the owner / manager, kitchen, scullery / laundry, pantry, storeroom, kitchenette, breakfast nook, dining area, living area, braai room, two private sitting areas / lounges for guests, lobby, porch, open terrace and a swimming pool. Bathroom no. 2 will be a shared bathroom for guest room no. 1 and 2. Guest bedrooms no. 3 and 4 will each have separate bathrooms. The guests will have access to all the communal facilities. Refer to the site development plan (ground storey plan) attached.

After alterations all the bedrooms in the proposed guest house will be interleading. No separate rental units are proposed. Each guest bedroom will accommodate a maximum of two (2) guests per room. This will address the neighbours' concerns of large groups renting the house as a whole and causing a disturbance to the area. The proposed guesthouse meets the definition of both a dwelling house and a guesthouse and can therefore easily be converted into a single dwelling house in future.

The converted garage (As Built unit) will be converted into a guest room as part of the proposed guesthouse (guest room no. 4, bathroom no. 4, private sitting area no. 2 and open terrace) and will not be a standalone unit as per the initial application. The proposed guesthouse will primarily target international couples, as well as other local and international guests and tourists seeking overnight accommodation. This establishment will be an asset to Hermanus, contributing to the local economy.

The proposed guesthouse will be used for accommodation purposes only and no conference facility or place of entertainment is proposed. The proposed land use will therefore not result in any noise pollution to the adjacent residential area.

The approved double garage that was converted will now become part of the proposed guesthouse. The initial change of use occurred within the approved building footprint and the latter does not encroach any land use scheme building lines. The latter will remain unchanged for the proposed guesthouse use of the structure. The As Built structure (proposed guest bedroom no. 4, private sitting area no. 2 and open terrace) only encroaches the title deed street building line. It is proposed to remove the latter condition to accommodate the As Built structure and its proposed guesthouse use on the 4,352m Mossie Avenue street building line. The main dwelling is an approved structure with no alterations / additions undertaken on the Harmony Avenue side (eastern side) of the dwelling.

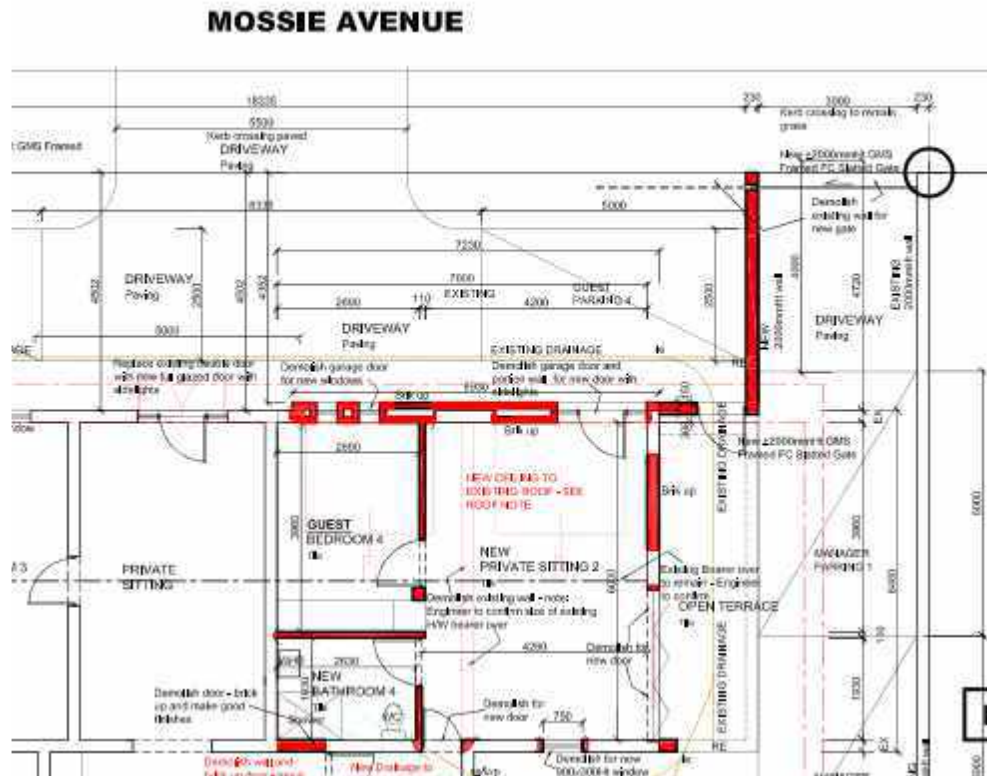


Image 1: Position of the As Built unlawful structure / proposed guest bedroom no. 4, new private sitting room no. 2, new bathroom no. 4 and open terrace as indicated on the site plan

All proposed alterations and renovations will be done in accordance with the land use restrictions applicable to Residential Zone 1: Single Residential properties. The Overstrand Land Use Scheme Regulations (2020) stipulate the following land use restrictions for Residential Zone 1: Single Residential properties (larger than 400m²):

- Coverage: 50%
- Height: 8m (measured from the base level to top of roof)
- Building lines:
 - Street: 4m
 - Rear: 2m
 - Lateral: 2m

The area of the unlawful As Built unit to be converted to guest bedroom no. 4, private sitting area, guest bathroom no. 4 and open terrace for guesthouse purposes is as follows:

Title deed street building line encroachment	
Guest bedroom no. 4, private sitting area, guest bathroom no. 4 and open terrace	Total: ±47,8m ²
	Total habitable: ±42m ²
	Total area over title deed street building line: ±2,61m ²
	% of unit over title deed building line: ±0,054%

The schedule of rights for the subject property is as follows:

ERF. 4586	860m²
EXISTING	342.0m²
NEW	28.0m²
TOTAL	370.0m²
SINGLE RESIDENTIAL	
FOOTPRINT	370.0m²
COVERAGE (370m²)	43%
ZONING:	SR1
PROPOSED:	Consent use (four bedroom guesthouse)
PARKING REQUIRED:	6 (2 for manager / owner & 1 per guestroom)
PARKING PROVIDED:	6

The total coverage of 43% adheres to the maximum permissible coverage of 50% for SR1 zoned properties.

Other internal alterations and additions were also made as described in the administrative penalty section above; however, these alterations and additions did not affect the applicable building lines.

The following should be noted when considering the As Built unlawful structure and the proposed guesthouse use described above:

- The visual impact of the As Built structures is considered minimal. The unlawful As Built old garage unit to be converted to a guesthouse is still a single storey structure within the approved building footprint. The proposed guesthouse will not encroach the 4m street and 2m lateral land use scheme building lines and meets all other development parameters.
- The unlawful structure can be made interleading with the main dwelling to create a larger dwelling house for guesthouse purposes. The structure is considered an integral part of the design and value of the subject property. Thus, to demolish the structure to make it compliant to the relevant title deed street building line, will diminish the aesthetic and property value of the dwelling.

The approved main dwelling also encroaches the title deed street building lines (positioned on the 4,5m street building line on both Harmony and Mossie Avenue street boundaries). Although the footprint will remain unchanged, the use of the approved dwelling will change from single residential to guesthouse. As a result, the stricter title deed street building line must be removed to accommodate the change of use of the existing approved main dwelling as well. Refer to the proposed guesthouse's site development plan (additions and alterations plan) attached for the ground storey plan, site / drainage plan, elevations, pool and boundary wall information.

The 4,72m street building line as stipulated in the title deed has a negative impact on the developable area of the land since it shrinks it with $\pm 15,87\text{m}^2$ ($22,05\text{m} \times 0,72\text{m}$) on both street boundary sides (i.e. in total with $\pm 31,74\text{m}^2$ since the subject property has two street frontages). The double street erf frontage must be considered when evaluating the desirability of the removal of the stricter 4,72m street building line.

The proposed application does not have any impact on the character or property values of the surrounding properties since all structures and uses thereof already exist on the subject property.

The existing structures on the subject property do not create an infringement to any passing traffic or public activity due to the position of the As Built structures on site. It is submitted that the massing and height of the existing structures are compatible with the character of the area. In addition, the existing structures and the proposed use thereof (guesthouse) are compatible with the character of the area, do not impact negatively on the rights of anyone else and that no good reason exists for not approving this application.

When considering the proposed consent use, departure and removal of restrictive title deed conditions, the point of departure is the need to discourage the phenomenon of urban sprawl and to encourage densification and more compact towns and cities, all of which relates to more responsible resource use or sustainable development.

The proposed consent use, departure and removal of restrictive title deed conditions of Erf 4586, Hermanus is not in contrast to the existing land use tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS

Application is made for the removal of restrictive title deed conditions of Erf 4586 Hermanus to:

- Accommodate the approved main dwelling's change of use to guesthouse positioned on the 4,5m Harmony Avenue and Mossie Avenue street building line;
- Accommodate the extended main dwelling (change of use of the approved double garage and main dwelling to guesthouse):
 - to allow a four-bedroom guesthouse on the subject property;
 - to address the encroachment of the proposed guesthouse (change of use from approved double garage to guesthouse) over the 4,72m title deed street building line (positioned 4,352m from the Mossie Avenue erf boundary).

Title Deed no. T7972/2018 has restrictive title deed conditions that need to be removed to accommodate the proposed guest house on the subject property. Refer to a copy of the conveyancer's certificate compiled by Mr H.L. van Zyl of Van Zyl Kruger Attorneys dated 7 May 2024 attached.

It is proposed to remove the following restrictive title deed conditions registered by the Administrator (now the Overstrand Municipality) to accommodate the As Built second dwelling on Erf 4586 Hermanus:

Title deed no. T7972/2018, pages 2-3, paragraph C.I.1. and C.I.4. that reads as follows:

“C. SUBJECT FURTHER to the following conditions contained in Deed of Transfer No. T5340 dated 27th April 1945:

1. Imposed by the Administrator of the Cape Province when approving the establishment of Hermanus Township Extension No. 4 in terms of Ordinance No. 33 of 1934 namely:

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

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

The reasons for the removal of the conditions specified above are as follow:

- Condition C.I.1. restrict the use of the subject property to residential use only. The approved main dwelling and As Built unlawful unit (approved as double garage) will change the use from single residential to guesthouse. It is therefore proposed to remove this condition to allow the owners to retain the unlawful structure, make it interleading with the main dwelling and change the use of the extended dwelling house from single residential to guesthouse purposes.
 - The street building line restriction / Condition C.I.4. in Title Deed no. T7972/2018 is more restrictive (4,72m) than the land use restrictions prescribed in the Overstrand Municipality Land Use Scheme Regulations, 2020 (4m). The Land Use Scheme Regulations now govern land use planning in Hermanus. The As Built structures (proposed guesthouse) comply with the 2,36m lateral building lines.
- a) A small section of the As Built structures (proposed guesthouse) encroaches the 4,72m title deed street building line on Mossie Avenue’s side:

The structure (proposed guesthouse) meets the 4m Land Use Scheme Regulations’ street building line requirement; however, the aforementioned As Built structure slightly encroaches the 4,72m Title Deed street building line as indicated on the site development plan:

- The proposed guest bedroom no. 4, lounge area (private sitting area no. 2) and open terrace are positioned on the 4,352m street building line (at nearest point to the Mossie Avenue street boundary).
- The approved main dwelling (change of use to proposed guest bedroom no. 3 and private sitting area) is positioned on the 4,502m Mossie Avenue street building line.

- b) A small section of the As Built approved main dwelling (proposed guesthouse) encroaches the 4,72m title deed street building line on Harmony Avenue's side:

The As Built main dwelling (proposed guesthouse) meets the 4m Land Use Scheme Regulations street building line requirement; however, the aforementioned approved structure slightly encroaches the 4,72m Title Deed street building line as indicated on the site development plan:

- Proposed guesthouse (existing main dwelling footprint to change use to guest bedroom no. 1 and 2 and living room) to be positioned on the 4,5m street building line (at nearest point to the Harmony Avenue street boundary).

Section 39(5) of the Land Use Planning Act (LUPA), 2014, stipulates that a Municipality should have regard to the following factors when considering the "removal, suspension or amendment of a restrictive condition":

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

The removal of the restrictive conditions intends to increase the use rights of the property to permit the As Built structures and the change of use of the approved main dwelling and double garage into a guesthouse. The value of the rights is vested in the owners of the properties of Extension No. 4 of Hermanus.

Property owners not seeking that the title deed building line restrictions should be in line with the zoning scheme regulations' restrictions will favour the restrictive title deed conditions since the conditions impede the development of a residential property in line with the zoning scheme. As previously mentioned, the As Built structures meet the 2,36m title deed building line requirements as well as all land use scheme lateral and street building line requirements.

The As Built development (and its encroachments) and the proposed change of use of the main dwelling and outbuilding into a guesthouse is not an unusually large-scale form of development that encroaches the building lines. The street building line condition is more restrictive than the land use scheme regulations' building lines. Furthermore, the consent use for SR1 zoned erven includes a guesthouse. Removing the "residential use only" condition will allow the owners to exercise the secondary land use right permitted on the SR1 zoned property.

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

The conditions were imposed by the Administrator for the benefit of the property owners of Extension No. 4 of Hermanus. The only personal benefit to each holder is that the property is more restricted in terms of developing structures on the subject property. However, all structures addressed in this application are As Built and the minor alterations proposed is to make all structures on the subject property interleading to change the use for guesthouse purposes.

The Administrator is now the Overstrand Municipality, who governs land use applications in line with the existing Land Use Scheme Regulations and relevant spatial planning policies. To keep the title deed conditions will neither have any personal benefit to the Administrator / Overstrand Municipality nor the properties in whose favour the conditions were registered.

The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if they are removed

The removal of the restrictive title deed conditions will bring about personal benefits to the current landowners since it will allow them to legalise the conversion of the double garage (outbuilding) into a habitable space. In addition, it will accommodate the change of use of this structure together with the approved main dwelling to use as a four-bedroom guesthouse. The latter will in turn benefit the resale value of the property in future. The 4,72m street building line as stipulated in the title deed has a negative impact on the developable area of the land since it shrinks it with $\pm 15,87\text{m}^2$ ($22,05\text{m} \times 0,72\text{m}$) on both street boundary sides (i.e. in total with $\pm 31,74\text{m}^2$ since the subject property has two street frontages).

The existing property owners will be able to enjoy the personal benefits of the existing structures, and the proposed guesthouse use instead of demolishing the structures and / or reverting the use to a double garage use again. The latter will have a great financial burden on the current property owners given the construction costs already spent. To remove the title deed restrictions will allow the property owners to keep the existing structures and will favour the consideration of a four-bedroom guesthouse as indicated on the site development plan. It will also imply that the building plans for Erf 4586 Hermanus can be approved.

The social benefit of the restrictive conditions remaining in place in its existing form

If the social benefit of the title deed conditions were to remain unchanged and enforced on the existing As Built structure, it will be minimal. If the conditions remain unchanged, the owner must adhere to the title deed's stricter street building line, the proposed habitable unit / structure will have to revert to the approved use of a double garage to comply with the street building line and residential use only requirements. It will be ludicrous to partially demolish the main dwelling to address the 0,2m title deed street building line encroachments. The impact on the neighbouring properties with regards to privacy, noise, impact on the street scape, etc. will be marginally lower since the title deed's street building line is more restrictive than the scheme regulations' street building line. In addition, a guesthouse is a consent use right for SR1 zoned erven and not considered to be a land use that is out of context of the already established urban / residential area.

To keep the 4,72m street building line requirement in the title deed will have no benefit to neither the property owners nor the adjacent properties since the existing structures already encroach the street building line in terms of the title deed.

The social benefit of the removal or amendment of the restrictive conditions

The removal of the restrictive title deed conditions will allow the scheme regulations' building lines to set the rules for future development on the subject property. The social benefit will therefore only be to the property owners of Erf 4586 Hermanus since it will allow them to keep the existing As Built structures that encroach onto the title deed street building line on the subject property and allow future additions (if any) to be constructed in line with the land use scheme regulations' building lines only.

In addition, it will allow the property owner to operate a guesthouse from the subject property to benefit from the financial gain such an establishment brings to a SR1 zoned property.

Whether the removal, suspension or amendment of the restrictive conditions will completely remove all rights enjoyed by the beneficiary or only some of those rights

The removal of the restrictive conditions will not remove all rights enjoyed by the beneficiaries, but only some rights and will instead expand the value of these rights to accommodate the existing structures where applicable. The latter is more desirable for the zoning and extent of the subject property without having a detrimental impact on the rights of anyone else or the character of the area. All other title deed conditions not mentioned in this report will be retained.

THE POTENTIAL OF THE PROPERTY

The zoning of the subject property will remain unchanged. The scale of the proposed guesthouse ensures that the nature of the establishment remains compatible with the surrounding residential character of the area. It should also be noted that the property owners can rent out two guestrooms without prior planning approval (subject to the conditions for guest rooms). The impact on the adjacent property owners should therefore be based and measured on the two additional guest rooms only.

Furthermore, no place of entertainment or any other amenities (conference centre etc.) are proposed and therefore the noise nuisance will be kept to a minimum. The target-market will be international tourist (mainly couples) who visits the area to keep the noise impact on the neighbours to a minimum. Parking is sufficiently addressed on site to avoid parking problems and ensure reasonable amenity to neighbours.

The subject property has the potential and allows for the deviations being applied for since all land use scheme regulations' development parameters are met.

The following should be noted when considering the potential of the site:

- The visual impact will be kept to a minimum since the structures meet all land use scheme regulations' development parameters;
- The massing and scale of the As Built structures are compatible with the area.
- All As Built structures form an integral part of the design of the dwelling and the proposed guesthouse use; thus, to demolish the structures to make it compliant with the relevant title deed street building lines will diminish the aesthetic and property value of the dwelling.

The scale of the surrounding built environment and the low impact on the streetscape are also factors that must be considered when contemplating the potential of the property to accommodate the proposed land use application.

The following factors confirm the potential of the property to accommodate the proposed building line deviations and guesthouse use:

- Good quality materials were used when the existing structures were built;
- The architectural style of the As Built converted habitable space matches the architectural style of the approved main dwelling and can therefore easily be connected and made interleading to accommodate the proposed guesthouse;
- The height of the As Built and approved structures will remain unchanged;
- The As Built structures and its proposed use will add value to the subject property;
- The manager or owner will reside in the main dwelling on the property;
- The proposed guest bedrooms are not considered separate dwelling units;
- The residential character will be retained;
- No activities constituting a source of public nuisance will be carried out;
- The minimum parking requirement for providing parking on-site is met.

FORWARD PLANNING AND LAND USE DOCUMENTS

The *Overstrand Spatial Development Framework (2020)* earmarks the area where Erf 4586 Hermanus is situated, for urban development purposes. The Overstrand SDF (2020) favours tourism-related development and describes the following statements for compliance for tourist facilities and tourist accommodation:

- Promote tourism development by means of strategically identifying areas which should be prioritised for tourism infrastructure / facilities development;
- Determine the nature and extent of infrastructure and facility development needed to make key natural areas accessible to all the Overstrand's inhabitants and tourists.

In addition, the 2050 Vision of the Overstrand SDF (2020) includes the key policy of ensuring that tourism destinations are accessible, safe and attractive by means of maintaining and developing new facilities. In addition, one of the Local Spatial Development and Growth Management principles is to promote tourism development based on the ecological and heritage value of the region.

Erf 4586 Hermanus will be used for guesthouse (tourism accommodation) purposes. The guesthouse will be accommodated in approved and As Built structures – none of which encroach the Land Use Scheme Regulations' street or lateral building lines. The residential character is therefore retained. The zoning will remain SR1. It is submitted that the proposed land use will respect the character of the area and is therefore compatible with the area.

The proposed guesthouse will promote tourism in the Hermanus area. As a result, the impact of the proposed land use application on the spatial integrity of the area will be minimal and is therefore consistent with the Overstrand SDF (2020).

The Overstrand Municipal Growth Management Strategy (OMGMS, 2010) specifies that Erf 4586 Hermanus forms part of Planning Unit no. 12. This planning unit stipulates an increase in the density of the area from 7,6du/ha to 9,9du/ha. The subject property abuts the Hermanus CBD area. It is proposed to accommodate four-bedroom guesthouse on the subject property and as a result no densification is proposed with this application.

The proposal will promote land development in a location that is sustainable. The proposed land use application is to an improved erf within an established residential area and will not impact on urban sprawl or upon a sensitive environment.

The impact on the overall density of this part of Northcliff will therefore be kept to a minimum since the proposed application still promotes a low-density residential area.

From the above it is evident that the proposed development adheres and complies with the relevant municipal spatial planning policies.

IMPACT ON HERITAGE

The application does not involve changing the character of a site larger than 5 000m². Consequently, the proposed land use application does not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

Erf 4586 Hermanus is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality's Land Use Scheme Heritage Overlay Zone (2020). The subject property is not earmarked for heritage conservation purposes with reference to the Overstrand Municipal Growth Management Strategy (2010). It is also not demarcated as part of a Heritage Protective Overlay Zone (2020) for the area.

IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed land use application does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

The subject property is not situated within the Overstrand Municipality's Zoning Scheme Environmental Overlay Zone (2020).

TRAFFIC IMPACT, PARKING AND ACCESS

The Overstrand Land Use Scheme Regulations (2020) determines that one parking bay per guest room must be provided on site and an additional two parking bays for the owner / manager. A total of six (6) parking bays are provided for on site in line with the parking requirements: provision is made for four (4) parking bays for guests and two (2) parking bays for the owner / manager. The proposed parking layout was discussed with Mrs Hanneen van der Stoep (Senior Town Planner: Overstrand Municipality). The municipality will consider tandem parking for use by the owner / manager only. All parking bays adhere to the minimum parking requirements. Parking bays no. 1 and 2 will take access from Harmony Avenue. Parking bays number 3–6 will take access from Mossie Avenue.

Two separate access points are however proposed from Mossie Avenue:

- a. access point that gives access to the tandem manager's / owner's parking bays no. 5 and 6; and
- b. access point that gives access to guest parking bays no. 3 and 4.

An application for departure is therefore included to allow two access points from Mossie Avenue to accommodate the proposed parking layout. Refer to the site development plan attached.

The conditions of approval will restrict the number of guest rooms, which will in turn restrict the volume of additional traffic that will be generated by the proposed guesthouse.

Guesthouses (especially of this scale) generate low traffic and noise pollution to residential areas. In most instances' guests do not arrive or depart at the same time either. The staggered nature of the arrivals and departures from the guesthouse together with the maximum number of guests allowed will further mitigate the proposed guesthouse's traffic impact and ensure that the surrounding area and its road network are not overwhelmed with vehicular traffic. It is therefore submitted that the traffic and noise generated will be low and in keeping with the residential character.

PLANNING PRINCIPLES:

Spatial Justice:

The proposed application is in character with the existing area where similar applications have been approved in the past and therefore, the approval of the proposed application will not be spatially biased.

Spatial Sustainability:

The proposed land use application will have no impact on the visual elements of the subject property and surroundings since all the structures already exist and do not encroach any land use scheme building lines, coverage or height requirements. It is submitted that the proposed application is compatible with the character of the area (as motivated in previous sections of this report). The encroachment of the title deed street building line has no impact on the massing of the buildings or on the streetscape or passers-by. The As-Built unlawful alterations to the garage will now form part of the extended dwelling house for proposed guesthouse purposes and therefore the structure will merge well with the approved structures. The impact on the biophysical environment will also be kept to a minimum since all structures already exist and no environmental listed activities are triggered.

Factors such as the good quality materials used, the overall layout of the structures on the subject property, the scale of the surrounding built environment, the low impact on the streetscape, the location of the subject property (two street fronts), etc. allow for the consideration and approval of the proposed consent use, departure and removal of restrictive title deed conditions without having an adverse impact on the spatial sustainability of the area.

Removing the residential-only title deed condition to allow the change of use to a guesthouse is considered spatially sustainable. With the proposed consent use the existing property will be better utilised and managed while meeting the needs of our clients and simultaneously the concerns of the neighbours. The proposal is compatible with the residential character of the area and does not impact negatively on the rights of any adjacent property owner.

Efficiency:

The subject property is easily accessible and conveniently located close to the Hermanus CBD and major routes. The massing, height and coverage of the property will be in line with the relevant land use scheme regulations. It proves to be resourceful to approve the As Built structure and the proposed new guesthouse use for the subject property since it is compatible with the existing built environment and the way the additions and alterations were done by the current property owners is aesthetically pleasing.

It proves to be efficient to accommodate the As Built structure by approving the proposed removal of restrictive title deed conditions of erf 4586 Hermanus and the proposed consent use instead of reverting the structure to the approved use.

The proposed consent use, departure and removal of restrictive title deed conditions proof to be efficient since it discourages the phenomenon of urban sprawl, encourages densification and more compact towns and cities, all of which relates to more responsible resource and infrastructure use and sustainable development. Furthermore, the proposal is efficient in that it optimizes existing resources and infrastructure and continues the existing suburban development typology.

Spatial Resilience:

Not Applicable.

Good Administration:

Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020.

RECTIFICATION OF CONTRAVENTION

In terms of Chapter 5, Section 90.(1) a person who is in contravention of the Municipal Planning Amended By-Law (2020), and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned.

As the application is for the rectification of a contravention of the By-Law, an application is submitted for the determination of an administrative penalty fee in terms of Chapter 4, Section 16.(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020. However, the Municipal Planning Tribunal (MPT) has the authority not to impose such a fee.

In terms of Section 90.(3) of the MPBL, the MPT must at least consider the following factors when determining an appropriate administrative penalty:

The nature, duration, gravity and extent of the contravention

The owners of Erf 4586 Hermanus converted the existing garages into a habitable area without the necessary land use and building plan approvals. Initially it was anticipated to convert the garage structure into a second dwelling unit. It is however now proposed to make the structure interleading with the main dwelling to create a larger dwelling house on the subject property. It is then proposed to change the use of the dwelling house to a four-bedroom guesthouse.

The illegal alterations to the garage were done in the second quarter of 2023. A complaint about the unlawful change of use of the double garage was submitted to the Overstrand Municipality. The municipality investigated the complaint issued and a notice to stop building work was issued by Ms. Liezl Lubbe at Overstrand Municipality's Department of Infrastructure and Planning on 20 July 2023. According to our clients they immediately stopped all building work when the notice was received via email. See Annexure I.

Other alterations were also made to the dwelling (new window in the living area and internal walls addition in the living / dining area; alterations to laundry / scullery; new braai room (braai was added to existing structure); new yard wall; alterations to bathroom no. 3). These alterations and additions are mostly within the existing approved building footprint and do not encroach any land use scheme regulations or title deed building lines.

The change of use of the approved double garage into a habitable space (in progress) is considered unlawful and this structure encroaches the title deed street building line. Take note that this structure does not encroach the land use scheme regulations' building lines.

The As Built conversion of the double garage consists of:

- A family room;
- A bedroom;
- Bathroom;
- Open terrace.

This application proposes to change the use of the garage structure to part of the guesthouse. The unlawful structure will become the fourth guest room, bathroom and a lounge / private sitting area for the proposed new guesthouse. The terrace will remain.

The total extent of the existing unlawful structure that encroaches the title deed street building line is as follows:

	Title deed street building line encroachment
As Built alterations to the garage (proposed guest room no. 4, bathroom no. 4, private sitting area no. 2 / lounge and open terrace)	Total: ±47,8m ² Total habitable: ±42m ² Total area over title deed street building line: ±2,61m ² % of altered garage over title deed building line: ±0,054%

From the above it is evident that not even 0,1% of the structure encroaches the stricter title deed street building line. The position and nature of the As Built structures and the subsequent uses thereof are unobtrusive in nature and do not impact negatively on the surrounding properties.

A removal of restrictive title deed conditions application is included in this application to address the:

- The limitation to single residential use only;
- The encroachment of the proposed guesthouse over the title deed street building line.
- The conduct of the person involved in the contravention

The existing owners unknowingly undertook the internal alterations and change of the use of the double garage on the subject property in 2023 under the impression that the changes to the structures can merely follow a building plan submission during / once the construction was complete, since the alterations were done within the land use scheme development parameters (with reference to building lines, coverage, height, etc.). The owners were unaware of the title deed conditions that prohibit a proposed second dwelling unit (proposed at the time) and the stricter street building line. The approved double garage structure already encroached the title deed street building line marginally (the change of use was within the existing building footprint); therefore, they did not realise that the change of use will trigger any land use applications.

Whether the unlawful conduct was stopped

The owners were unaware that the change of use and alterations / additions to the approved structures required any land use approvals as described above. The current owners became aware of the order to legalise the As Built structures and the respective uses thereof on the subject property.

It is proposed to link the As Built structure (previous garage) to the main dwelling as an extension of the main dwelling house and to use this section of the dwelling as the fourth guest bedroom (with bathroom, lounge area no. 2 and open terrace) as part of the proposed four-bedroom guesthouse. As a result, the structure will not be demolished. The unlawful garage structure was not used for the letting of guest room purposes yet, as it was not fully completed at the stop work order. Two guest rooms in the dwelling were however rented out on Airbnb in the past.

A report by a quantity surveyor in matters of unauthorised building / construction

If the Overstrand Municipality finds it necessary that an administrative penalty fee needs to be enforced for the unauthorised building work / change of use, we will submit a report from a quantity surveyor / building contractor with reference to the unauthorised building work. The reason being that if there is a chance that no penalty fee is imposed the report from a quantity surveyor will be unnecessary at this stage.

Our client confirmed that the total construction cost for the change of use / conversion of the double garage was R251 468,55 in 2023.

Whether a person involved in the contravention has previously contravened this By-Law or a previous planning law

To the best knowledge of the applicant and as confirmed by the landowners, they have never previously contravened this By-Law or any other previous planning law.

SUMMARY OF APPLICANT

We appeal to the Overstrand Municipality to take into consideration the low impact the As Built structure (converted garage) has had on the surrounding area. The internal alterations to the dwelling and change of use of the double garage as undertaken by the current owners were done within the existing approved building footprint. In addition, the change of use of the garage to now accommodate a fourth guest bedroom, bathroom, second lounge area and open terrace for the proposed guesthouse does not encroach the relevant land use scheme regulations' building lines. The As Built structures have a minimal impact on the neighbouring properties since the footprint of the structures will remain unchanged. *In addition, the proposed guesthouse use is considered a less intrusive and a better regulated land use for the residential area.* The current owners have never hesitated to immediately give instruction to the consultants to assist in the matter to rectify the contravention by submitting a complete (and fully motivated) land use application and submitting a determination of an administrative penalty application. We therefore respectfully request that a minimal / no penalty fee be imposed on the property owners for the reasons given above.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	19 July 2024	30 August 2024
Gazette	Yes	19 July 2024	30 August 2024
Notices via e-mail & site notice	Yes	<ul style="list-style-type: none"> • 2 February 2024 • 18 July 2024 	<ul style="list-style-type: none"> • 8 March 2024 • 30 August 2024
Internal Departments	Yes	<ul style="list-style-type: none"> • 1 February 2024 • 16 July 2024 	<ul style="list-style-type: none"> • 8 March 2024 • 30 August 2024
Ward Councillor	Yes	<ul style="list-style-type: none"> • 1 February 2024 • 16 July 2024 	<ul style="list-style-type: none"> • 8 March 2024 • 30 August 2024

Total comments	7 – First Round 10 – Second Round
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 (if no, elaborate below):	Yes
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)	Yes

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

Name	Date received	Summary of comments
Building Control	18/07/2024	No objection. The building plan application must comply with all applicable law.
Fire Department	14/02/2024	No objection subject to compliance with the provisions of SANS 10400-A:2016, 10400-T:2020 and the By-Law relating to Fire Safety.
Tourism	22/07/2024	This is a technical application for a centrally located property close to Hoy's Koppie and the Overstrand Municipality. Looking at the property it is not clear that there will be enough parking for a guesthouse. This is the only challenge I could find.
Services Report	23/07/2024	See Annexure G.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

The objections received on the initial application amount to seven (7) objections, whilst the revised application received ten (10) objections. The objections summarised will be dealt with separately. The objections are attached as Annexure E while the applicant's response is attached as Annexure F.

ORIGINAL APPLICATION DATED 6 DECEMBER 2023

The public participation process took place from 2 February – 8 March 2024. Seven (7) objections were received and are listed below:

-  **P Calitz**
-  **H & J Ackermann**
-  **M Gatzweiler**
-  **LL de Lange**
-  **P & S Doble**
-  **S Barnard**
-  **J Robertson**

The objections can be summarized as follows:

- The property owner must have been aware of the by-laws that applied to the property and objectors insist that the unlawful structures must be demolished (and not legalized by means of paying an administrative penalty only);
- The unlawful construction of the double garage merely followed by the process of determining an administrative penalty to correct the unlawful construction will set a precedent for future development in the area;
- There is already a second dwelling on the subject property; the application in fact proposes a third dwelling;
- The As Built rentable unit that forms part of the house is not interleading with only one entrance / exit and has direct access from the glass doors facing Mossie Avenue. The direct access from Mossie Street also leads to overspill on hot days – with people sitting outside and act / dress inappropriately.
- The title deed conditions should remain since it protects the character of the area. To accommodate the unlawful structure and use will have a negative impact on the calm ambiance of the residential area.
- Rooms / a dwelling unit in the main dwelling as well as the main dwelling are already used for short term rental purposes;
- There have been multiple complaints from neighbours about the guests visiting the property that cause noise pollution and have distasteful behaviour. The rental rooms / units are
- described as “an inexpensive daily let that attracts multiple types”.
- The exact purpose of the second dwelling is not confirmed; however, the objectors assume that this will also be a rental unit.
- The area is not a preferred area for tourist accommodation – another location should be considered.
- The change of use of the double garage to into two rentable units should not be allowed.
- Habitable spaces (in this case the second dwelling unit) should not be allowed within the building lines.
- No more than one dwelling should be allowed on the property.
- Mr Doble listed ten questions with regards to the rentable units, unlawful construction work, the management of the property, etc.
- There are concerns from one objector for the increase in crime (opportunistic theft).
- Managing Airbnb properties is a concern. Mr Doble mentions another property in the area of great concern – this is however not the platform to raise these concerns and should be taken up with land use law enforcement.
- Mr Doble raises environmental / services concerns due to increased tourist accommodation and activities in Overstrand.
- There is concern for the lack of management / supervision of the tourist accommodation use.
- The owner / manager do not reside on the premises.
- There is a lack of sufficient parking for the current land uses on the subject property (large groups of guests renting the two units).

APPLICANT'S RESPONSE

The above concerns were discussed with the property owners. The property owners confirmed the use of two bedrooms in the dwelling for short term rental purposes. Our client also confirmed that they wish to continue to use the subject property for short term rental purposes. Our client took into consideration the concerns raised and has decided to revise the application to address the concerns raised while still retaining the As Built double garage structure.

They also considered the impact of the short-term rental use and has decided to alter the dwelling and As Built structure slightly to create one larger, interleading dwelling (i.e. one main dwelling; no second or third units). The As Built double garage will then form part of the main dwelling and change use from double garage to residential (guesthouse) purposes. To address the short-term rental use and improved management for the short-term rental use, the client has decided to apply for a four-bedroom guesthouse instead of merely renting out two bedrooms (a primary right). Guesthouses have to meet certain criteria in terms of management and noise control; hence the proposal will address objectors' concerns about guests' distasteful behaviour, parties on the premises and opportunistic crime.

TOWN PLANNER'S RESPONSE

The erf has an approved building plan no. 81008, dated 22/1/81, which indicates the present structures on the 4,5m street building lines. It should be noted that the approved building plan of 1981 did not take into account the title deed building line. Thus, the proposed as built plan, bedroom 5 and family room adheres to the 4,5m building line.

The only new structures are the swimming pool, which complies, but the bedroom 5 and family room are built to adhere to the 4,5m building line as per previous Hermanus Scheme Regulations 7. The transgression is 0,22m, which is deemed insignificant and will have no detrimental effect on the street view, due to the approved garages and carport as per plan no 81008 located on the 4,5m street building line.

REVISED APPLICATION DATED 16 MAY 2024

The public participation process for the revised application took place from 18 July – 30 August 2024 where the application was advertised in the local newspaper and Gazette as well, which lead to a second round of objections and comments received.

Ten (10) objections were received from the following individuals:

-  **P & S Doble**
-  **C & C Sauerman**
-  **J & L Langenhoven**
-  **JW & MC Bristow**
-  **RA Stanway**
-  **W & T Pegel**
-  **K Oosthuysse**
-  **S Greeff**

 **J Robertson**
 **M & M Lane-Jones**

The objections can be summarized as follows:

OBJECTION

The objectors waited seven months for correspondence / information on the application.

APPLICANT'S RESPONSE

We take note of the concern of the adjacent property owners directed to the municipality; however, due process was followed.

TOWN PLANNER'S RESPONSE

The initial application of 6 December 2023, objection period closed on 8 March 2024. The revised application was submitted 16 May 2024, and the closing date was 30 August 2024. The applicant was requested to do a full public participation again. The process with regard to public participation from the applicant was as prescribed by the Municipality.

OBJECTION

The second application is merely a rebranding of the initial application.

APPLICANT'S RESPONSE

We want to clarify the situation regarding the initial application for short-term rental use on the subject property. The initial use of the structures was not explicitly disclosed to us, leading to a misunderstanding of the rental rights. The property owners believed they were entitled to rent out two guest rooms, which they confirmed after the first public participation process.

Our clients intend to continue using the property for short-term rentals and have taken the concerns raised by the community into account. To address these, they have revised the application to apply for a four-bedroom guesthouse rather than simply renting two bedrooms. This change to a guesthouse scenario aligns with the regulations of the land use scheme for SR1 zoned properties, and the existing double garage structure meets the required building lines. By applying for a guesthouse, our client aims to enhance management practices and noise control, directly addressing concerns about guest behaviour and potential disturbances.

Regarding the assertion that this new application is just a rebranding of the first, we assure you that each application undergoes an independent evaluation according to established regulations and community standards. The municipality remains committed to making planning decisions that serve the best interests of the community.

TOWN PLANNER'S RESPONSE

The revised application was submitted to address the concerns raised by the objectors and is made provision for in the By-Law. The requirement from the Municipality was that a full public participation will be required, thus again the notices to all owners, gazette notice and publication in the newspaper.

OBJECTION

It appears as if the municipality is condoning a blatantly illegal act to circumvent planning regulations in order to allow an individual to financially gain at the lifestyle expense of the residential majority.

APPLICANT'S RESPONSE

We take allegations of misconduct seriously and appreciate your vigilance in monitoring these issues. The municipality is committed to upholding all planning regulations and ensuring that any development serves the best interests of the community. We understand your frustration and concern about potential illegalities.

The statements regarding the restoration of properties in cases of contravention are noted. The owners are now attempting to rectify the contravention by submitting the administration penalty application and subsequent removal of restrictive title deed conditions, consent and departure applications in order to legalise the As Built structures and the respective uses thereof on the subject property.

TOWN PLANNER'S RESPONSE

The municipality is not condoning illegal activities or buildings, which is prevalent in Northcliff and areas in the Overstrand Municipal area. The financial gain of a lifestyle to the expense of the residential majority is questionable, since this has not been proven with statistics given in that regard. Residential erven are let long term, which is also deemed financial gain. The owner was informed of his activities, and an application has been submitted, and all building work was stopped. Thus, it is unclear why the assumption that the municipality condones illegal activity.

OBJECTION

The public participation process was flawed. The consultants should not be leading the public participation process.

APPLICANT'S RESPONSE

We want to emphasize that both public participation periods adhered to the due process as instructed by the Overstrand Municipality. As a consulting firm, we do not have the authority to determine the extent of the notices or the time frames for the process. However, we have submitted proof to the municipality demonstrating that public participation - including notice distribution and signage on site - was conducted in accordance with their guidelines.

TOWN PLANNER'S RESPONSE

The procedure of the public participation for a removal of restrictive conditions has been in existence since 1986 when Province dealt with the applications and the applicant did comply with the requested process. The public participation process is not flawed.

OBJECTION

Objectors will not be told how and when his democratic rights can be exercised.

APPLICANT'S RESPONSE

We understand the frustration with the perceived influence of private interests on public processes. And we agree that it is essential that the municipality operates transparently and in the best interest of the community. The comments about the handling of objections and the lack of feedback are duly noted; however, due process was followed to ensure a fair and transparent public participation process.

TOWN PLANNER'S RESPONSE

The land use applications follow a specific process and the objector do comment on the application, the process is that the objection is referred to the applicant for a reply. There is no constant feedback to either the applicant or objector. At this stage, the public participation is complete. However, any party can request on how far the process is, but no additional information is accepted.

OBJECTION

In addition, the objector states that the consultants and municipality work together to condone illegal action and benefit the applicant.

APPLICANT'S RESPONSE

Regarding your allegations of potential impropriety, we want to emphasize that we take such claims seriously. We are committed to upholding the integrity of our processes. We find the allegations concerning relationships between municipal staff and private entities to be unfounded and inappropriate. It is essential to maintain focus on the facts and the integrity of the processes involved.

The rental use of the structure on the subject property was not disclosed and therefore the original application did not address the short-term rental use. This was not done deliberately - the owners were under the impression that they were within their rights to rent out two guest rooms. The property owners confirmed the use of two bedrooms in the dwelling for short term rental purposes following the first public participation process. Our clients also confirmed that they wish to continue to use the subject property for short term rental purposes. Our clients took into consideration the concerns raised and have decided to revise the application to a guesthouse usage to address the concerns raised. The as-built structure on site adheres to the 4m street and 2m lateral building lines as specified in the land use scheme for SR1 zoned properties.

To address the short-term rental use and improved management for the short-term rental use, the clients have decided to apply for a four-bedroom guesthouse instead of merely renting out two bedrooms (a primary right). Guesthouses have to meet certain criteria in terms of management and noise control; hence the proposal will address objectors' concerns about guests claimed distasteful behaviour, parties on the premises and opportunistic crime.

It is standard protocol for consultants to meet with municipal officials to discuss land use applications – to address requirements, to determine the feasibility and to ensure that we provide a realistic expectation on the risk of the application to the client. This is by no means considered collusion.

TOWN PLANNER'S RESPONSE

Any Consultant and or interested and affected party can at any time have a discussion with the Town Planner regarding the application during the public participation process. In this specific case, due to the objections received the Consultant requested the process to be followed for a revised application. If there was collusion, the objector must please provide evidence in this regard.

OBJECTION

The property owner must have been aware of the by-laws that applied to the property and objectors insist that the unlawful structures must be demolished (and not legalized by means of paying an administrative penalty only).

APPLICANT'S RESPONSE

It was stated in both the original and revised application that the owners of Erf 4586 Hermanus converted the existing garages into a habitable area without the necessary land use and building plan approvals. Initially it was anticipated to convert the garage structure into a second dwelling unit. It is however now proposed to make the structure interleading with the main dwelling to create a larger dwelling house on the subject property. It is then proposed to change the use of the dwelling house to a four-bedroom guesthouse. The proposed amendments are to address all existing and proposed land uses and structures on the subject property.

TOWN PLANNER'S RESPONSE

It must be noted that the Municipality and or Municipal Court cannot demolish a structure. It has to be by application at the Magistrates Court. The objectors should also realize that many erven in the Overstrand have illegal structures or activities on their properties. The Municipality cannot visit every erf constantly to ensure compliance. The guiding principle is that if structures can be accommodated, the applicant must follow an application process to rectify the illegal building work or activity and should this not be approved, demolition is the last resort.

OBJECTION

The unlawful construction of the double garage merely followed by the process of determining an administrative penalty to correct the unlawful construction will set a precedent for future development in the area.

APPLICANT'S RESPONSE

The proposed guesthouse application does not set a precedent – each land use application is considered on its own merit.

TOWN PLANNER'S RESPONSE

The double garage was built in accordance with the approved building plan of 1981; the conversion thereof is at present illegal.

OBJECTION

The current structure and layout of the premises is not fit or compliant for use as a guesthouse: It is built as two parts with two separate entries with a central open area / multiple units are proposed:

- ***There are no suitable emergency exits;***
- ***The rear entry to the dwelling / guesthouse is unsuitable;***
- ***There is no communal area for guests;***
- ***The plan lacks a manager's / owner's room.***

APPLICANT'S RESPONSE

The existing dwelling (with garages), to be used as a guesthouse will be altered and where applicable additions will be made to make the dwelling interleading and meet the definition of a "dwelling house" with regards to the construction of the structure. The proposed site development plan indicates all the proposed changes to the dwelling to ensure that the dwelling meets the guesthouse requirements. This includes interleading rooms, sufficient number of bathrooms, a manager's / owner's room and communal areas. All objections referencing multiple units on the site should note that the proposed guesthouse will be one dwelling unit only comprising of four guest bedrooms and a manager's / owner's bedroom. The proposed alteration to the structures therefore addresses the objectors' concerns of multiple units to rent on the subject property. If the guesthouse is developed within the land use parameters for SR1 zoned erven, it can easily revert to a single dwelling house in future.

The application and future building plans are circulated to all relevant departments, including the Fire & Safety department. It is a standard condition of approval that conditions specified by the aforementioned department must be complied with.

TOWN PLANNER'S RESPONSE

Noted and agree with applicant.

OBJECTION

Objectors have the following parking and traffic concerns:

- ***The road width of Mossie Avenue is too narrow (vehicles then use adjacent properties as a turning circle).***
- ***The parking provided at the rear side of the property is impossible with only 4,3m from the building line.***

- ***The direct access from Mossie Street also leads to overspill on hot days – with people sitting outside and act / dress inappropriately.***

APPLICANT'S RESPONSE

The Overstrand Land Use Scheme Regulations (2020) determines that one parking bay per guest room must be provided on site and an additional two parking bays for the owner / manager. A total of six (6) parking bays are provided for on site in line with the parking requirements: provision is made for four (4) parking bays for guests and two (2) parking bays for the owner / manager.

The proposed parking layout was discussed with Mrs Hanneen van der Stoep (Senior Town Planner: Overstrand Municipality). The municipality will consider tandem parking for use by the owner / manager only. All parking bays adhere to the minimum parking requirements. Parking bays no. 1 and 2 will take access from Harmony Avenue. Parking bays no. 3 – 6 will take access from Mossie Avenue.

Two separate access points are however proposed from Mossie Avenue:

- a. access point that gives access to the tandem manager's / owner's parking bays no. 5 and 6; and
- b. access point that gives access to guest parking bays no. 3 and 4.

An application for departure is therefore included to allow two access points from Mossie Avenue to accommodate the proposed parking layout. Refer to the site development plan attached.

The conditions of approval will restrict the number of guest rooms, which will in turn restrict the volume of additional traffic that will be generated by the proposed guesthouse.

Guesthouses (especially of this scale) generate low traffic and noise pollution to residential areas. In most instances' guests do not arrive or depart at the same time either. The staggered nature of the arrivals and departures from the guesthouse together with the maximum number of guests allowed will further mitigate the proposed guesthouse's traffic impact and ensure that the surrounding area and its road network are not overwhelmed with vehicular traffic. It is therefore submitted that the traffic and noise generated will be low and in keeping with the residential character.

TOWN PLANNER'S RESPONSE

The parking must comply with the Land Use Scheme and the Overstrand parking requirements. The parking as indicated complies with the standards. The plans submitted do not indicate that the parking bays will have direct access from Mossie Street. The issue with people sitting outside and dress inappropriately is a bit farfetched since the swimming pool is surrounded by the building.

OBJECTION

The title deed conditions should remain since it protects the character of the area. To accommodate the unlawful structure and proposed guesthouse use will have a negative impact on the calm ambiance of the residential area.

APPLICANT'S RESPONSE

The conditions imposed in the title deed were done when approving the General Plan of Hermanus Township Extension No. 4 in 1945. In the past no land use management schemes or zoning schemes existed and thus title deeds determined and governed how an area and property should be developed. If only title deed conditions were to govern the development of towns, the development of a town will be detrimentally restricted. Thus, relevant national and provincial legislation, the development management schemes, zoning schemes and spatial planning policies were promulgated to manage land use development.

The restrictive title deed conditions are not aligned with the present-day planning principles and policies in terms of sustainability and resilience.

Removing title deed conditions will allow the owners of the subject property to produce an income-producing asset. The social benefit of maintaining the restrictive conditions is minimal, given the low impact the development will have on the residential amenity. In comparison, there will be social and economic benefits flowing from the removal of these conditions, including increasing employment opportunities in the area, making the area more attractive to visitors (increase in tourism to the area) and optimizing the use of the land. The proposed development is therefore also in the public interest.

Further investigation into similar land use applications indicated that a restrictive title condition does not vest neighbouring owners with private rights to property within the meaning of Section 25 of the Constitution. Section 25(1) of the Constitution reads as follows:

Property 25. (1) No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.

The restrictive title conditions which are requested to be removed are considered limitations on the building lines and use of land imposed in the public interest. Neighbouring property owners do have an interest in the restrictions, but it does not vest them with any private rights to property within the meaning of Section 25 of the Constitution. Section 25(1) of the Constitution permits the deprivation of property rights if it is done in terms of a law of general application and is not arbitrary. As a result, the removal of restrictive title deed conditions is permitted and empowered by the current relevant planning laws namely Section 47 of the Spatial Planning and Land Use Management Act, 16 of 2013, Section 39 of the Western Cape Land Use Planning Act, 3 of 2014, and Overstrand Municipality's Municipal Planning Bylaw (2020).

TOWN PLANNER'S RESPONSE

The application for the removal of restrictive conditions is only to address the accommodation of a guest house and the building lines, all the other conditions remain in place. There are a few guest houses in Northcliff and the negative impact as indicated by the objector has not been noted.

OBJECTION

There have been multiple complaints from neighbours about the guests visiting the property that cause noise pollution and have distasteful behaviour. The rental rooms / units are described as “an inexpensive daily let that attracts multiple types”. All guest bedrooms do not have their own bathroom – further questioning the type of guests that will be accommodated here.

APPLICANT’S RESPONSE

By formalizing the guesthouse use, obtaining land use approval will provide neighbouring property owners added assurance of stricter management rules that apply to guesthouse establishments. This includes regulations concerning noise and disturbance, thus addressing any concerns the neighbours may have.

The owners / manager residing on the premises are a requirement for this consent use and must be in place to ensure that the guests do not cause a disturbance or pollute (unlike unsupervised guests may be more likely to).

TOWN PLANNER’S RESPONSE

The first complaint received by the Municipality was in 2023. A guest house with a manager has rules that need to be complied with, and behaviour of patrons is controlled. There are no regulations that compel a guest house to have bathrooms for every room, in similar fashion it is the prerogative of the owner to set the prices of the rooms. Highly priced rooms do not necessarily attract a better type, since the objector implies that should you be from the middle- or lower-income groups that you are a lower-class citizen.

OBJECTION

The area is not a preferred area to accommodate tourist accommodation (permanent residences and not characterised by holiday accommodation) – another location should be considered.

APPLICANT’S RESPONSE

The Overstrand Spatial Development Framework (2020) earmarks the area where Erf 4586 Hermanus is situated, for urban development purposes. The Overstrand SDF (2020) favours tourism-related development and describes the following statements for compliance for tourist facilities and tourist accommodation:

- Promote tourism development by means of strategically identifying areas which should be prioritised for tourism infrastructure / facilities development;
- Determine the nature and extent of infrastructure and facility development needed to make key natural areas accessible to all the Overstrand’s inhabitants and tourists.

In addition, the 2050 Vision of the Overstrand SDF (2020) includes the key policy of ensuring that tourism destinations are accessible, safe and attractive by means of maintaining and developing new facilities. In addition, one of the Local Spatial Development and Growth Management principles is to promote tourism development based on the ecological and heritage value of the region. The strategies and policies for promoting tourism in the area do not exclude the Northcliff area where Erf 4586 Hermanus is situated.

Erf 4586 Hermanus will be used for guesthouse (tourism accommodation) purposes. The guesthouse will be accommodated in approved and As Built structures – none of which encroach the Land Use Scheme Regulations' street or lateral building lines. The residential character is therefore retained. The zoning will remain SR1. It is submitted that the proposed residential land use will respect the character of the area and is therefore compatible with the area.

The application, if approved, will provide alternative holiday accommodation options (guesthouse) within an existing urban area clearly characterised and described as a tourism village in spatial planning policies, in close proximity to the many amenities that Hermanus has to offer. The proposal is in line with the relevant spatial planning policies and benefit not only Hermanus but also the Overstrand Area as a whole. The proposed guesthouse will promote tourism in the Hermanus area. As a result, the impact of the proposed land use application on the spatial integrity of the area will be minimal and is therefore consistent with the Overstrand SDF (2020).

TOWN PLANNER'S RESPONSE

It is unclear why the Northcliff neighbourhood is not a preferred area for tourism accommodation. It is ideally located to all the amenities. The area is predominantly permanent residential; however, this does not exclude the right of any owner to apply for any of the consent uses as per the Overstrand Land Use Scheme.

OBJECTION

The change of use should not be allowed. Habitable spaces should not be allowed within the building lines.

APPLICANT'S RESPONSE

As previously mentioned, the As Built structures meet the 2,36m title deed building lines requirement as well as all land use scheme 2m lateral and 4m street building line requirements. The proposed guesthouse use will therefore not encroach any land use scheme building lines and can be considered for approval.

TOWN PLANNER'S RESPONSE

The only habitable space over the title deed street building line is Bedroom 4 and Family room, which constitute 2,61m² transgression, which relates to 0,054%. This transgression is insignificant in relation to the built structures on the erf.

OBJECTION

There has been historically an irresponsible behaviour from property owners (leaving the premises with guests visiting). The objectors therefore doubt that the manager's room will be used for the intended purposes.

APPLICANT'S RESPONSE

By formalizing the guesthouse use, obtaining land use approval will provide neighbouring property owners added assurance of stricter management rules that apply to guesthouse establishments. This includes regulations concerning noise and disturbance, thus addressing any concerns the neighbours may have. The owners / manager residing on the premises is a requirement for this consent use and must be in place to ensure that the guests do not cause a disturbance or pollute (unlike unsupervised guests may be more likely to).

TOWN PLANNER'S RESPONSE

The only complaints received on record at the municipality were in 2023. This has been addressed. Should the managers room not be utilised as such, and is contained in the approval as a condition, the approval will be rendered mute.

OBJECTION

There are concerns from one objector for the increase in crime (opportunistic theft).

APPLICANT'S RESPONSE

Tourist accommodation and guesthouses typically do not bring higher levels of crime to an area. By formalizing the guesthouse use, obtaining land use approval will provide neighbouring property owners added assurance of stricter management and safety rules that apply to guesthouse establishments.

TOWN PLANNER'S RESPONSE

Agreed with the applicant. This aspect has not been substantiated by the objector.

OBJECTION

Objectors raise environmental / services concerns due to increased tourist accommodation and activities in Overstrand.

APPLICANT'S RESPONSE

All services on the subject property already exist. The As Built structures and proposed guesthouse use will have no impact on the usage of the existing available services since no additional loading of the existing civil infrastructure is anticipated. Additional services (if required) will be provided to the satisfaction of the Overstrand Municipality.

The proposed land use application does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998). The subject property is not situated within the Overstrand Municipality's Zoning Scheme Environmental Overlay Zone (2020).

TOWN PLANNER'S RESPONSE

The increased tourism activities and accommodation is one income stream that is promoted by the Western Cape Provincial government and the municipality. No additional services are required by the application since it is limited to four rooms as per request. It should be noted that residential dwellings do not have a restriction on room and or bathrooms, thus this application will not have a bigger impact in terms of services than a normal single household dwelling.

OBJECTION

The proposed guesthouse will have a negative impact on the property values of the area.

APPLICANT'S RESPONSE

This objection was not substantiated, and we disagree with the statement. A well-managed guesthouse can enhance the overall aesthetic and appeal of the neighbourhood, making it more desirable for potential buyers. In addition, the presence of a guesthouse can stimulate local businesses, leading to improved amenities and infrastructure, which further boosts property values.

Lastly, guesthouses often require regular maintenance and upkeep, which can lead to overall improvements in the neighbourhood's appearance and property conditions

TOWN PLANNER'S RESPONSE

This has not been proven by the objector and is agreed with the applicant.

CONCLUSION

The applicant is aware of the development pressures on Hermanus; however, the proposed development does not constitute compromising development due to its minimal impact and compatibility with the surrounding area.

In addition, approving the proposed development will not set a precedent since each land use application is evaluated on its own merit.

It is our opinion that the application complies with the criteria of SPLUMA, LUPA and the By-Law, when considering the desirability of the application. From our response to the objections above it is evident that the development's impact on existing rights will be minimal. The subject property will be developed within the zoning scheme regulations' parameters (keeping the impact on views, privacy etc. to a minimum). The possible impact on the environment, heritage and traffic was considered and fully addressed in the application document and our response to the objections.

There will be no increase in pollution and no factual information exists that the proposed guesthouse will adversely impact on the safety, health and well-being of the surrounding community or the existing rights of other landowners. The subject property's zoning will remain SR1, and the surrounding properties will still be able to exercise the development rights attached to them as well as enjoy the amenity of the area where most erven are zoned for SR1 purposes.

The proposed development meets the principle of efficiency since it promotes the optimization of land use, appropriate land development in a residential area and mild diversification of land use.

Lastly, the proposed development is consistent with the criteria for the consideration of the application in terms of the Overstrand Municipal Bylaw as well as the spatial planning guidelines for the area, since it promotes a low-impact, small-scale guesthouse establishment that does not require deviations from the applicable zoning scheme, while still allowing the area to be retained for residential living. The proposed development will not constitute an intensive and disruptive commercial enterprise.

The proposed development will not diminish the area's residential footprint. It will not constitute an undesirable non-conforming land use and will introduce appropriate land use diversity that is compatible with the surrounding area.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

Refer to point 7 of this report.

9. MUNICIPAL ASSESSMENT OF COMMENTS

Refer to point 7 of this report.

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

10.1 Background

N/A

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

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

Spatial Justice

N/A

Spatial sustainability

The application will have no impact on biodiversity or high potential agricultural land.

Efficiency

No additional engineering services are required for the guest house.

Spatial Resilience

The guesthouse building plan will have to comply with the National Building Regulations and SANS, which has the focus of energy efficiency and structural integrity to withstand environmental shocks and global warming.

Good administration

The applicant has complied with the public participation process as required by the municipality.

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

Same as Point 10.2 above.

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

Noting the above-mentioned, the application is consistent with the SDF.

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

N/A

10.6 Impact on Municipal Engineering Services

The application does not require additional services.

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The property is zoned Single Residential and permits the proposed land use as a consent use right for which the applicant has applied.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights in terms of the restrictive conditions enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the person as the owner of a dominant tenement.

The principle relates to whether the neighbour or the resident community will experience the loss of property values, quality of life such as the right to privacy and or loss of sunlight. Guest houses are restricted to five rooms and all rooms must be interleading to ensure that should the property change hands that it can be used for a single family. The residential component remains in place.

The requirement that the owner and or manager resides on the property is to ensure that the quality of life of all residents is ensured.

Property values should not be influenced since the maintenance of a guesthouse on average is better than residential dwellings since it is directly related to the financial value that accrue to the owner of the guesthouse.

The personal benefit which accrue to the holder of rights in terms of the restrictive conditions.

The conditions were imposed by the Administrator, now Overstrand Municipality to all owners of Hermanus Extension 4 (Northcliff). There is no personal benefit for the Municipality should the conditions remain in place. The residents of the area do not benefit personally from the restrictive conditions.

The personal benefit which will accrue to the person seeking the removal of the restrictive conditions, if they are removed.

The personal benefit for the applicant is the possibility to make use of the consent use to operate a guest house, thus a financial benefit.

The social benefit of the restrictive conditions remaining in place in its existing form.

The status quo remains.

The social benefit of the removal or amendment of the restrictive conditions.

The social benefit is the extra income generated for the municipality that contributes to the maintenance of infrastructure. The benefit of promoting tourism that will benefit the businesses in Hermanus, especially due to the locality of the guest house to the amenities of the CBD.

The land uses to make properties more viable financially to ensure maintenance of buildings in an old neighbourhood, ensure the viability and attraction of residents and or prospective buyers willing to invest in an established area.

Whether the removal, suspension or amendment of the restrictive conditions will completely remove all rights enjoyed by the beneficiary or only some of those rights.

The removal will have little effect on rights of residents of Northcliff, since the Land Use Scheme is applicable, which did go through extensive public participation process before it was adopted by the Municipality.

12. THE DESIRABILITY OF THE PROPOSAL

The application is for the removal of two restrictive conditions pertaining to residential only and building lines. The property has an approved building plan which indicates the street building line as 4,5m as per the previous Hermanus Scheme Section 7 Regulations. The approved dwelling and outbuildings transgress the title deed restriction of 4,72m. The only manner in which to address this is to file an application with the High Court to set aside the approved building plan in terms of the National Building Regulations. This aspect of the objection therefore cannot be entertained.

REMOVAL OF TITLE DEED BUILDING LINES:

The applicant did convert the garages into a room. This oversight is common since years past the title deeds were not part of the building plan process. The additional Bedroom 4 and family room were built 4,3m from the street boundary and still complies with the 4m land use scheme street building line, however it does transgress the 4,5m street building line and is not in line with the approved structures and therefore the oversight does not apply for the latter transgression. The application is to rectify the situation, once the owner was notified of the title deed restriction not indicated on the approved plan. This has resulted in the application for the change of use over the title deed street building line and the additions to the house. The Overstrand land use scheme has a restriction of a 4m street building line; therefore the 0,72m difference setback will have very little impact on the street view or character of the area. The existing approved structures already transgresses the title deed street building line with 0,22m with the approved dwelling located on the 4,5m street building line, which is part of the character and street view since 1981.

The removal of restriction of the residential purposes only condition is to allow for a guesthouse that is not restricted to a single family only.

CONSENT USE:

The applicant applied for a guesthouse consisting of four (4) rooms and a manager room. All of the rooms are interleading and is deemed one dwelling. Guest houses on single residential erven have specific development parameters that need to be complied with. This is to ensure that the guest house can also be used as a single residential dwelling should the guest house stop operating. The built structure also has to comply with single residential parameters in terms of height, coverage and building lines.

Overstrand is a tourist destination, and this aspect is promoted by various Western Cape Government policies as well as the Overstrand planning policies such as the SDF. It is one of the major economic drivers of the municipal area, which does not have its income generated by industrial activities. The residential neighbourhoods are one of the key areas to accommodate tourist accommodation that is of low impact and to ensure that the need for accommodation is addressed without impacting municipal services. It should be noted that in terms of the Land Use Scheme any residential dwelling may let two (2) rooms as a primary right, therefore the application for the 4-bedroom guesthouse only relates to two (2) rooms. However, with a guesthouse the main requirement is that the owner and or a manger reside permanently on the premises to ensure proper management of the business. Thus, in essence due to the restrictive development parameters, the guesthouse remains residential in use.

PARKING:

The application complies with the required parking parameters in terms of manoeuvrability and dimensions. The additional access on Mossie Street is restricted to the managers parking area only and was supported by the Engineering department.

CONCLUSION:

The removal of the restrictive conditions relating to the title deed building lines is recommended for approval, since the structures complies with the land use scheme building lines. Guest houses on residential properties is accepted as low impact that can be accommodated within a predominantly residential neighbourhood compliant with the development parameters as stipulated in the land use scheme.

There are various guest houses within the residential neighbourhood and the accepted practice and has not let to any concerns raised by the surrounding owners of established guest houses.

DETERMINATION OF THE ADMINISTRATIVE PENALTY***The nature, duration, gravity and extent of the contravention***

The transgression relates to 2,61m² over the title deed building line. This entails the conversion of the garage and a newly built bedroom 4 and family room.

The conduct of the person involved in the contravention

The owner undertook construction work without an approved building plan, which transgresses the title deed building line.

Whether the unlawful conduct was stopped

The applicant was notified, and a stop order was issued by the building department to which the applicant complied.

A report by a quantity surveyor in matters of unauthorised building / construction

The applicant submitted the actual costs from the contractor which amount to R251 468,55 for approximately 47,8m² extension but the costs also include other internal changes.

Whether a person involved in the contravention has previously contravened this By-Law or a previous planning law

No.

ADMINISTRATIVE PENALTY CALCULATION:

The cost of the contractor cannot be used to determine the administrative penalty as it not only includes cost per m² but also cost for other internal changes. The cost/m² on the Municipal Budget will thus be used.

Budget 2024/25:

Formal Structure - habitable (erven larger than 150m²) per m² R20 253,00

Transgression: 2,61m²

Penalty: R20 253,00 x 2,61m² = R52 860,33

5% of R52 860.33 = R2 643,01

Total amount payable: R2643,00

It should be noted that the conversion of the garages and bedroom 4 and family room have not been let. Therefore, the only transgression is the area over the title deed building line of 4,72m, which relates to the 2,61m² on which the penalty is applicable.

13. RECOMMENDATION

1. that the objections be noted.
2. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 4586, Hermanus for the **removal of restrictive title deed condition** C.I.1. and C.I.4. of Title deed no. T7972/2018 of the property to:
 - Accommodate the approved main dwelling's change of use to guesthouse positioned on the 4,5m Harmony Avenue and Mossie Avenue Street building line;
 - Accommodate the extended main dwelling (change of use of the approved double garage and main dwelling to guesthouse):
 - a. To allow a four-bedroom guesthouse on the subject property;
 - b. To address the encroachment of the proposed guesthouse (change of use from approved double garage to guesthouse) over the 4.72m title deed street building line (positioned 4.352m from the Mossie Avenue erf boundary).

be approved in terms of the provisions of Section 61 of the By-Law,
3. that the application in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 4586, Hermanus for a **consent use** to accommodate a four (4) bedroom guesthouse on the property, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the application in terms of Section 16.(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 4586, Hermanus for a **departure** to allow a second access point from Mossie Avenue to accommodate the parking layout for the proposed guesthouse, **be approved** in terms of the provisions of Section 61 of the By-Law;
5. that the approvals in points 2 - 4 above be subject to the following conditions:
 - (a) that this approval is only for the development as indicated on the site plan, as submitted with the application;
 - (b) the manager and/or owner shall reside in the main or second dwelling (excluding outbuildings) on the property;
 - (c) that a maximum of four (4) bedrooms (8 persons) per property may be used for paying transient guests;

- (d) that guest rooms may not be converted to or used as separate dwelling units;
- (e) that meals may also be provided to bona fide guests on the property;
- (f) that the residential character must be retained;
- (g) that adequate provision be made to manage the behaviour of patrons (both inside and outside the building) and for security and protection of surrounding properties, patrons, vehicles, etc.;
- (h) that subject to obtaining a liquor licence, alcoholic beverages may only be sold to resident guests for consumption with meals on site;
- (i) that home occupation will not be permitted on the same property as a guest house;
- (j) that a place of entertainment shall not be permitted;
- (k) that no more than three (3) staff members shall be employed in support of the establishment at any given time;
- (l) that no advertising sign shall be displayed without the written approval of the Municipality other than a single, un-illuminated sign or notice affixed to the building or boundary wall or fence, and such sign must be in line with the Overstrand Signage By-Law at any given time;
- (m) 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;
- (n) that no activities constituting a source of public nuisance shall be carried out;
- (o) that no disturbance from loud music and other sources are allowed after 22:00;
- (p) that the Overstrand Municipality retains the right to enforce any relevant legislation, as well as law and order on the premises, on the landowner/s;
- (q) that no cooking facilities or prep bowl may be provided in the guest room;
- (r) that building plans be submitted to the Building Department reflecting the approval for approval, and that all conditions of the Building – and the Fire Department be complied with at that stage;
- (s) that all conditions imposed in the Services Report be adhered (attached as Annexure G) and be complied with, and
- (t) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.

6. that the determination of an administrative penalty in terms of Section 90.(4) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Erf 4586, Hermanus for the illegal additions on the property over the Title Deed building lines as stipulated above, **be imposed**, and that an administrative penalty fee of **R2643,00** be payable within thirty (30) days of the final decision.
7. that the applicant and objectors be notified of its right of appeal in terms Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decisions.

14. REASONS FOR RECOMMENDATION

- ❖ The application is in line with forward planning documentation.
- ❖ Guest houses on Residential Zone 1: Single residential is allowed and the application does comply with the development parameters.
- ❖ No additional services are required by the application.
- ❖ Parking complies with the land use scheme and Overstrand parking requirements.
- ❖ Internal departments supported the application.
- ❖ The application makes provision for a manager that needs to be on site permanently to manage the facility.
- ❖ The administrative penalty relates to building work over Title Deed building lines and not use, since the property is not being used as a guesthouse at present.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Title Deed T7972/2018
Annexure E:	Objections received
Annexure F:	Applicant's response to objections
Annexure G:	Services Report
Annexure H:	Conveyance Certificate
Annexure I:	Notice-to-stop Order from Building Control

SIGNATURES

REGISTERED PLANNER

Name: **H OLIVIER**

SACPLAN registration number: **B/8128/2004**

Signature: _____

Date: _____



Scale: NTS

Drawing Nr: herm4586L.drw

Date: NOVEMBER 2023

Plan Description:

LOCALITY MAP

Property Description:

ERF 4586
HERMANUS

All distances approximate and subject to survey.

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Stads- en Streeksbeplanners
Town & Regional Planners



**PROPOSED DETERMINATION OF AN ADMINISTRATIVE
PENALTY, CONSENT USE, DEPARTURE AND
REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS**

ERF 4586 HERMANUS

DIVISION: CALEDON

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

Plan Active Town & Regional Planners has been appointed by W. & S.K. Loots, the owners of erf 4586 Hermanus, to apply for the administrative penalty, consent use, departure and removal of the title deed conditions of the subject property.

There is an existing single storey dwelling, second dwelling in progress and swimming pool situated on the subject property. The property owners were in the process of converting the approved double garage into a second dwelling unit (change of use) without the necessary building plan approvals. The approved main dwelling and unlawful second dwelling encroach the title deed street building line.

The initial application submitted in December 2023 addressed the unlawful proposed second dwelling unit. Following the public participation period, it was evident that our client's intent for the subject property was to provide tourist accommodation rather than a second dwelling unit. After meeting with the client and the municipality, it was decided that the best way forward was to apply for a consent use to accommodate a guesthouse on the subject property and **not** a second dwelling. A few alterations to the As Built structures will create a larger *interleading* dwelling house on the subject property. It is then proposed to make four bedrooms available to guests on short term rental basis.

The application intends to address the unlawful structure, the proposed guesthouse use, a departure to allow a second entrance / access to the property and the removal of the restrictive title deed conditions to accommodate the existing structures and proposed four-bedroom guesthouse.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an **administrative penalty** for erf 4586 Hermanus;
- Chapter 4, Section 16(2)(o) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, for the **consent use** of erf 4586 Hermanus;
- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the **removal of restrictive title deed conditions** of erf 4586 Hermanus;
- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for **the departure** of erf 4586 Hermanus.

3. NEED AND DESIRABILITY

3.1 PROPERTY DESCRIPTION

Erf 4586 Hermanus is situated at 25 Harmony Avenue, Northcliff, Hermanus. The subject property has a double street frontage (Harmony and Mossie Avenue). Refer to the locality plan attached. Erf 4586 Hermanus is 859m² in extent and is held by title deed no. T7972/2018.

The subject property is level sloped and is characterized by residential structures (dwelling, swimming pool and garden). The structures on the subject property are single storey. The floor area of the As Built structures is 370m².

3.2 ZONING

Erf 4586 Hermanus has the following land use rights:

ERF NUMBER	ZONING
Erf 4586 Hermanus	Residential Zone 1: Single Residential (SR1)

Surrounding properties are zoned for single residential, public road, public open space and authority use purposes.

3.3 LAND USE

There is an existing single storey dwelling and swimming pool situated on erf 4586 Hermanus. The subject property is therefore used for single residential living purposes. The owners have rented out two guestrooms on AirBnB in the past. A maximum of two guestrooms are permitted as a primary right on SR1 zoned properties. The guestrooms form part of the existing dwelling.

Land uses that surround the subject property are dwellings, public open spaces, municipal buildings and facilities, a bowling club and public roads.

3.4 PROPOSAL

The following is proposed:

1. The determination of an **administrative penalty** for erf 4586 Hermanus to accommodate the As Built change of use of the double garage into a guest bedroom with lounge area as part of the existing dwelling / proposed guesthouse over the title deed street building line and minor additions / alterations (within all respective building lines) in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020;
2. The **removal of restrictive title deed conditions** of erf 4586 Hermanus in terms of Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, to remove conditions C.I 1. and 4. as stipulated on pages 2-3 of title deed no. T7972/2018 to:
 - Accommodate the approved main dwelling's change of use to guesthouse positioned on the 4,5m Harmony Avenue and Mossie Avenue street building line;
 - Accommodate the extended main dwelling (change of use of the approved double garage and main dwelling to guesthouse):
 - to allow a four-bedroom guesthouse on the subject property;
 - to address the encroachment of the proposed guesthouse (change of use from approved double garage to guesthouse) over the 4,72m title deed street building line (positioned 4,352m from the Mossie Avenue erf boundary).
3. The **consent use** of erf 4586 Hermanus in terms of Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020, to accommodate a four-bedroom guesthouse on the subject property;
4. **Departure** of erf 4586 Hermanus in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, to allow a second access point from Mossie Avenue to accommodate the parking layout for the proposed guesthouse.

The current property owners want to legalize all existing As Built structures. No new additions are proposed. It is proposed to alter the existing dwelling and garage to create one large interleading dwelling house and to change the use of the dwelling house to a four-bedroom guesthouse. This application will address the encroachments of the existing As Built structures and the change of use of these structures. Here follows the detail of the proposed application for consideration:

3.4.1 Rectification of contravention

In terms of Chapter 5, Section 90(1) a person who is in contravention of the Municipal Planning Amended By-Law (2020), and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned.

As the application is for the rectification of a contravention of the By-Law, an application is submitted for the determination of an administrative penalty fee in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020. However, the Municipal Planning Tribunal (MPT) has the authority not to impose such a fee.

In terms of Section 90(3) of the MPBL, the MPT must at least consider the following factors when determining an appropriate administrative penalty:

- **The nature, duration, gravity and extent of the contravention**

The owners of erf 4586 Hermanus converted the existing garages into a habitable area without the necessary land use and building plan approvals. Initially it was anticipated to convert the garage structure into a second dwelling unit. It is however now proposed to make the structure interleading with the main dwelling to create a larger dwelling house on the subject property. It is then proposed to change the use of the dwelling house to a four-bedroom guesthouse.

The illegal alterations to the garage were done in the second quarter of 2023. A complaint about the unlawful change of use of the double garage was submitted to

the Overstrand Municipality. The municipality investigated the complaint issued and a notice to stop building work was issued by Ms. Liezl Lubbe at Overstrand Municipality's Department of Infrastructure and Planning on 20 July 2023 (copy attached). According to our clients they immediately stopped all building work when the notice was received via email.

Other alterations were also made to the dwelling (new window in the living area and internal walls addition in the living / dining area; alterations to laundry / scullery; new braai room (braai was added to existing structure); new yard wall; alterations to bathroom no. 3). These alterations and additions are mostly within the existing approved building footprint and do not encroach any land use scheme regulations or title deed building lines.

The change of use of the approved double garage into a habitable space (in progress) is considered unlawful and this structure encroaches the title deed street building line. Take note that this structure does not encroach the land use scheme regulations' building lines. The As Built conversion of the double garage consists of:

- A family room;
- A bedroom;
- Bathroom;
- Open terrace.

This application proposes to change the use of the garage structure to part of the guesthouse. The unlawful structure will become the fourth guest room, bathroom and a lounge / private sitting area for the proposed new guesthouse. The terrace will remain.

The total extent of the existing unlawful structure that encroaches the title deed street building line is as follows:

	Title deed street building line encroachment
As Built alterations to the garage (proposed guest room no. 4, bathroom no. 4, private sitting area no. 2 / lounge and open terrace)	Total: $\pm 47,8\text{m}^2$ Total habitable: $\pm 42\text{m}^2$ Total area over title deed street building line: $\pm 2,61\text{m}^2$ % of altered garage over title deed building line: $\pm 0,054\%$

From the above it is evident that not even 0,1% of the structure encroaches the stricter title deed street building line.

The position and nature of the As Built structures and the subsequent uses thereof are unobtrusive in nature and do not impact negatively on the surrounding properties.

A removal of restrictive title deed conditions application is included in this application to address the:

- The limitation to single residential use only;
- The encroachment of the proposed guesthouse over the title deed street building line.

- **The conduct of the person involved in the contravention**

The existing owners unknowingly undertook the internal alterations and change of the use of the double garage on the subject property in 2023 under the impression that the changes to the structures can merely follow a building plan submission during / once the construction was complete, since the alterations were done within the land use scheme development parameters (with reference to building lines, coverage, height, etc.). The owners were unaware of the title deed conditions that prohibit a proposed second dwelling unit (proposed at the time) and the stricter street building line. The approved double garage structure already encroached the title deed street building line marginally (the change of use was within the existing building footprint); therefore, they did not realise that the change of use will trigger any land use applications.

- **Whether the unlawful conduct was stopped**

The owners were unaware that the change of use and alterations / additions to the approved structures required any land use approvals as described above. The current owners became aware of the unlawful change of use of the double garage when a complaint was lodged at the Overstrand Municipality. The owners are now attempting to rectify the contravention by submitting the administration penalty application and subsequent removal of restrictive title deed conditions application in

order to legalise the As Built structures and the respective uses thereof on the subject property.

It is proposed to link the As Built structure (previous garage) to the main dwelling as an extension of the main dwelling house and to use this section of the dwelling as the fourth guest bedroom (with bathroom, lounge area no. 2 and open terrace) as part of the proposed four-bedroom guesthouse. As a result, the structure will not be demolished. The unlawful garage structure was not used for the letting of guest room purposes yet, as it was not fully completed at the stop work order. Two guest rooms in the dwelling were however rented out on airBnB in the past.

- **A report by a quantity surveyor in matters of unauthorised building / construction**

If the Overstrand Municipality finds it necessary that an administrative penalty fee needs to be enforced for the unauthorised building work / change of use, we will submit a report from a quantity surveyor / building contractor with reference to the unauthorised building work. The reason being that if there is a chance that no penalty fee is imposed the report from a quantity surveyor will be unnecessary at this stage.

Our client confirmed that the total construction cost for the change of use / conversion of the double garage was R251 468.55 in 2023.

- **Whether a person involved in the contravention has previously contravened this By-Law or a previous planning law**

To the best knowledge of the applicant and as confirmed by the landowners, they have never previously contravened this By-Law or any other previous planning law.

- **Summary**

We appeal to the Overstrand Municipality to take into consideration the low impact the As Built structure (converted garage) has had on the surrounding area. Our

client considered the comments and concerns from the public and internal alterations are now proposed to link the As Built habitable structure with the main dwelling (i.e. as an extension of the main dwelling and to be completely interleading with the main dwelling). The internal alterations to the dwelling and change of use of the double garage as undertaken by the current owners were done within the existing approved building footprint. In addition, the change of use of the garage to now accommodate a fourth guest bedroom, bathroom, second lounge area and open terrace for the proposed guesthouse **does not encroach the relevant land use scheme regulations' building lines**. The As Built structures have a minimal impact on the neighbouring properties since the footprint of the structures will remain unchanged. *In addition, the proposed guesthouse use is considered a less intrusive and a better regulated land use for the residential area.*

The current owners have never hesitated to immediately give instruction to the consultants to assist in the matter to rectify the contravention by submitting a complete (and fully motivated) land use application and submitting a determination of an administrative penalty application. We therefore respectfully request that a minimal / no penalty fee be imposed on the property owners for the reasons given above.

3.4.2 Consent use and departure

As mentioned, the owners have rented out two guestrooms within the dwelling in the past. Due consideration was given to the concerns raised by neighbours, while still meeting the requirements of our client. It was evident that our client's intent for the subject property was to provide tourist accommodation rather than a second dwelling unit as per the previous application. After meeting with the client and the municipality, it was decided that the best course of action is to apply for a consent use to operate a guesthouse on the subject property. To accommodate this, our client plans to make a few alterations to the existing structures, creating a larger interleading dwelling (instead of a main dwelling with second dwelling unit). It is then proposed to make four bedrooms available to guests on a short-term rental basis.

A guesthouse can be accommodated as a consent use under the Residential Zone 1: Single Residential zoning. Application is therefore made for a consent use to establish a four-bedroom guesthouse on erf 4586 Hermanus.

The guesthouse will consist of four (4) guest bedrooms, one en-suite bedroom for the owner / manager, kitchen, scullery / laundry, pantry, store room, kitchenette, breakfast nook, dining area, living area, braai room, two private sitting areas / lounges for guests, lobby, porch, open terrace and a swimming pool. Bathroom no. 2 will be a shared bathroom for guest rooms no. 1 and 2. Guest bedrooms no. 3 and 4 will each have separate bathrooms. The guests will have access to all the communal facilities. Refer to the site development plan (ground storey plan) attached.

After alterations all the bedrooms in the proposed guest house will be interleading. No separate rental units are proposed. Each guest bedroom will accommodate a maximum of two (2) guests per room. This will address the neighbours' concerns of large groups renting the house as a whole and causing a disturbance to the area. The proposed guesthouse meets the definition of both a dwelling house and a guesthouse and can therefore easily be converted into a single dwelling house in future.

The converted garage (As Built unit) will be converted into a guest room as part of the proposed guesthouse (guest room no. 4, bathroom no. 4, private sitting area no. 2 and open terrace) and will not be a standalone unit as per the initial application. The proposed guesthouse will primarily target international couples, as well as other local and international guests and tourists seeking overnight accommodation. This establishment will be an asset to Hermanus, contributing to the local economy.

The proposed guesthouse will be used for accommodation purposes only and no conference facility or place of entertainment is proposed. The proposed land use will therefore not result in any noise pollution to the adjacent residential area.

The approved double garage that was converted will now become part of the proposed guesthouse. The initial change of use occurred within the approved building footprint and the latter does not encroach any land use scheme building lines. The latter will remain unchanged for the proposed guesthouse use of the structure. The As Built structure (proposed guest bedroom no. 4, private sitting area no. 2 and open terrace) only encroaches the title deed street building line. It is proposed to remove the latter condition to accommodate the As Built structure and its proposed guesthouse use on the 4,352m Mossie Avenue street building line. The

main dwelling is an approved structure with no alterations / additions undertaken on the Harmony Avenue side (eastern side) of the dwelling.

Refer to the extract from the site plan below:

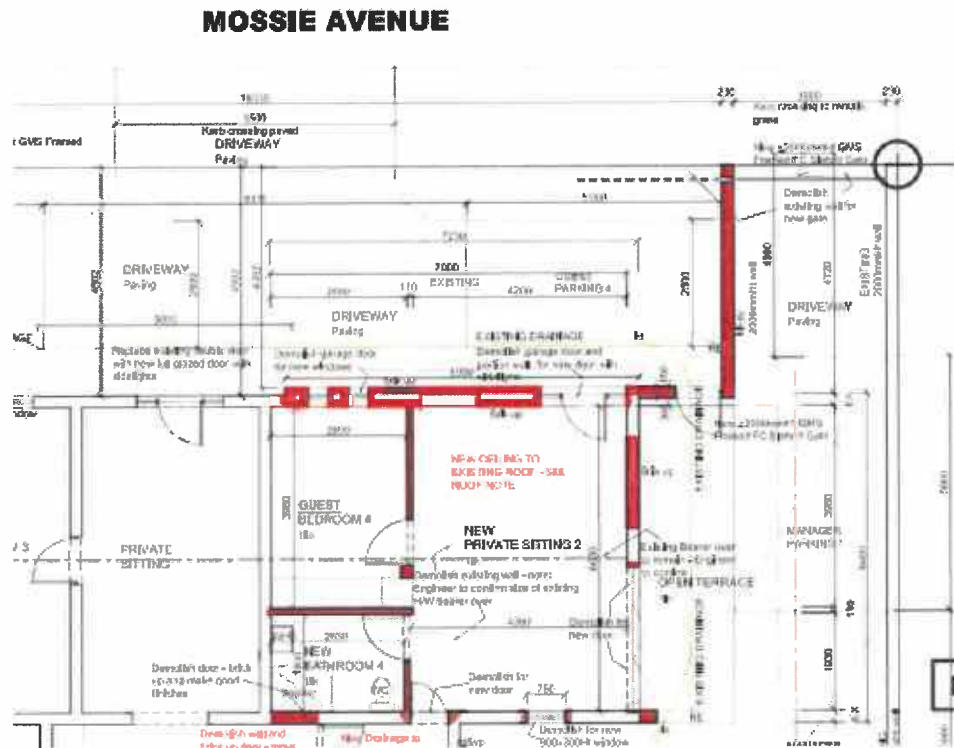


Image 1: Position of the As Built unlawful structure / proposed guest bedroom no. 4, new private sitting room no. 2, new bathroom no. 4 and open terrace as indicated on the site plan

All proposed alterations and renovations will be done in accordance with the land use restrictions applicable to Residential Zone 1: Single Residential properties. The Overstrand Land Use Scheme Regulations (2020) stipulate the following land use restrictions for Residential Zone 1: Single Residential properties (larger than 400m²):

Coverage:	50%
Height:	8m (measured from the base level to top of roof)
Building lines: street:	4m
rear	2m
lateral	2m

The area of the unlawful As Built unit to be converted to guest bedroom no. 4, private sitting area, guest bathroom no. 4 and open terrace for guesthouse purposes is as follows:

	Title deed street building line encroachment
Guest bedroom no. 4,	Total: $\pm 47,8\text{m}^2$
private sitting area,	Total habitable: $\pm 42\text{m}^2$
guest bathroom no. 4	Total area over title deed street building line: $\pm 2,61\text{m}^2$
and open terrace	% of unit over title deed building line: $\pm 0,054\%$

The Overstrand Land Use Scheme Regulations (2020) determines that one parking bay per guest room must be provided on site and an additional two parking bays for the owner / manager. A total of six (6) parking bays are provided for on site in line with the parking requirements: provision is made for four (4) parking bays for guests and two (2) parking bays for the owner / manager. The proposed parking layout was discussed with Mrs Hanneen van der Stoep (Senior Town Planner: Overstrand Municipality). The municipality will consider tandem parking for use by the owner / manager only. All parking bays adhere to the minimum parking requirements. Parking bays no. 1 and 2 will take access from Harmony Avenue. Parking bays no. 3 – 6 will take access from Mossie Avenue. Two separate access points are however proposed from Mossie Avenue:

- a. access point that gives access to the tandem manager's / owner's parking bays no. 5 and 6; and
- b. access point that gives access to guest parking bays no. 3 and 4.

An application for departure is therefore included to allow two access points from Mossie Avenue to accommodate the proposed parking layout. Refer to the site development plan attached.

The schedule of rights for the subject property is as follows:

ERF. 4586	860m²
EXISTING	342.0m²
NEW	28.0m²
TOTAL	370.0m²
SINGLE RESIDENTIAL	
FOOTPRINT	370.0m²
COVERAGE (370m²)	43%
ZONING:	SR1
PROPOSED:	Consent use (four bedroom guesthouse)
PARKING REQUIRED:	6 (2 for manager / owner & 1 per guestroom)
PARKING PROVIDED:	6

The total coverage of 43% adheres to the maximum permissible coverage of 50% for SR1 zoned properties.

Other internal alterations and additions were also made as described in the administrative penalty section above; however, these alterations and additions did not affect the applicable building lines.

The following should be noted when considering the As Built unlawful structure and the proposed guesthouse use described above:

- The visual impact of the As Built structures is considered minimal. The unlawful As Built old garage unit to be converted to a guesthouse is still a single storey structure within the approved building footprint. The proposed guesthouse will not encroach the 4m street and 2m lateral land use scheme building lines and meets all other development parameters.
- The unlawful structure can be made interleading with the main dwelling to create a larger dwelling house for guesthouse purposes. The structure is considered an integral part of the design and value of the subject property. Thus, to demolish the structure to make it compliant to the relevant title deed street building line, will diminish the aesthetic and property value of the dwelling.

The approved main dwelling also encroaches the title deed street building lines (positioned on the 4,5m street building line on both Harmony and Mossie Avenue street boundaries). Although the footprint will remain unchanged, the use of the approved dwelling will change from single residential to guesthouse. As a result, the

stricter title deed street building line must be removed to accommodate the change of use of the existing approved main dwelling as well. Refer to the proposed guesthouse's site development plan (additions and alterations plan) attached for the ground storey plan, site / drainage plan, elevations, pool and boundary wall information.

The 4,72m street building line as stipulated in the title deed has a negative impact on the developable area of the land since it shrinks it with $\pm 15,87\text{m}^2$ ($22,05\text{m} \times 0,72\text{m}$) on both street boundary sides (i.e. in total with $\pm 31,74\text{m}^2$ since the subject property has two street frontages). The double street erf frontage must be considered when evaluating the desirability of the removal of the stricter 4,72m street building line.

The proposed application does not have any impact on the character or property values of the surrounding properties since all structures and uses thereof already exist on the subject property.

The existing structures on the subject property do not create an infringement to any passing traffic or public activity due the position of the As Built structures on site. It is submitted that the massing and height of the existing structures are compatible with the character of the area. In addition, the existing structures and the proposed use thereof (guesthouse) are compatible with the character of the area, do not impact negatively on the rights of anyone else and that no good reason exists for not approving this application.

When considering the proposed consent use, departure and removal of restrictive title deed conditions, the point of departure is the need to discourage the phenomenon of urban sprawl and to encourage densification and more compact towns and cities, all of which relates to more responsible resource use or sustainable development.

The proposed consent use, departure and removal of restrictive title deed conditions of erf 4586 Hermanus is not in contrast to the existing land use tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

3.4.3 Removal of restrictive title deed conditions

Title Deed no. T7972/2018 has restrictive title deed conditions that need to be removed to accommodate the proposed guest house on the subject property. Refer to a copy of the conveyancer's certificate compiled by Mr H.L. van Zyl of Van Zyl Kruger Attorneys dated 7 May 2024 attached.

Application is made for the removal of restrictive title deed conditions of erf 4586 Hermanus to:

- Accommodate the approved main dwelling's change of use to guesthouse positioned on the 4,5m Harmony Avenue and Mossie Avenue street building line;
- Accommodate the extended main dwelling (change of use of the approved double garage and main dwelling to guesthouse):
 - to allow a four-bedroom guesthouse on the subject property;
 - to address the encroachment of the proposed guesthouse (change of use from approved double garage to guesthouse) over the 4,72m title deed street building line (positioned 4,352m from the Mossie Avenue erf boundary).

It is proposed to remove the following restrictive title deed conditions registered by the Administrator (now the Overstrand Municipality) to accommodate the As Built second dwelling on erf 4586 Hermanus:

Title deed no. T7972/2018, pages 2-3, paragraph C.I 1. and 4. that read as follow:

"C. SUBJECT FURTHER to the following conditions contained in Deed of Transfer No. T5340 dated 27th April 1945:

- I. Imposed by the Administrator of the Cape Province when approving the establishment of Hermanus Township Extension No. 4 in terms of Ordinance No. 33 of 1934 namely:*

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

- 1. That this erf shall be used for residential purposes only.*

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

The reasons for the removal of the conditions specified above are as follow:

- Condition C.I. 1. restrict the use of the subject property to residential use only. The approved main dwelling and As Built unlawful unit (approved as double garage) will change the use from single residential to guesthouse. It is therefore proposed to remove this condition to allow the owners to retain the unlawful structure, make it interleading with the main dwelling and change the use of the extended dwelling house from single residential to guesthouse purposes.
- The street building line restriction / Condition I.C.4. in Title Deed no. T7972/2018 is more restrictive (4,72m) than the land use restrictions prescribed in the Overstrand Municipality Land Use Scheme Regulations, 2020 (4m). The Land Use Scheme Regulations now govern land use planning in Hermanus. The As Built structures (proposed guesthouse) meet the 2,36m lateral building lines.

- a) A small section of the As Built structures (proposed guesthouse) encroaches the 4,72m title deed street building line on Mossie Avenue's side:

The structure (proposed guesthouse) meets the 4m Land Use Scheme Regulations' street building line requirement; however, the aforementioned As Built structure slightly encroaches the 4,72m Title Deed street building line as indicated on the site development plan:

- The proposed guest bedroom no. 4, lounge area (private sitting area no. 2) and open terrace are positioned on the 4,352m street building line (at nearest point to the Mossie Avenue street boundary).
- The approved main dwelling (change of use to proposed guest bedroom no. 3 and private sitting area) is positioned on the 4,502m Mossie Avenue street building line.

- b) A small section of the As Built approved main dwelling (proposed guesthouse) encroaches the 4,72m title deed street building line on Harmony Avenue's side:

The As Built main dwelling (proposed guesthouse) meets the 4m Land Use Scheme Regulations street building line requirement; however the aforementioned approved structure slightly encroaches the 4,72m Title Deed street building line as indicated on the site development plan:

- Proposed guesthouse (existing main dwelling footprint to change use to guest bedroom no. 1 and 2 and living room) to be positioned on the 4,5m street building line (at nearest point to the Harmony Avenue street boundary).

Section 39(5) of the Land Use Planning Act (LUPA), 2014, stipulates that a Municipality should have regard to the following factors when considering the "removal, suspension or amendment of a restrictive condition":

- ***The financial or other value of the rights in terms of the restrictive conditions 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 removal of the restrictive conditions intends to increase the use rights of the property to permit the As Built structures and the change of use of the approved main dwelling and double garage into a guesthouse. The value of the rights is vested in the owners of the properties of Extension No. 4 of Hermanus.

Property owners not seeking that the title deed building line restrictions should be in line with the zoning scheme regulations' restrictions will favour the restrictive title deed conditions since the conditions impede the development of a residential property in line with the zoning scheme. As previously mentioned, the As Built structures meet the 2,36m title deed building lines requirement as well as all land use scheme lateral and street building line requirements.

The As Built development (and its encroachments) and the proposed change of use of the main dwelling and outbuilding into a guesthouse is not an unusually large-scale form of development that encroaches the building lines. The street building line condition is more restrictive than the land use scheme regulations' building lines. Furthermore, the consent use for SR1 zoned erven includes a guesthouse. Removing the "residential use only" condition will allow the owners to exercise the secondary land use right permitted on the SR1 zoned property.

- ***The personal benefits which accrue to the holder of rights in terms of the restrictive conditions***

The conditions were imposed by the Administrator for the benefit of the property owners of Extension No. 4 of Hermanus. The only personal benefit to each holder is that the property is more restricted in terms of developing structures on the subject property. However, all structures addressed in this application are As Built and the minor alterations proposed is to make all structures on the subject property interleading to change the use for guesthouse purposes. The Administrator is now the Overstrand Municipality, who governs land use applications in line with the existing Land Use Scheme Regulations and relevant spatial planning policies. To keep the title deed conditions will neither have any personal benefit to the Administrator / Overstrand Municipality nor the properties in whose favour the conditions were registered.

- ***The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if they are removed***

The removal of the restrictive title deed conditions will bring about personal benefits to the current landowners since it will allow them to legalise the conversion of the double garage (outbuilding) into a habitable space. In addition, it will accommodate the change of use of this structure together with the approved main dwelling to use as a four-bedroom guesthouse. The latter will in turn benefit the resale value of the property in future. The 4,72m street building line as stipulated in the title deed has a negative impact on the developable area of the land since it shrinks it with $\pm 15,87\text{m}^2$ ($22,05\text{m} \times 0,72\text{m}$) on both street boundary sides (i.e. in total with $\pm 31,74\text{m}^2$ since the subject property has two street frontages).

The existing property owners will be able to enjoy the personal benefits of the existing structures and the proposed guesthouse use instead of demolishing the structures and / or reverting the use to a double garage use again. The latter will have a great financial burden on the current property owners given the construction costs already spent. To remove the title deed restrictions will allow the property owners to keep the existing structures and will favour the consideration of a four-bedroom guesthouse as indicated on the site development plan. It will also imply that the building plans for erf 4586 Hermanus can be approved.

- ***The social benefit of the restrictive conditions remaining in place in its existing form***

The social benefit if the title deed conditions were to remain unchanged and enforced on the existing As Built structure will be minimal. If the conditions remain unchanged, the owner must adhere to the title deed's stricter street building line, the proposed habitable unit / structure will have to revert to the approved use of a double garage to comply with the street building line and residential use only requirements. It will be ludicrous to partially demolish the main dwelling to address the 0,2m title deed street building line encroachments. The impact on the neighbouring properties with regards to privacy, noise, impact on the street scape, etc. will be marginally lower since the title deed's street building line is more restrictive than the scheme regulations' street building line. In addition, a guesthouse is a consent use right for SR1 zoned erven and not considered to be a land use that is out of context of the already established urban / residential area.

To keep the 4,72m street building line requirement in the title deed will have no benefit to neither the property owner nor the adjacent properties since the existing structures already encroach the street building line in terms of the title deed.

- ***The social benefit of the removal or amendment of the restrictive conditions***

The removal of the restrictive title deed conditions will allow the scheme regulations' building lines to set the rules for future development on the

subject property. The social benefit will therefore only be to the property owners of erf 4586 Hermanus since it will allow them to keep the existing As Built structures that encroach onto the title deed street building line on the subject property and allow future additions (if any) to be constructed in line with the land use scheme regulations' building lines only. In addition, it will allow the property owner to operate a guesthouse from the subject property to benefit from the financial gain such an establishment brings to a SR1 zoned property.

- ***Whether the removal, suspension or amendment of the restrictive conditions will completely remove all rights enjoyed by the beneficiary or only some of those rights***

The removal of the restrictive conditions will not remove all rights enjoyed by the beneficiaries, but only some rights and will instead expand the value of these rights to accommodate the existing structures where applicable. The latter is more desirable for the zoning and extent of the subject property without having a detrimental impact on the rights of anyone else or the character of the area. All other title deed conditions not mentioned in this report will be retained.

There is a bond registered against erf 4586 Hermanus. The bondholder's consent dated 9 May 2024 is attached.

3.5 THE POTENTIAL OF THE PROPERTY

The zoning of the subject property will remain unchanged. The location of the subject property within a single residential area allows the property to be developed for low impact land uses only. The subject property is situated in the picturesque Hermanus that forms part of the greater Overstrand area with many tourism valued sites and attractions luring thousands of tourists to the area annually.

The scale of the proposed guesthouse ensures that the nature of the establishment remains compatible with the surrounding residential character of the area. It should also be noted that the property owners can rent out two guestrooms without prior planning approval (subject to the conditions for guest rooms). The impact on the

adjacent property owners should therefore be based and measured on the two additional guest rooms only.

Furthermore, no place of entertainment or any other amenities (conference centre etc.) are proposed and therefore the noise nuisance will be kept to a minimum. The target-market will be international tourist (mainly couples) who visit the area to keep the noise impact on the neighbours to a minimum. Parking is sufficiently addressed on site to avoid parking problems and ensure reasonable amenity to neighbours.

The subject property has the potential and allows for the deviations being applied for since all land use scheme regulations' development parameters are met.

The following should be noted when considering the potential of the site:

- The visual impact will be kept to a minimum since the structures meet all land use scheme regulations' development parameters;
- The massing and scale of the As Built structures are compatible with the area.
- All As Built structures form an integral part of the design of the dwelling and the proposed guesthouse use; thus to demolish the structures to make it compliant with the relevant title deed street building lines will diminish the aesthetic and property value of the dwelling.

The scale of the surrounding built environment and the low impact on the streetscape are also factors that must be considered when contemplating the potential of the property to accommodate the proposed land use application. The following factors confirm the potential of the property to accommodate the proposed building line deviations and guesthouse use:

- Good quality materials were used when the existing structures were built;
- The architectural style of the As Built converted habitable space matches the architectural style of the approved main dwelling and can therefore easily be connected and made interleading to accommodate the proposed guesthouse;
- The height of the As Built and approved structures will remain unchanged;

- The As Built structures and its proposed use will add value to the subject property;
- The manager or owner will reside in the main dwelling on the property;
- The proposed guest bedrooms are not considered separate dwelling units;
- The residential character will be retained;
- No activities constituting a source of public nuisance will be carried out;
- The minimum parking requirement for providing parking on-site is met.

3.6 ECONOMIC IMPACT

The proposed guest house will have a positive impact on the economy of the area. By allowing the aforementioned for the subject property, it diversifies the land uses on the subject property and affords the owners the opportunity to generate additional income that would be re-invested in the area.

The proposed guesthouse will continue to create permanent employment opportunities. It is a well-known fact that tourism plays an important role in the Western Cape's economy and in the Overstrand area in particular.

In addition, temporary employment opportunities will be created in the construction / renovation phase of the proposed guesthouse development. It is therefore evident that the proposed guesthouse will contribute towards job creation in the Overstrand region. Local businesses will benefit from construction material purchases. The diversified land uses will add value to the subject property once the development is complete and fully operational. This will imply higher rates and taxes payable to both the municipality and SARS. In addition, the proposed guesthouse will also have positive spin-offs to the local service providers and businesses in the area.

The proposed removal of restrictive title deed conditions is to accommodate existing structures and proposed use thereof. The proposed removal of restrictive title deed conditions will allow the owners to legalise the As Built structure and this will favour the resale of the property in the future. The approval of the As Built structure will save the owners the cost of demolishing these structures. The proposed land use

application will have a low but positive impact on the local economy.

3.7 SOCIAL IMPACT

It is the intent of the property owners to protect the sense of place of the area. The impact on the social wellbeing and social coherence of the adjacent property owners will be minimal given that the land use will be in line with the character and spatial planning policies for the area. Tourist accommodation and guesthouses typically do not bring higher levels of traffic or crime to an area. By formalizing the guesthouse use, obtaining land use approval will provide neighbouring property owners added assurance of stricter management rules that apply to guesthouse establishments. This includes regulations concerning noise and disturbance, thus addressing any concerns the neighbours may have. The owners / manager residing on the premises are a requirement for this consent use and must be in place to ensure that the guests do not cause a disturbance or pollute (unlike unsupervised guests may be more likely to).

No negative impact on the social wellbeing of the surrounding community is anticipated. It is submitted that changing the use of the developed property to a four-bedroom guesthouse is compatible with the character of the area and does not impact negatively on the rights of anyone else.

3.8 COMPATIBILITY WITH SURROUNDING LAND USES

The subject property is situated in an existing low-density residential area. The application does not propose to change the zoning of the subject property. The surrounding properties are developed with mostly single storey dwellings and the use of the surrounding properties is for permanent residences and holiday houses. The scale of the structures on erf 4586 Hermanus merges well with the scale of the surrounding dwellings in the immediate area.

The proposed use is considered a low impact use that is compatible with the

residential area (when considering the approved and As Built structures on the premises that do not encroach any Land Use Scheme Regulation building lines). No deviations are being applied for to accommodate the proposed guesthouse within the existing structures (the departure only applies to the second access point from Mossie Avenue). The proposed guesthouse application does not set a precedent – each land use application is considered on its own merit.

The nature and scale of the proposed guesthouse considers the character of the residential area in terms of the approved policies. The residential component (interleading dwelling house that can easily revert to single residential use) and residential appearance (guesthouse to be accommodated in the existing structures) of the property are retained. There is no impact on the streetscape.

3.9 IMPACT ON EXTERNAL ENGINEERING SERVICES

All services on the subject property already exist. The As Built structures and proposed guesthouse use will have no impact on the usage of the existing available services since no additional loading of the existing civil infrastructure is anticipated.

Additional services (if required) will be provided to the satisfaction of the Overstrand Municipality.

3.10 IMPACT ON SAFETY, HEALTH AND WELLBEING OF SURROUNDING COMMUNITY

The proposed consent use, departure and removal of restrictive title deed conditions will have no impact on the general safety and wellbeing of the surrounding community.

Since the proposed consent use, departure and removal of restrictive title deed conditions application is not associated with a noxious trade with polluting air emissions the impact on the health of the community will be kept to a minimum.

3.11 IMPACT ON HERITAGE

The application does not involve changing the character of a site larger than 5 000m². Consequently, the proposed land use application does not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

Erf 4586 Hermanus is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality's Land Use Scheme Heritage Overlay Zone (2020). The subject property is not earmarked for heritage conservation purposes with reference to the Overstrand Municipal Growth Management Strategy (2010). It is also not demarcated as part of a Heritage Protective Overlay Zone (2020) for the area.

The dwelling on the subject property is not older than 60 years. The subject property is not associated with any important persons or groups or important events and activities. The subject property has no association with the history of slavery and is not used for living heritage.

In the light of the above mentioned it is evident that the proposed consent use, departure and removal of restrictive title deed conditions will not have a negative impact on the heritage value of the Hermanus (Northcliff) or Greater Hermanus area.

3.12 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed land use application does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

The subject property is not situated within the Overstrand Municipality's Zoning Scheme Environmental Overlay Zone (2020).

3.13 TRAFFIC IMPACT, PARKING AND ACCESS

The Overstrand Land Use Scheme Regulations (2020) determines that one parking bay per guest room must be provided on site and an additional two parking bays for the owner / manager. A total of six (6) parking bays are provided for on site in line with the parking requirements: provision is made for four (4) parking bays for guests and two (2) parking bays for the owner / manager. The proposed parking layout was discussed with Mrs Hanneen van der Stoep (Senior Town Planner: Overstrand Municipality). The municipality will consider tandem parking for use by the owner / manager only. All parking bays adhere to the minimum parking requirements. Parking bays no. 1 and 2 will take access from Harmony Avenue. Parking bays no. 3 – 6 will take access from Mossie Avenue. Two separate access points are however proposed from Mossie Avenue:

- a. access point that gives access to the tandem manager's / owner's parking bays no. 5 and 6; and
- b. access point that gives access to guest parking bays no. 3 and 4.

An application for departure is therefore included to allow two access points from Mossie Avenue to accommodate the proposed parking layout. Refer to the site development plan attached.

The conditions of approval will restrict the number of guest rooms, which will in turn restrict the volume of additional traffic that will be generated by the proposed guesthouse.

Guesthouses (especially of this scale) generate low traffic and noise pollution to residential areas. In most instances' guests do not arrive or depart at the same time either. The staggered nature of the arrivals and departures from the guesthouse together with the maximum number of guests allowed will further mitigate the proposed guesthouse's traffic impact and ensure that the surrounding area and its road network are not overwhelmed with vehicular traffic. It is therefore submitted that the traffic and noise generated will be low and in keeping with the residential character.

3.14 FORWARD PLANNING AND LAND USE DOCUMENTS

The *Overstrand Spatial Development Framework (2020)* earmarks the area where erf 4586 Hermanus is situated, for urban development purposes. The Overstrand SDF (2020) favours tourism-related development and describes the following statements for compliance for tourist facilities and tourist accommodation:

- Promote tourism development by means of strategically identifying areas which should be prioritised for tourism infrastructure / facilities development;
- Determine the nature and extent of infrastructure and facility development needed to make key natural areas accessible to all the Overstrand's inhabitants and tourists.

In addition, the 2050 Vision of the Overstrand SDF (2020) includes the key policy of ensuring that tourism destinations are accessible, safe and attractive by means of maintaining and developing new facilities. In addition, one of the Local Spatial Development and Growth Management principles is to promote tourism development based on the ecological and heritage value of the region.

Erf 4586 Hermanus will be used for guesthouse (tourism accommodation) purposes. The guesthouse will be accommodated in approved and As Built structures – none of which encroach the Land Use Scheme Regulations' street or lateral building lines. The residential character is therefore retained. The zoning will remain SR1. It is submitted that the proposed land use will respect the character of the area and is therefore compatible with the area.

The proposed guesthouse will promote tourism in the Hermanus area. As a result, the impact of the proposed land use application on the spatial integrity of the area will be minimal and is therefore consistent with the Overstrand SDF (2020).

The *Overstrand Municipal Growth Management Strategy (OMGMS, 2010)* specifies that erf 4586 Hermanus forms part of Planning Unit no. 12. This planning unit stipulates an increase in the density of the area from 7,6du/ha to 9,9du/ha. The subject property abuts the Hermanus CBD area. It is proposed to accommodate a

four-bedroom guesthouse on the subject property and as a result no densification is proposed with this application.

The proposal will promote land development in a location that is sustainable. The proposed land use application is to an improved erf within an established residential area and will not impact on urban sprawl or upon a sensitive environment.

The impact on the overall density of this part of Northcliff will therefore be kept to a minimum since the proposed application still promotes a low-density residential area.

From the above it is evident that the proposed development **adheres and complies** with the relevant municipal spatial planning policies.

3.15 PLANNING PRINCIPLES

The planning principle of spatial resilience does not apply to this application.

Spatial justice: The proposed land use application ties in with the existing character of the area and will not have a negative impact on the surrounding neighbours. The impact on the biophysical environment will be low as the subject property has been in existence since 1944.

The proposed application will not promote spatial development imbalances. This application is for an erf as per the establishment of the existing Hermanus Township. The proposed application is in character with the existing area where similar applications have been approved in the past and therefore, the approval of the proposed application will not be spatially biased.

Spatial sustainability: The proposed land use application will have no impact on the visual elements of the subject property and surroundings since all the structures already exist and do not encroach any land use scheme building lines, coverage or

height requirements. It is submitted that the proposed application is compatible with the character of the area (as motivated in previous sections of this report). The encroachment of the title deed street building line has no impact on the massing of the buildings or on the streetscape or passers-by. The As-Built unlawful alterations to the garage will now form part of the extended dwelling house for proposed guesthouse purposes and therefore the structure will merge well with the approved structures. The impact on the biophysical environment will also be kept to a minimum since all structures already exists and no environmental listed activities are triggered.

Factors such as the good quality materials used, the overall layout of the structures on the subject property, the scale of the surrounding built environment, the low impact on the streetscape, the location of the subject property (two street fronts), etc. allow for the consideration and approval of the proposed consent use, departure and removal of restrictive title deed conditions without having an adverse impact on the spatial sustainability of the area.

Removing the residential-only title deed condition to allow the change of use to a guesthouse is considered spatially sustainable. With the proposed consent use the existing property will be better utilised and managed while meeting the needs of our clients and simultaneously the concerns of the neighbours. The proposal is compatible with the residential character of the area and does not impact negatively on the rights of any adjacent property owner.

Efficiency: The subject property is easily accessible and conveniently located close to the Hermanus CBD and major routes. The massing, height and coverage of the property will be in line with the relevant land use scheme regulations. It proofs to be resourceful to approve the As Built structure and the proposed new guesthouse use for the subject property since it is compatible with the existing built environment and the way the additions and alterations were done by the current property owners is aesthetically pleasing.

It proofs to be efficient to accommodate the As Built structure by approving the proposed removal of restrictive title deed conditions of erf 4586 Hermanus and the proposed consent use instead of reverting the structure to the approved use.

The proposed consent use, departure and removal of restrictive title deed conditions proof to be efficient since it discourages the phenomenon of urban sprawl, encourages densification and more compact towns and cities, all of which relates to more responsible resource and infrastructure use and sustainable development. Furthermore, the proposal is efficient in that it optimizes existing resources and infrastructure and continues the existing suburban development typology.

Good administration: Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020.

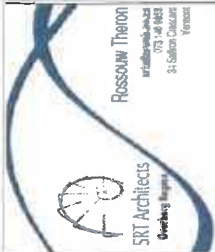
4. RECOMMENDATION

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 loading of the existing infrastructure is anticipated;
- The zoning of the subject property will remain unchanged;
- The As Built structure meets all the land use scheme regulations' development parameters (the As Built structure does not encroach the land use scheme building lines, only the title deed building lines);
- The proposal is compatible with the existing built character of the area;
- Impact on the traffic and services will be kept to a minimum;
- Ample parking bays are provided on site for both the owner / manager and guests;
- There are no heritage aspects that will negatively impact the application;
- There are no environmental aspects that will negatively impact the application and the application will not have a negative impact on any environmental factors;

- The guesthouse proposal is compatible with the spatial planning strategies for the area;
- The application is fully compliant with the applicable planning principles described in the LUPA (2014) and SPLUMA (2013);
- The densification status quo of the area will remain unchanged;
- The guest house will be operated in a professional manner and according to guesthouse establishment standards;
- We request that a penalty fee not be imposed.

The application can be supported for your favourable evaluation. The opinion is held that this application will have no negative impact on the land values, privacy, built environment and character of the area.



Professional Architect & Draughtsman Services

THIS DRAWING IS COPYRIGHT.

CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE BEFORE COMMENCING WORK.

USE FIGURED DIMENSIONS IN PREFERENCE TO SCALING.

ALL WORK TO COMPLY WITH NATIONAL BUILDING REGS AND LOCAL AUTHORITY REQUIREMENTS.

ALL DRAWINGS TO BE READ IN CONJUNCTION WITH SPECIFICATION AT ALL TIMES.

ANY DISCREPANCIES TO BE REPORTED TO ARCHITECT IMMEDIATELY.

ALL DIMENSIONS ARE IN mm.

CLAY BRICK WALLS OF THICKNESS SHOWN ON PLAN.

SLABS & BEAMS TO ENGINEERS SPEC.

CLIENT ARCHITECT

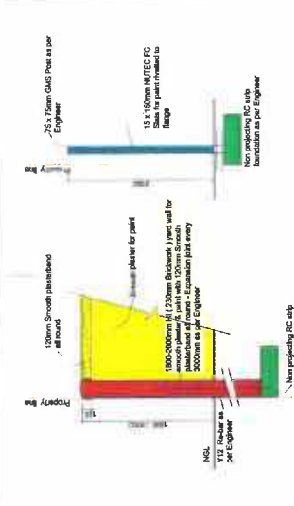
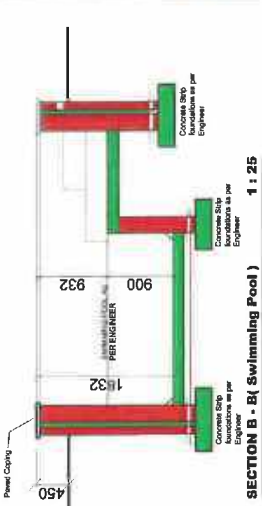
No.	Revision/Issue	Date

ADDITIONS AND ALTERATIONS

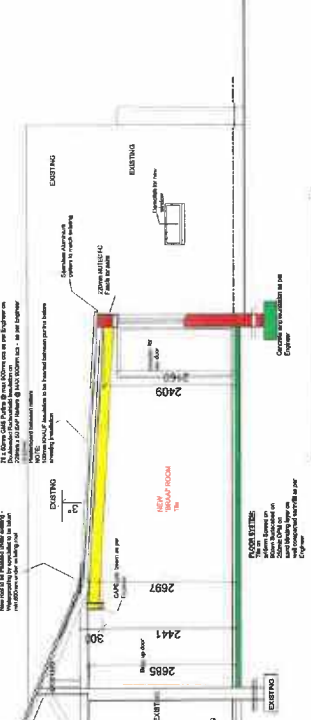
GROUND STOREY PLAN SITE/DRAINAGE PLAN ELEVATIONS & POOL & BOUNDARY WALL SECTION

HOUSE LOOTS
ERF. 4586
25 HARMONY AVENUE HERMANUS OVERSTRAND

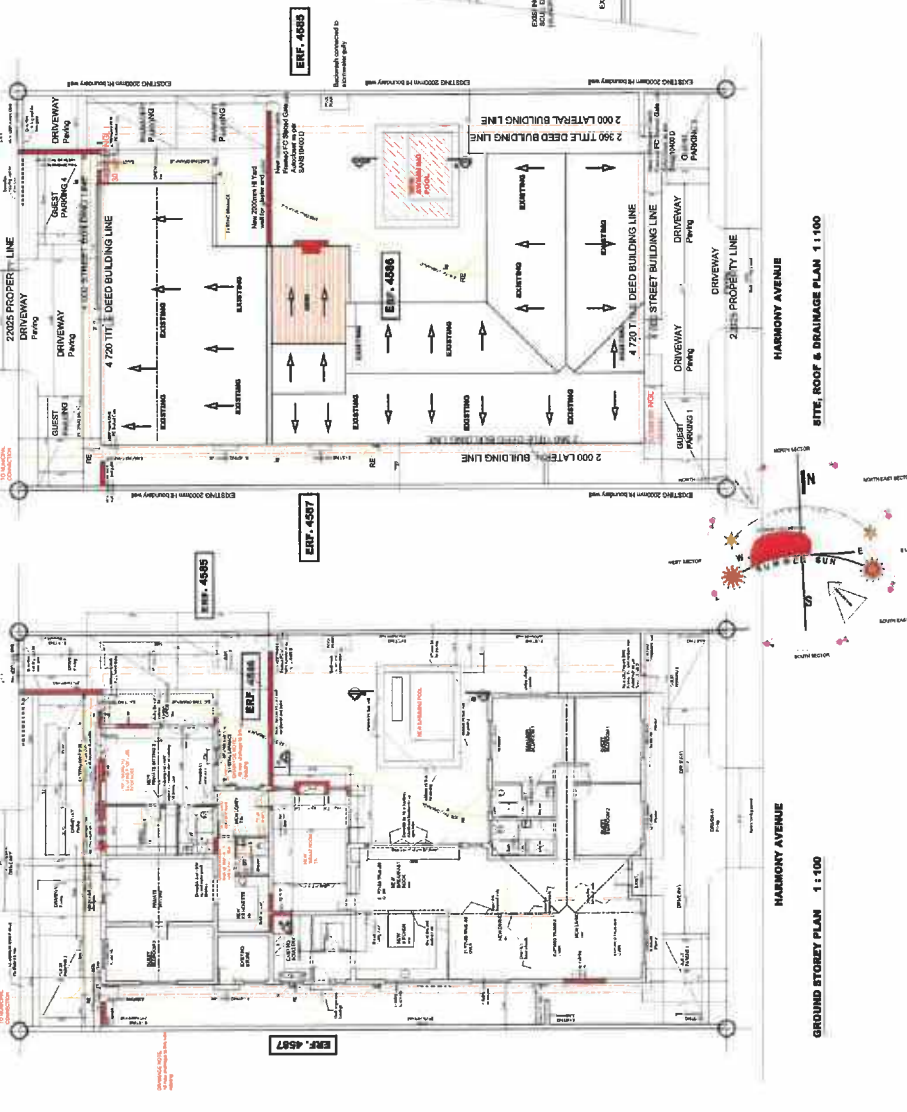
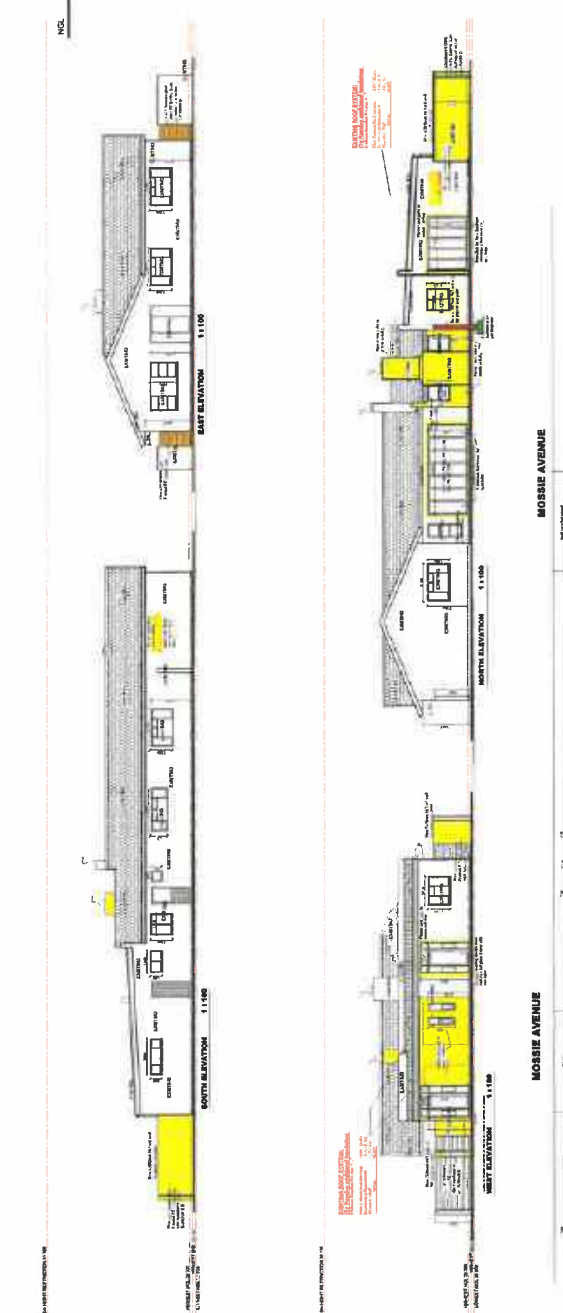
Project	LOO1/023	DWG.NO.	1.1C
Date	29/04/24	Scale	1:100, 1:50 & 1:25



Item	Description	Quantity	Unit	Value	Remarks
1	Excavate & backfill to 100mm below finished level	100	m ³	1000	
2	Form concrete slab	100	m ²	1000	
3	Cast concrete slab	100	m ²	1000	
4	Form concrete wall	100	m ²	1000	
5	Cast concrete wall	100	m ²	1000	
6	Form concrete slab	100	m ²	1000	
7	Cast concrete slab	100	m ²	1000	
8	Form concrete wall	100	m ²	1000	
9	Cast concrete wall	100	m ²	1000	
10	Form concrete slab	100	m ²	1000	
11	Cast concrete slab	100	m ²	1000	
12	Form concrete wall	100	m ²	1000	
13	Cast concrete wall	100	m ²	1000	
14	Form concrete slab	100	m ²	1000	
15	Cast concrete slab	100	m ²	1000	
16	Form concrete wall	100	m ²	1000	
17	Cast concrete wall	100	m ²	1000	
18	Form concrete slab	100	m ²	1000	
19	Cast concrete slab	100	m ²	1000	
20	Form concrete wall	100	m ²	1000	
21	Cast concrete wall	100	m ²	1000	
22	Form concrete slab	100	m ²	1000	
23	Cast concrete slab	100	m ²	1000	
24	Form concrete wall	100	m ²	1000	
25	Cast concrete wall	100	m ²	1000	



ERF. 4586	860m ²
EXISTING	342.0m ²
NEW	370.0m ²
TOTAL	370.0m²
SINGLE RESIDENTIAL FOOTPRINT COVERAGE (370m²)	43% SRP
PROPOSED: Consent use (four bedroom guesthouse)	Consent use (four bedroom guesthouse)
PARKING REQUIRED: 6 (3 for manager) / 3 for 1 per guestroom	6
PARKING PROVISION: 6	6



GUTHRIE & THERON
P O BOX 37
HERMANUS
7200

Prepared by me

Fee endorsement	
	Amount
Purchase price/Value	R 3 450 000,00
Mortgage capital Amount	R
Reason for exemption	Exempt (i.e. of)

[Signature]
 CONVEYANCER
 JOHAN PIENAAR VAN ROOYEN

DATA / VERIFY
 05 MAR 2018
 DEBRA TALJAARD

VERBIND MORTGAGED

VIR FOR R 1 500 000,00

B 000003977 / 2018

0.1 MAR 2018

REGISTRAR/REGISTRAR

T 000007972 / 2018

DEED OF TRANSFER

(4)

BE IT HEREBY MADE KNOWN THAT

CHRISTIAAN LUDOLPH NELSON FICK

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney granted to him by

1. **EMILE CALITZ**
Identity Number 760213 5047 08 8
Married out of community of property
2. **ZELDA CALITZ**
Identity Number 770918 0075 08 6
Married out of community of property

DATA / CAPTURE
 02 MAR 2018
 FATGEYAH LARNEY

which said Power of Attorney was signed at HERMANUS on 10 JANUARY 2018

And the appearer declared that his said principal had, on 22 December 2017, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

WERNER LOOTS

Identity Number 770304 5106 08 7

and

SHELLEY KATE LOOTS

Identity Number 771014 0134 08 8

Married in community of property to each other

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

ERF 4586 HERMANUS
IN THE OVERSTRAND MUNICIPALITY
DIVISION CALEDON
PROVINCE OF THE WESTERN CAPE

IN EXTENT 859 (EIGHT HUNDRED AND FIFTY NINE) Square metres

FIRST TRANSFERRED by Deed of Transfer No T5340/1945 with Diagram No 294/1945 annexed hereto and held by Deed of Transfer T43029/2011

- A. SUBJECT to the conditions referred to in deed of Transfer No T 43029/2011.
- B. SUBJECT FURTHER to the following conditions contained in Deed of Grant (Caledon Freehold Book 3 No 8) issued on 5th August 1922, namely:
- “(2) That all road and thoroughfares over the land, whether or not described in the plan or diagram thereof, shall remain free and uninterrupted unless closed, diverted or altered by competent authority.
- (4) That the land hereby granted shall be subject to all rights and servitudes which now affect or at any time hereafter may be found to affect the title of the land hereby granted or which may be binding on the Government in respect of the said land as at the date hereof.”
- C. SUBJECT FURTHER to the following conditions contained in Deed of Transfer No T5340 dated 27th April 1945:
- i. Imposed by the Administrator of the Cape Province when approving the establishment of Hermanus Township Extension No 4 in terms of Ordinance No 33 of 1934 namely:
- AS being in favour of the registered owner of any erf in the Township and subject to amendment or alteration by the Administrator under the provisions of Section 18(3) of Ordinance No 33 of 1934:
- “1. That this erf shall be used for residential purposes only.
2. That only one dwelling together with such outbuildings as are ordinarily required to be used therewith be erected on this erf.

3. That not more than half the area of this erf be built upon.
4. That no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf. No such building or structure shall be situated within 2,36 metres of the lateral boundary common to any adjoining erf.

AS being in favour of the Administrator:

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

AS being in favour of the Municipality:

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

II. Imposed by and for the benefit of the Council of the Municipality of Hermanus, namely:

- "(a) No person, company or syndicate shall at any time own more than four vacant erven in this Extension (Hermanus Township Extension No. 4) .
- (b) No person shall construct a dwelling with the necessary outbuildings, at a cost of less than R1200,00 on this erf."

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

1. **EMILE CALITZ, Married as aforesaid**
2. **ZELDA CALITZ, Married as aforesaid**

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

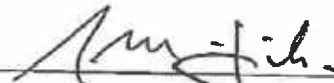
WERNER LOOTS and SHELLEY KATE LOOTS, Married as aforesaid



their Heirs, Executors, Administrators or Assigns, now are and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R3 450 000,00 (THREE MILLION FOUR HUNDRED AND FIFTY THOUSAND RAND).

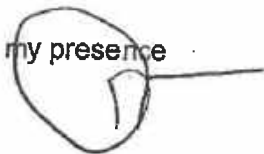
IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 1 March 2018.



d.d.

In my presence



REGISTRAR OF DEEDS

Annexure E 1/84

Loretta Gillion

OVERSTRAND MUNISIPALITEIT

REKORDBEHEER

08 MAR 2024

DOCUMENT CONTROL

From: Petro Calitz < >
 Sent: Thursday, 07 March 2024 11:51
 To: Loretta Gillion
 Subject: PENALTY AND REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS ERF 4586 HERMANUS OVERSTRAND MUNICIPALITY

TP. D. (Theo) (H. Olivia)

FILE NO.	214586
	1-NO
SCAN NO.	
COLLABORATOR NO.	2012210

Dear Sir\Madam

Herewith my objection to the motivational proposal sent to me on 30 January 2024 by the Town Planning

Department of the Overstrand Municipality. To my knowledge, Mr Loots is a qualified estate agent in Hermanus and I find it extremely hard to believe that he was not aware of our bylaws! How could he only find out after

spending R251,468 on an illegal construction? The fact that the application is for a second dwelling, while a 2nd one already exists, the double garage will be the 3rd dwelling. Why is the Town Planning Department not aware of the existing 2nd dwelling? Is that legal? You also claim that the removal of the restrictive conditions will have no negative impact on the area? It already has! Just talk to the neighbours next door and across the road! (Mossie lane 23)

Restrictive conditions are necessary and registered on the Title Deeds for a reason. SR1 is there for a reason. It cannot just be changed because it has an impact on every property owner in the area! If a structure is unlawful, that is exactly what it is! No proposals or arguments can correct it!

I have been living at 11 Harmony Avenue for 44 years and have always experienced it as a very friendly, safe and quiet neighbourhood. Please do not spoil it for us!

Thank you,

J P CALITZ

It already has! Just talk to the neighbours

TP- N. Ahearne
(1. Olivia)

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
07 MAR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Nuwepos plaas

Hermanus

7200

6 Maart 2024

Aan wie dit mag aangaan, met verwysing na Erf HNC4587:

Ons is die eienaars van Harmoniestraat no 23 in Northcliff. Ons verhuur die eiendom permanent en wanneer ons huurders kies, doen ons dit met konsiderering van ons bure. Kommentaar van ons huurders is dat persone wat in die naburige eiendom op korttermyn verhuur word rusverstoring veroorsaak en die karakter van die woonbuurt aantas waar permanente inwoners bly.

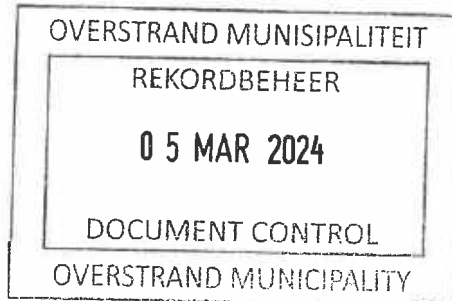
Northcliff is 'n buurt waar gesinne en ouer persone woon. Baie van die persone wat tydelik daar huur is daar vir partytjie hou. Dit is raadsaam dat hierdie persone eerder na toeriste areas gaan waar akkommodasie wettiglik verhuur kan word en die hoeveelheid mense reg hanteer kan word. Die strate laat ook nie toe vir oorvloedige voertuie wat daar moet parkeer nie.

Mense wat korttermyn verhuring op 'n groot skaal wil doen, moet dit liewers doen by eiendomme wat reg gesoneer is vir hierdie doel.

Groete

Helgard en Janine Ackermann

FILE NO.	CF 4586
	HNC
SCAN NO.	
COLLABORATOR NO.	2011284



05.03.2024

Town Planning department

Re: Erf 4586 at 25 harmony Ave, Hermanus

Margit Gatzweiler

TP - N. Heath
(M. Olivia)

11 Mossielaan

Hermanus

Erf 4549

Dear Madam/ Sir

I herewith state that I object to the proposal sent to me per email on 30.01.2024

- 1 unlawful structures should be demolished, as by now everyone knows that you have to have approval from town planning to erect or change any structures. It is not correct to take a chance and just pay a penalty and this legalizes your illegal structure.
- 2 The change of a double garage into 2 units which are then rented out is not allowed. I live in Mossie Lane and saw this building being erected over months and I am surprised that it took a neighbour to report this as we have a very capable building inspector in the area. I myself was not allowed to change my garage into a habitable flat, the same applies to all. I abided by the rules. This should be changed to the original state ie. a dbl garage for vehicles.
- 3 I object to more than 1 dwelling unit on the property
- 4 I object to the encroachment of the 2nd dwelling over the building line from the Mossie Lane boundary.

Same rules apply to all!

Yours faithfully

Margit Gatzweiler

Cell:

I would appreciate it, if the owner of the illegal structures would not call me.

FILE NO.	GF 4586
	HNC
SCAN NO.	
COLLABORATOR NO.	2009602

Loretta Gillion

5/84

From:
Sent: Monday, 26 February 2024 15:36
To: Loretta Gillion
Subject: ERF 4586, HARMONYLAAN 25, NORTHCLIFF, HERMANUS : AANSOEK OM BEPALING VAN 'N BOETE EN OPHEFFING VAN TITELAKTEVOORWAARDES

Geagte Me,

Ons verwys na die advertensie wat geplaas is in die Hermanus Times gedurende Februarie 2023, rakende die Bepaling van 'n Administratiewe Boete, asook die Opheffing van Beperkende Titellaktevoorwaardes.

Ons is gereelde stappers in onder andere die Northcliff-area, en het met belangstelling die bouwerk by Harmonielaan 25 / Mossielaan dopgehou.

Indien slegs 'n Administratiewe Boete opgetê sou word teen die eienaars van Harmonielaan 25, gaan dit 'n presedent skep vir enige ander eienaar in Hermanus om voort te gaan met bouwerk sonder die nodige toestemming – om dan maar net na die tyd die boete te betaal en vrygeskeld te word van nuwe strukture wat reeds opgerig is.

Dit skep 'n verdere probleem, naamlik dat daar geen standarde gehandhaaf word met die oprig van nuwe strukture sonder die nodige toestemming van die munisipaliteit nie.

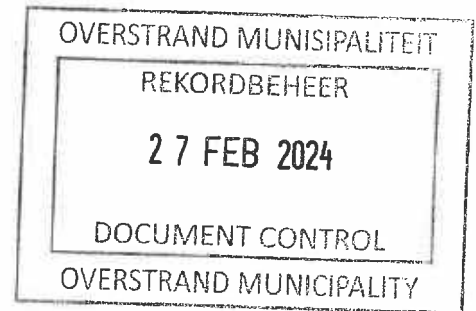
Ons is van mening dat nuwe strukture (wat nie die nodige toestemming het om opgerig te word), afgebreek behoort te word, as afskrikmiddel om eienaars te verhoed om enige bouwerk aan te bring sonder die nodige toestemming, en nie net 'n Administratiewe Boete te hef nie.

Die uwe

Mnr & Mev LL de Lange

Fairways Close no 1
 Fairways Avenue
 Eastcliff
 Hermanus

TP n/Heerk
 (H. Olivier)



FILE NO.	RF 4586
	INC
SCAN.NO.	
COLLABORATOR NO.	2004027

TP 26 FEB 2024

TP - A Theart
(Holivier)

83
OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
26 FEB 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

6/84
FILE NO. Erf 4586-HNC
SCAN NO.
COLLABORATOR NO.
2002358

To: Planactive, Town & Regional Planners

From: Peter & Sue Doble

Ref:

Erf4586 : 25 Harmony Laan-application for removal of restrictive title deed

We, the owners of 23 Mossie Laan – the property which immediately faces the rear entrance of 25 Harmony Laan – wish to declare a formal objection to the justification and motivation as contained in the email dated 31 January 2024.

The reasons and historical evidence raises major concerns on the following grounds:

1. The attempt to restructure the property without consent and in contravention to the title deed is disingenuous.
2. Indications that any retrospective removal of restrictive conditions is expected in return for an administrative penalty is unreasonable and frankly lacks credibility.
3. A separate dwelling accessible only to the rear of the property (detailed as a games room on the Motivation plans) is already let on a regular basis. It is a two bedroom, one bathroom fully furnished dwelling. Initially this was for longer term lets but more recently overnight or short stays have been regularly introduced.
4. There has been a reluctance to indicate or clarify the exact purpose of the recently converted section which was previously two garages. However all indications would point to a further letting unit.

There has been a history of direct complaints to the owner following behaviour and actions ranging from annoying to unpleasant and abusive. The owner frequently insists that his “guest/clients” are vetted and are predominantly “quality European visitors” but having experienced most first hand, this is not the case. It is offered as an inexpensive daily let that attracts multiple types.

UNSUITABILITY

Unfortunately we find the covert manner in which this restructuring has been intentionally not revealed to the neighbours in the closest and most affected properties nor the local planning authorities to be extremely disturbing.

- a) The footprint of 25 Harmony Laan while signified as a single residential dwelling, already consists of two separate living units. (ie before the additional conversion in question).
- b) There exists an independent rear entry to the building from Mossie Laan. This is accessed via a double glass door. This leads to independent accommodation.
- c) Given its structure and access our opinion is that it is currently unfit for purpose.
 - i) The current “second dwelling” is accessed directly from the street leading inevitably to overspill especially in the hot weather. Some people inevitably sit outside, sometimes inappropriately dressed, and in full view of neighbouring properties and passers by.

26 FEB 2024

- ii) Noise levels from groups and loud music frequently happens
- iii) The double glass doors are the only entry/exit point and source of ventilation meaning that they are frequently left wide open.
- iv) The main room of this unit is shown on the plan as a “games room.”
- v) The accommodation can be over-occupied which also leads to problem behaviour.
- vi) It is believed that there is no alternative exit in case of emergency.

LETTING SUBDIVISIONS

Our contention, which has not been denied, is that the purpose of the newly converted area and the need to remove the restriction of the title deed is for a third dwelling unit. The plans are presenting the conversion as a “second dwelling.”

The following questions were sent on February 8 2024 to Planactive in order to gain a clearer understanding. After two weeks without acknowledgement, a reply was received from Merike Lerm intimating that these questions were not germane to the public participation process.

This lack of openness and important detail provides neither credibility nor confidence to affected parties which is the whole purpose of a planning application.

They are therefore repeated here:

LIST OF QUESTIONS FOR PLANACTIVE AND OWNERS PRIOR TO FULL RESPONSE ON THE APPLICATION

1. What is the purpose of the reconstructed second dwelling on this property?
2. How many actual separate physical “dwelling units” are there currently on the total property and how many are proposed in total.
3. How many bed units are there currently and how many bed units are proposed in total?
4. What is the actual reason that the owners did not consult or even mention the intended works to the immediate and affected neighbours before the conversion works started? What were they intending to hide?
5. Please state the reasons why the conversion of garages to a potential dwelling were not formally disclosed or planning permission applied for? The stated reason in the documents provided by Planactive are not credible.
6. Is it intended that there will be two separate “dwellings” which will be separately accessed at the rear of the property in Mossie laan? The current rear unit used as an airbnb/short lets does not show on the plan as such.
7. If the whole property is rented ie three separate units or “dwellings” – then how many individual guests in total do the owners expect?

8. Who will be responsible for planning, managing, monitoring and overseeing the actions, behaviour and attitude of any guests and be available and accessible 24/7.

9. Where is parking expected as there are no longer any garages on the property including the owners vehicles? Is it intended that all parking will be offroad including municipal land?

10 The current state of the property (facing Mossie laan) could be described as hastily unfinished. Including the illegal work and subsequent debris – left in full view of neighbours' property and not the owners – plus strewn gravel with numerous weeds represents a poorly planned and cheaply executed job. Is it the owners intention (with or without a grant on this application) to ensure a complete upgrade to the rear of the building?

NORTHCLIFF RESIDENTIAL COMMUNITY

The properties in Northcliff are family dwellings and neither they nor the area was designed for multiple occupancy. If, as we suspect, the proposed “second dwelling” also becomes a profitable letting opportunity, then it will have a significant and disruptive effect on the quiet suburban street and calm ambience of the local residences.

25 Harmony Laan building area already covers an exceptionally high percentage of the total erf. This restricts the amount of available space for parking vehicles – and leaving almost none for recreational use. These bids for title deed change are a key problem in altering the nature of the environment and there is a gradual creep of small businesses and rentals appearing.

Mossie Laan is a narrow, quiet road with little traffic. It enjoys a unique position of having only one side of the road with houses facing the roadway. The other side is the rear of Harmony Laan which, in the main, is infrequently accessed. All the properties on both sides of the road – apart from 25 Harmony – are enclosed by walls, fences and gates. The rear entry to Erf4586 is the only premises with vehicles parked openly and hence a natural draw to potential theft. The current open access single entry/exit point of the unit in use at the rear, is a further cause for neighbourhood concern, as a potential draw to planned and opportunistic theft.

SOCIAL IMPACT

Airbnb and short term lets have become a major problem in many parts of the world. In some cities it has such a bad reputation that local authorities are banning the practice. Hermanus is facing that challenge and these types of structural changes and title deed amendments are the thin end of the wedge.

One of the most contentious issues is the monitoring of self-catering accommodation. Owners often turn a blind eye as their objective is to maximise bookings and deal with the complaints – if and when they occur. Appalling behaviour by inconsiderate groups degrade areas to the point where life for permanent residents becomes intolerable.

It is incumbent on the municipality to carefully weigh the economic benefits of tourism at the risk of alienating ratepayers. This policy not only has a significant impact on the formal accommodation sector which has to follow strict regulations and legal requirements but also the full time residents who have deliberately chosen a select location and are prepared to pay for that privilege.

The owner of 25 Harmony describes his profession as a real estate agent and must therefore have the appropriate knowledge of property development and letting. We have enjoyed for the most part an open dialogue. There have been some issues with both his long term and short term lets.

Mostly these have been resolved but the worse instances occur when there is no-one on the property to monitor and police activities. During the festive season (when the owners were not on site) we have endured football in the street, litter in our garden, shouting, swearing, verbal abuse, public urinating, washing left on open areas and individuals parading or seated in various states of undress.

However our longer term subjection to being persecuted by the drunken antics of large inconsiderate groups highlights a parallel and worst case. The property Erf4601 to our rear in Bird Lane is owned by absentee landlords ie neither they nor a manager is ever on site. Parties numbering at least 12 people have been allowed into the residence. Following numerous complaints to our ward councillor and at all levels of the municipality, there exists an extensive file of emails and evidence to the municipality. In a major abrogation of collective responsibility, the legal services department concluded that it has no legal responsibility for activities carried out by the person(s) renting a title deed residence. (Feb 2022).

The Overstrand municipality has clearly overlooked its own approved accommodation policy (attached) as presented by R Kuchar and confirmed at an executive meeting on May 2001. Attention is particularly drawn to the para headed Residential Community.

It is contrary to the principles of local government to deny free and fair representation for all. In fact it is the whole point of its existence and the reason that it has the power to implement and enforce its own laws. Such bylaws are reviewed and frequently implemented for minor social infringements. The municipality has a duty of care to all its ratepayers and cannot encourage or allow uncontrolled behaviour causing annoyance and resentment from other property owners. The municipality cannot split hairs on the areas of its legal responsibility and then offer that the only recourse is direct mediation/legal action between owners/neighbours or attempting to involve the overworked SAPS and court system.

This anomaly yet again demonstrates that the municipality works in silos with no cohesive agreement and departments defending inaction due to their boundaries of responsibility.

ENVIROMENTAL IMPACT

Hermanus has already experienced the strain on its essential resources as semigration has led to a growth in population.

It appears that environmental concerns – water scarcity, drainage, congested roads, limited parking, damaged infrastructure – are usually overtaken by the lure of an alleged economic thrust from increased tourism. The beneficiaries of the tourists are limited primarily to businesses and guest accommodation – rarely the local residents who suffer the disbenefits.

- a) the main roads into town are becoming heavily overused affecting traffic flow and present a danger to motorists, cyclists and pedestrians
- b) parking is too limited and being occupied by working commuters
- c) the atmosphere and access to shops, cafes and restaurants is heavily weighted towards visitors
- d) water resources are overstretched as the high useage during holidays and weekends has demonstrated
- e) inner neighbourhoods are subject to poor driving and parking
- f) law enforcement is spread thinly especially during load shedding

CONCLUSION

On the basis of the above responses, this document and attachments are submitted as our clear objection to the macro and micro effects of allowing permission to expand the property occupation of erf4586 or remove any restrictive title deed.

We urge the Overstrand municipality and in particular the Town Planning department to take note of the issues at stake and not ignore the wider picture.

P A & S E Doble
25 February 2024

Erf4586 : 25 Harmony Laan – application for removal of restrictive title deed

LIST OF QUESTIONS FOR PLANACTIVE AND OWNERS PRIOR TO FULL RESPONSE ON THE APPLICATION

1. What is the purpose of the reconstructed second dwelling on this property?
2. How many actual separate physical “dwelling units” are there currently on the total property and how many are proposed in total.
3. How many bed units are there currently and how many bed units are proposed in total?
4. What is the actual reason that the owners did not consult or even mention the intended works to the immediate and affected neighbours before the conversion works started? What were they intending to hide?
5. Please state the reasons why the conversion of garages to a potential dwelling were not formally disclosed or planning permission applied for? The stated reason in the documents provided by Planactive are not credible.
6. Is it intended that there will be two separate “dwellings” which will be separately accessed at the rear of the property in Mossie laan? The current rear unit used as an airbnb does not show on the plan as such.
7. If the whole property is rented ie three separate units or “dwellings” – then how many individual guests in total do the owners expect?
8. Who will be responsible for planning, managing, monitoring and overseeing the actions, behaviour and attitude of any guests and be available and accessible 24/7.
9. Where is parking expected as there are no longer any garages on the property including the owners vehicles? Is it intended that all parking will be offroad including municipal land?
- 10 The current state of the property (facing Mossie laan) could be described as hastily unfinished. Including the illegal work and subsequent debris – left in full view of neighbours’ property and not the owners – plus strewn gravel with numerous weeds represents a poorly planned and cheaply executed job. Is it the owners intention (with or without a grant on this application) to ensure a complete upgrade to the rear of the building?

17. OVERSTRAND: POLICY FOR CONDUCTING AN ACCOMMODATION ESTABLISHMENT ON A SINGLE RESIDENTIAL ERF

Department: Town Engineer, Mr Kuchar (tel:028-313 8087)

1. Purpose of report

To submit an item to Council regarding a policy for conducting an Accommodation Establishment in the Overstrand Municipal area.

2. Background

Previously the different Municipalities of the Overstrand had their own policies regarding Guest houses, Bed & Breakfast, Self Catering units and Back Packers.

As tourism is one of the key performances and development areas for the Western Cape, all issues dealing with tourism should be properly addressed.

In terms of the Cape Tourism Act together with Municipal Structures and Systems Act, Municipalities have received more definite functions in promoting and controlling tourism in its area.

In order to consider the policy on Accommodation Establishments there are a few functional areas to take into considering the policy. This would be discussed under the following headings:

ECONOMIC AND TOURISM DEVELOPMENT

Council has the duty to create the atmosphere and opportunities to promote Economic and Tourism Development in the area. From this stems the issues such as job creation. Therefore Council needs to create and facilitate the parameters in which this development is promoted and encouraged.

The demand for Accommodation Establishments is known fact and is currently being met by mostly Guest houses and B & B's. These are normally established in Single Residential areas subject to obtaining a departure or Special Consent from the Local Authority.

Council acknowledges this and therefore accommodate the demand for accommodation according to a policy.

GUEST HOUSE OPERATORS

As these people fulfil an important function not only in economic development but also in job creation. They further fulfil an important role in satisfying the demand for

alternate holiday housing. They are also crucial in the development of tourism and the development of the Overstrand's economy.

RESIDENTIAL COMMUNITY

Although the development of tourism and economy are crucial, one should not leave the primary factor namely the residents from the equation. These people insist on the peacefulness and amenity of a residential neighbourhood according to its primary use as Single Residential.

These people's rights should be the highest priority and any impact on their privacy and general living conditions should be restricted or mitigated to acceptable standards.

TOURISTS THEMSELVES

Lastly, the tourists and visitors to these accommodation establishments are also very important.

They should be assured of quality and value for money when making use of an accommodation establishment in the Overstrand.

To ensure this a policy should be implemented to ensure certain standards are upheld. This could be done by implementing certain monitoring as well as an accreditation system as currently employed by the different Tourism Bureaus to ensure minimum standards are met.

3. Conclusion

Taking cognisance of all the interested parties and the different functions that they fulfil, it is clear that Council needs a policy which would address the above issues. The policy was formulated after consultations with the various townships as well as tourism bureaus.

The policy will be discussed hereafter.

DISCUSSION OF POLICY:

- A. Policy regarding Accommodation Establishments (Ref Guest Houses and B & B's)
- a) Any Accommodation Establishment from 1 to 5 bedrooms to apply for a departure or a Special Consent

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Previously Accommodation Establishments who conducted 1 or 2 rooms were not required to apply for a departure or Special Consent.

It was recently determined in a court case that all Accommodation Establishments including 1 and 2 bedrooms should apply for a departure or Special Consent according to the specifications of the Land Use Ordinance.

Further, the reason for restricting Accommodation Establishments to 5 bedrooms is the fact this activity is allowed in a Single Residential area where the characteristics should be preserved. The normal tendency in Single Residential areas is that dwellings have an average of 4 bedrooms. In order to lessen the impact of Residential Business activity on a residential area the number of rooms should be restricted.

It is also the intention that should an Accommodation Establishment cease it's activities, the house should revert back to it's original use of Single Residential. This policy would only be applicable on Single Residential even where the applicant applies for a departure or Special Consent. Should a person wish to conduct more than the prescribed 5 bedrooms on a Single Residential erf, he should apply for a Rezoning.

- b) Only one kitchen is allowed per Accommodation Establishment. (except in cases where a Self Catering unit has been approved. (Self Catering units discussed later in the item.)

The reason for this again is to comply to the a Scheme Regulations of which most applicable Town Planning Schemes determine that only one kitchen is allowed per Single Residential dwelling.

This is also to prevent people from illegally conducting Self Catering units on Single Residential erven.

Further again, this is to ensure that the Single Residential character is preserved.

- c) Meals to be served to Residents of the Accommodation Establishment

All meals could be served by an Accommodation Establishment subject to accreditation by the Tourism Bureau as well as the necessary Health Certificate.

- d) No facilities (Bar/Restaurant or any other) to be open and provide for non-resident of the Accommodation Establishment

All facilities provided on Accommodation Establishment premises should be restricted to the use by residents only.

EXECUTIVE COMMITTEE MEETING**31 MAY 2001**

The reason for this is to prevent Guest Houses to operate restaurants, bars, etcetera, serving the general public.

As the area in which such a Guest House is conducted, is Single Residential, one wants to protect the privacy, peacefulness and amenity of such a neighbourhood. It is also to restrict activities in these areas to an acceptable standard for a Single Residential area. It must also be remembered that an accommodation establishment is allowed to cater for residents of the establishment and not the general public.

e) No liquor to be sold on the premises

Liquor may be provided to guests on the premises but not by means of a cash bar. This policy again is to prevent the illegal sale of liquor from a Single Residential premises. Liquor is only to be sold where an applicable license has been obtained.

f) Parking to be provided within the erf boundaries

The provision of parking is normally the issue that is mostly objected against.

As tourists come and go at all hours the activity of door slamming and cars starting it should be mitigated to the extent of having least impact on adjoining properties.

The reason that parking should be provided within the boundaries is therefore to limit and restrict the impact on adjoining neighbours.

This is also a normal requirement with other businesses where they must provide the necessary parking in their own property. Further, parking may not be provided as directly off the street parking alongside each other. A Single Residential erf is only allowed access and egress to a maximum of 6m. Further this restriction would serve to enhance traffic safety in a residential area. Business are required to provide their parking within the boundaries of their erf and therefore Accommodation Establishments should be required to do the same.

g) Minimum of 1 parking bay per guest room to be provided with an additional 2 parking bays for the owner/manager

After consultation with various people and groupings it was felt that 1 parking bay per bedroom is adequate. The reason being is that a guest room normally only houses one family and they also rarely receive visitors whilst staying in a guest room.

Secondly, the guest houses are rarely booked to capacity which serves that 1 parking bay per room is adequate. The two parking bays per owner/manager is

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prescribed, as the Scheme Regulations determine that a minimum of one parking be provided per dwelling. Most residents have two cars and therefore the second parking. Further, the owner/manager normally is more likely to receive visitors for which the second parking would cater.

The parking should be accessible and tandem parking not to be allowed if not fully accessible for all cars.

h) Owner/Manager to reside on the premises

This is mainly to ensure that the business is conducted in a proper manner and under permanent supervision and to have a responsible person on the premises to control the activities within the set parameters and regulations.

i) Health and Safety certificates

This is according to National regulations. Safety certificates would include a Fire Prevention certificate.

j) Commercial tariffs be payable

Most of the tariffs would stay the same as for a normal domestic tariff. However, tariffs regarding refuse would increase. The reason for this is that a guest house occupied to its potential create more refuse than a normal household. This would increase the operating expense for Council as refuse capacity is taken up quicker. It further means that refuse trucks would most probably have to do more trips to the refuse site. This tariff would be guest house tariffs as determined by Council per it's budget.

k) Special Consent or Departure is not transferable

This is firstly to prevent people from speculating with the temporary rights of an Accommodation Establishment. Further, that would also force a new owner to follow the proper procedures where Council could again determine its conditions for allowing such as accommodation establishment.

In certain cases it might not be desirable to continue this function in an area and this allows Council the opportunity to apply it's mind to all issues and to reconsider a previous approval.

l) Accommodation Establishments should register at a fixed tariff determined by Council each year.

The reason for this is that Council must ensure that the tourist services delivered be properly inspected every 6 months. This registration fee would cover the cost for

EXECUTIVE COMMITTEE MEETING

31 MAY 2001

such inspections.

The aim of such an inspection is to make sure the accommodation establishments comply with all regulations and conditions applicable. This would also ensure that these facilities would become accredited which would ensure that specific standards are upheld.

- m) An Accommodation Establishment may only be conducted after all conditions have been met.

This is to ensure that all the conditions of approval are implemented by the applicant before the conducting of the functions.

This would also ensure that a measure of policing could take place. Should such a facility be conducted without all conditions being complied to, the departure would be withdrawn and the applicant would have to re-apply. Law enforcement in respect of conduct conditions would apply.

- n) An Unilluminated Sign of 2000 cm² to be displayed on the erf.

This is to ensure that signage is controlled and kept to acceptable standards.

B. Additional Policy for Self Catering Units

- a) Self Catering Unit

Self Catering units would be subject to all the conditions as set for an Accommodation Establishment together with the following:

As a Self Catering unit contains its own kitchen, it qualifies as a Second Dwelling. The approval of these should also be considered according to Council's densification policy and availability of adequate service capacity.

Lastly, again the character of the single residential area must be preserved. As a single residential area has a low density the increase in density should be properly considered. This being the reason why only one self catering unit is allowed per Single Residential erf. This would ensure that this type of development would have limited impact on the neighbourhood.

- b) A Bulk services levy be payable to the amount of 50% of the applicable on a single residential erf.

As a self catering unit is in effect a second dwelling which increases the impact on the bulk services, provision should be made for a bulk levy.

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C.Backpackers

Backpackers are subject to the same policy as an Accommodation Establishment with the following additions.

- i) A maximum of 10 beds

This policy would ensure that the impact of a Backpacker be the same as a Guest House with 5 bedrooms.

Any backpacker wishing to apply for more beds should apply for a rezoning.

- ii) Parking to be provided at 1 parking bay per 2 beds with two additional parking bays for the owner/manager.

This condition is to prevent applicants to put 10 beds in one room and therefore providing just 1 parking bay.

RECOMMENDED

that the policy be approved for Accommodation Establishments on Single Residential erven.

A.Policy regarding Accommodation Establishments (Ref Guest Houses and B & B's);

B.Additional Policy for Self Catering Units, and

C.Backpackers

THE MATTER SERVED BEFORE THE PORTFOLIO COMMITTEE FOR TOWN PLANNING, TOURISM AND ECONOMIC DEVELOPMENT ON 17 MAY 2001, WHICH COMMITTEE RECOMMENDATIONS AS FOLLOWS:

RECOMMENDED

that the policy be approved for Accommodation Establishments on Single Residential erven.

EXECUTIVE COMMITTEE MEETING**31 MAY 2001****17. OVERSTRAND: POLICY FOR CONDUCTING AN ACCOMMODATION ESTABLISHMENT ON A SINGLE RESIDENTIAL ERF****Department: Town Engineer, Mr Kuchar (tel:028-313 8087)****Cirs JHG Kühn and Dr A Rabie-Rheeder recused themselves from the meeting during discussion of this item.****RESOLVED**

1. that the heading to section A(e) on page 105 of the agenda, be amended to read "Selling of liquor on premises", and
2. that the policy, as set out in the agenda, be approved for Accommodation Establishments on Single Residential erven.

Loretta Gillion

20/84

OVERSTRAND MUNISIPALITEIT	
From:	REKORDBEHEER
Sent:	
To:	22 FEB 2024
Subject:	
Attachments:	DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY	

Sune Greeff < >
 Wednesday, 21 February 2024 22:35
 Loretta Gillion
 Erf 4586, 25 Harmonielaan, Northcliff, Hermanus
 Harmony House 4 bed Screenshot_8-2-2024.jpeg; Screenshot_8-2-2024_231719
 www.booking.com.jpeg

TP-N. (heerik
 (M. Olivia)

Geagte me van der Stoep

Ek verwys na die dokumentasie ontvang vanaf Plan Active rakende Erf 4586, 25 Harmonielaan, Northcliff en wil beswaar aanteken teen die verdere aanbou en omskepping van 'n dubbelmotorhuis in 'n wooneenheid. My redes is as volg:

1) Volgens die dokument van Plan Active was die eienaar, Mnr Loots onbewus dat hy moes aansoek doen by die munisipaliteit of dat hy toestemming moet kry by sy bure vir aanbouings/veranderinge van 'n dubbelmotorhuis na 'n wooneenheid. Dit is vir my moeilik om te glo dat Mnr Werner Loots onbewus is van hierdie plaaslike munispale wet aangesien hy al vir jare werksaam is as 'n eiendomsagent in Hermanus!

Ek voel ten sterkste dat daar teen die eienaar opgetree sal word en dat die boete nie afgeskaf moet word nie.

2) Ek wil dit onder u aandag bring dat daar alreeds 'n tweede woning op dieselfde erf 4586 uitverhuur en bewoon word deur gaste op 'n gereelde basis (die woonstel agter sy hoofhuis (in Mossiestraat) word geadverteer op Bookings.com en AirBnB).

Ons bekommernis is dat hierdie aansoek nie gedoen word vir 'n tweede woning soos genoem in die advertensie nie, maar moontlik 'n aansoek is vir 'n **DERDE** (3e) woning op Erf 4586. Die hoofhuis word alreeds gereeld uitverhuur as 'n selfsorg-vakansiehuis op AirBnB of Bookings.com gaste (slaap 8 mense), as ook die huidige woonstel agter die huis (slaap 4 mense) - sien beide wonings se advertensies aanheer.

In hierdie geval sal daar dus seker aansoek gedoen moet word vir hersonering aangesien hy die 3x wonings as 'n gastehuis besigheid bedryf?

3) KLIËNTE PROFIEL:

Die bestaande hoofhuis (toegang: Harmonielaan) word gereeld aan groot groepe vakansiegangers uitverhuur (slaap 8x mense), plus dan die woonstel wat 4 mense kan akkommodeer. Weens die feit dat sy akkommodasie redelik bekostigbaar is, trek hy nie noodwendig die regte profiel mense wat ons in Northcliff-buurt wil hê nie. Dit doen afbreuk aan die residensiele buurt se standaard, waarde van omliggende eiendomme en die rustigheid van Northcliff-buurt.

4) GERAAS & GEEN BEHEER

Ons is permanente inwoners met klein kinders wat woon in Harmonielaan 27 en wat direk geraak word deur die uitverhuur van Mnr Loots se wonings aan vakansiegangers. Die hoofhuis van Erf 4586 se leefarea en swembad/onthaal area, waar gereeld partytjies gehou word, grens direk aan ons woning en die klank is hoorbaar in ons eetkamer en kombuis.

Die eienaar is nie op sy perseel wanneer gaste sy hoofhuis in Harmonielaan bewoon nie. Daar is dus geen toesig of beheer oor sy gaste se gedrag, die aantal gaste wat die huis okkupeer, geraas of sekuriteit nie. Ons het al twee keer vantevore vir Mnr Loots in kennis gestel dat sy gaste harde musiek maak, raas en partytjie hou na 03h00 in die nag. Die feit dat daar gereeld nuwe groepe die huis beset, skep ook 'n veiligheidsrisiko vir ons in.

Die woning word nie net Desember-maande uitverhuur nie, maar ook naweke en gedurende die jaar soos besprekings inkom.

5) ONVOLDOENDE PARKERING

Met die verdere aanbou en omskepping van die dubbelmotorhuis in ekstra wooneenhede is ek van mening dat daar nie genoeg parkering in Mossiestraat of Harmonielaan sal wees vir al die gaste nie, By 'n vorige insident was daar al 8 motors en 'n minibustaxi geparkeer by Erf4585 deur gaste wat die huis okkupeer - natuurlik was die eienaar onbewus hiervan.

Laastens wil ek ook noem dat ek Overstrand Munisipaliteit op die 9e Junie 2023 in kennis gestel het van die bouery wat by Erf 4586 plaas vind sonder enige van die bure se medewete. Op die 12 Junie 2023 het ek 'n skriftelike klagte ingedien en omtrent 10 dae daarna het die bouery opgehou, maar is weer hervat die 27e Junie 2023. Volgens Plan Active het die O.M eers 'n brief op 20 Julie 2023 (vanaf Liezel Lubbe) uitgereik aan mnr Loots wat hom geforseer het om met die bouery te stop. Teen daardie tyd was die struktuur reeds aangebring, en is 'n muur binne-in die erf aangebring.

Dit sal waardeer word indien u my geldige besware in ag sal neem aangesien die konstante uitverhuur aan gaste 'n nadelige impak het op die waarde van my eiendom, Erf 4585, asook die Northcliff-buurt.

Suné Barnard (nee Greeff)

Tel:

27 Harmonielaan, Northcliff, Hermanus, 7200

to shops and restaurants as well as the beach.
[Read more](#)

things I love the furniture and set up. Main bedroom nice and spacious with big bed. The area was nice, too quiet but good for relaxing.
[Read more](#)

a clothes horse for wet clothes upon request. Unit is very clean and comfortable."
[Read more](#)

22/84

[Read all reviews](#)

Quality rating ○○○

Booking.com rated the quality of this property as 3 out of 5 based on factors such as facilities, size, location and services provided.

Travellers are asking

[See availability](#)

- Do they serve breakfast? >
- What restaurants, attractions, and public transport options are nearby? >
- Is there a swimming pool? >
- How and when do I pay? >
- Is there a spa? >
- Are there rooms with a hot tub? >
- Is there a restaurant? >
- Can I bring my pet? >
- Can I park there? >
- What are the check-in and check-out times? >

Still looking?

[Ask a question](#)

We have an instant answer to most questions

[See other questions \(5\)](#)

Host review score 8.2

Hosted by Werner & Shelley



Werner & Shelley

Hermanus - Stylish 2 bed apartment. Spacious, free parking, walk to sea! Only 5mins walk to the sea, shops, coffee shops and restaurants and very close to the Old Harbour waterfront. The apartment has recently been renovated and includes a large main bedroom with a classic four poster king size bed and dressing table with mirrors. The second bedroom is a good-sized room and offers a very comfortable bed. Lounge, dining room, spacious kitchen, shower room and an enclosed sunny garden area.

Love people, love adventure & travelling and love nature!

Very central and safe! Free off street parking. Short walking distance to sea, shops and restaurants.

Language spoken: **English**

Property surroundings

[See availability](#)

Great location - [show map](#)

What's nearby

Walker Bay Nature Reserve	0 m
Rotary Walk Park	750 m
Whale Museum	750 m
SA Forest Adventures Hermanus	2.7 km
Fernkloof Nature Reserve	3.2 km
Fernkloof	3.5 km
Fernkloof Nature Reserve	5 km
Vogelgat Private Nature Reserve	8 km
Vogelgat Nature Reserve	8 km
Walker Bay Nature Reserve	10 km

Restaurants & cafes

Restaurant - De Voorskooten	450 m
Restaurant - Hermanus Fish Shoppe	550 m
Restaurant - San Remo Spur	550 m

Top attractions

Mt Hebron Nature Reserve	1.7 km
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Natural beauty

Lake - Botrivier Lagoon	14 km
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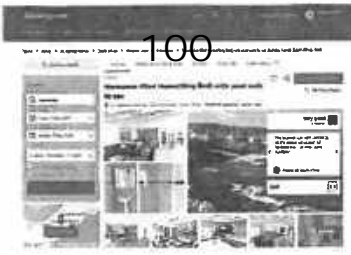
Beaches in the neighbourhood

Langbaai Beach	3.5 km
Kammabaai Beach	3.9 km
Voelklip Beach	4.1 km
Grotto Beach	4.4 km
Sandbaai Beach	4.4 km

Closest airports

Cape Town International Airport	71 km
Robertson Airfield	90 km
Air Force Base Overberg	92 km

All distances are measured in straight lines. Actual travel distances may vary.



Number of members... **Very good**... **Very good**... **Very good**...

Availability
We have no availability for tomorrow 11 May 2018 and Sun 17 May 2018

Availability
We have no availability for tomorrow 11 May 2018 and Sun 17 May 2018

Guest reviews
Very good 4.5/5 based on 10 reviews

Location
London, England

Check in
15:00

Check out
11:00

Facilities
Free Wi-Fi, Air conditioning, etc.

Problems by Thomas & Shelly

Table with 3 columns: Property name, Location, and Rating. Includes entries like 'The Apartment' and 'The Apartment'.

Facilities of Homewood Hotel

- List of facilities including: Free Wi-Fi, Air conditioning, etc.

House rules

- List of house rules including: Check-in time, Check-out time, etc.

The fine print



The Suite of 1000

Table with 5 columns: Room type, Price, Amenities, etc. Includes entries like 'The Suite of 1000'.

13 FEB 2024

SUBJECT: ERF 4586 – 25 Harmony Avenue, Northcliff, Hermanus

Date: 09 February 2024

From: James Robertson, owner of 25 Mossie Lane, Northcliff, Hermanus.

TP - A Theart
(Holliver)

I hereby wish to state my objection to the application brought by the owners of ERF 4586, 25 Harmony Avenue Northcliff for the Removal of Restrictive Title Deed Conditions.

The objection to this application is based on my view that as presented in the motivation, the second dwelling unit is in fact a third dwelling unit, as adjacent to this unit is an existing dwelling unit, which the owner of ERF 4586 currently rents out as self-catering accommodation.

Secondly, I do not believe the regularization of breaches sought in this application, in order to allow the owner to continue running a self-catering accommodation are in accordance with the 'Overstrand Municipality's' Policy (approved by executive committee meeting on 31 May 2001) for conducting an Accommodation Establishment on a single residential ERF".

Whilst the current title deed restricts the property to one dwelling and the zoning and primary right of the property allows for 2 dwellings, The current structure/dwelling that has been constructed in breach of the title deed restrictions, is also in breach of existing zoning restrictions, as it is fundamentally a third dwelling, given there is an existing dwelling adjacent to this which is currently being let out.

The Overstrand's Policy on conducting an Accommodation Establishment state:

"Although the development of tourism and economy are crucial, one should not leave the primary factor namely the residents from the equation. These people insist on the peacefulness and amenity of a residential neighbourhood according to its primary use as Single Residential.

The people's rights should be the highest priority and any impact on their privacy and general living conditions should be restricted or mitigated to acceptable standards".

The current positioning of the dwellings also results in the breach of the policy, which states that each unit must have its own parking bay within the boundaries of the ERF. The current parking requirements for the proposed Second Dwelling and Existing dwelling /flatlet extend onto the pavement and often onto Mossie Lane itself.

FILE NO. Erf 4586 ✓
HNC
SCAN NO.
HNC 4586
COLLABORATOR NO.
1996311

TP
13 FEB 2024

Further, the policy clearly states that the owner or manager of the establishment must reside on the premises to ensure the business is conducted in a proper manner and under permanent supervision in order to control activities.

I have reason to believe that the owners have breached this policy, as there has been occasion where all dwellings on ERF 4586 (including the primary dwelling) have been rented out and the owner has resided somewhere else.

In this regard, as an affected property owner residing in Mossie Lane, we have often had unacceptable noise from tenants, as well as occasion in December 2023 where there were 7 occupants staying in the existing second dwelling and one of the tenants was observed to be urinating on the wall of the dwelling, which is not fenced off in any way and was visible from my front door and front windows.

There was also occasion during the same month where a tenant was walking up and down in Mossie Lane in front of the dwelling naked, with only a towel around their waste.

In summary, approval of this application will, I believe have negative impacts on the residents in Mossie Lane and those bordering ERF 4586.

3.6 Economic impact

As the proposed use of the second dwelling is for long or short stay rental, resulting in cars parked on the road and tenants socialising on the pavement as the building is over the street building line. This can only have a negative economic impact on the value of my property and the surrounding properties to ERF 4586.

3.7 Social Impact

In the summary of the motivation, it states that the primary dwelling will be used for a single family and the second dwelling for One person/small families. I believe this is ingenious by the owner, as there are regularly more than 4 people renting the dwelling and in December 2023, there were 7 young adults in the premises.

It is in this regard that I object strongly to the relief of title deed restrictions as we have on numerous occasions had to call the owners of ERF 4586, to complain about the noise coming from tenants of the second dwelling, tenants urinating in front of the house, which is effectively unobstructed pavement. There has also been occasion where tenants (adult male) have walked up and down Mossie Lane in front of the second dwelling naked, with only a towel wrapped around their waste.

The residents in Mossie Lane are respectable, peaceful, and courteous and do not wish to be exposed to this behaviour, which is clearly in breach of the Overstrand's Municipal policy on conducting an Accommodation Establishment.

In summary, the proposed rectification of Both Title Deed and Municipal building breaches will not economically or socially benefit the properties adjacent to or facing ERF 4586, or the surrounding neighbourhood.

Yours Faithfully.

A handwritten signature in black ink, appearing to read 'Robertson', written in a cursive style.

James Robertson

Owner, Erf 4306, 25 Mossie Lane.

17. OVERSTRAND: POLICY FOR CONDUCTING AN ACCOMMODATION ESTABLISHMENT ON A SINGLE RESIDENTIAL ERF

Department: Town Engineer, Mr Kuchar (tel:028-313 8087)

1. Purpose of report

To submit an item to Council regarding a policy for conducting an Accommodation Establishment in the Overstrand Municipal area.

2. Background

Previously the different Municipalities of the Overstrand had their own policies regarding Guest houses, Bed & Breakfast, Self Catering units and Back Packers.

As tourism is one of the key performances and development areas for the Western Cape, all issues dealing with tourism should be properly addressed.

In terms of the Cape Tourism Act together with Municipal Structures and Systems Act, Municipalities have received more definite functions in promoting and controlling tourism in its area.

In order to consider the policy on Accommodation Establishments there are a few functional areas to take into considering the policy. This would be discussed under the following headings:

ECONOMIC AND TOURISM DEVELOPMENT

Council has the duty to create the atmosphere and opportunities to promote Economic and Tourism Development in the area. From this stems the issues such as job creation. Therefore Council needs to create and facilitate the parameters in which this development is promoted and encouraged.

The demand for Accommodation Establishments is known fact and is currently being met by mostly Guest houses and B & B's. These are normally established in Single Residential areas subject to obtaining a departure or Special Consent from the Local Authority.

Council acknowledges this and therefore accommodate the demand for accommodation according to a policy.

GUEST HOUSE OPERATORS

As these people fulfil an important function not only in economic development but also in job creation. They further fulfil an important role in satisfying the demand for

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31 MAY 2001

alternate holiday housing. They are also crucial in the development of tourism and the development of the Overstrand's economy.

RESIDENTIAL COMMUNITY

Although the development of tourism and economy are crucial, one should not leave the primary factor namely the residents from the equation. These people insist on the peacefulness and amenity of a residential neighbourhood according to its primary use as Single Residential.

These people's rights should be the highest priority and any impact on their privacy and general living conditions should be restricted or mitigated to acceptable standards.

TOURISTS THEMSELVES

Lastly, the tourists and visitors to these accommodation establishments are also very important.

They should be assured of quality and value for money when making use of an accommodation establishment in the Overstrand.

To ensure this a policy should be implemented to ensure certain standards are upheld. This could be done by implementing certain monitoring as well as an accreditation system as currently employed by the different Tourism Bureaus to ensure minimum standards are met.

3. Conclusion

Taking cognisance of all the interested parties and the different functions that they fulfil, it is clear that Council needs a policy which would address the above issues. The policy was formulated after consultations with the various townships as well as tourism bureaus.

The policy will be discussed hereafter.

DISCUSSION OF POLICY:

- A. Policy regarding Accommodation Establishments (Ref Guest Houses and B & B's)
 - a) Any Accommodation Establishment from 1 to 5 bedrooms to apply for a departure or a Special Consent

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Previously Accommodation Establishments who conducted 1 or 2 rooms were not required to apply for a departure or Special Consent.

It was recently determined in a court case that all Accommodation Establishments including 1 and 2 bedrooms should apply for a departure or Special Consent according to the specifications of the Land Use Ordinance.

Further, the reason for restricting Accommodation Establishments to 5 bedrooms is the fact this activity is allowed in a Single Residential area where the characteristics should be preserved. The normal tendency in Single Residential areas is that dwellings have an average of 4 bedrooms. In order to lessen the impact of Residential Business activity on a residential area the number of rooms should be restricted.

It is also the intention that should an Accommodation Establishment cease its activities, the house should revert back to its original use of Single Residential. This policy would only be applicable on Single Residential even where the applicant applies for a departure or Special Consent. Should a person wish to conduct more than the prescribed 5 bedrooms on a Single Residential erf, he should apply for a Rezoning.

- b) Only one kitchen is allowed per Accommodation Establishment. (except in cases where a Self Catering unit has been approved. (Self Catering units discussed later in the item.)

The reason for this again is to comply to the a Scheme Regulations of which most applicable Town Planning Schemes determine that only one kitchen is allowed per Single Residential dwelling.

This is also to prevent people from illegally conducting Self Catering units on Single Residential even.

Further again, this is to ensure that the Single Residential character is preserved.

- c) Meals to be served to Residents of the Accommodation Establishment

All meals could be served by an Accommodation Establishment subject to accreditation by the Tourism Bureau as well as the necessary Health Certificate.

- d) No facilities (Bar/Restaurant or any other) to be open and provide for non-resident of the Accommodation Establishment

All facilities provided on Accommodation Establishment premises should be restricted to the use by residents only.

EXECUTIVE COMMITTEE MEETING**31 MAY 2001**

The reason for this is to prevent Guest Houses to operate restaurants, bars, etcetera, serving the general public.

As the area in which such a Guest House is conducted, is Single Residential, one wants to protect the privacy, peacefulness and amenity of such a neighbourhood. It is also to restrict activities in these areas to an acceptable standard for a Single Residential area. It must also be remembered that an accommodation establishment is allowed to cater for residents of the establishment and not the general public.

e) **No liquor to be sold on the premises**

Liquor may be provided to guests on the premises but not by means of a cash bar. This policy again is to prevent the illegal sale of liquor from a Single Residential premises. Liquor is only to be sold where an applicable license has been obtained.

f) **Parking to be provided within the erf boundaries**

The provision of parking is normally the issue that is mostly objected against.

As tourists come and go at all hours the activity of door slamming and cars starting it should be mitigated to the extent of having least impact on adjoining properties.

The reason that parking should be provided within the boundaries is therefore to limit and restrict the impact on adjoining neighbours.

This is also a normal requirement with other businesses where they must provide the necessary parking in their own property. Further, parking may not be provided as directly off the street parking alongside each other. A Single Residential erf is only allowed access and egress to a maximum of 6m. Further this restriction would serve to enhance traffic safety in a residential area. Business are required to provide their parking within the boundaries of their erf and therefore Accommodation Establishments should be required to do the same.

g) **Minimum of 1 parking bay per quest room to be provided with an additional 2 parking bays for the owner/manager**

After consultation with various people and groupings it was felt that 1 parking bay per bedroom is adequate. The reason being is that a guest room normally only houses one family and they also rarely receive visitors whilst staying in a guest room.

Secondly, the guest houses are rarely booked to capacity which serves that 1 parking bay per room is adequate. The two parking bays per owner/manager is

EXECUTIVE COMMITTEE MEETING**31 MAY 2001**

prescribed, as the Scheme Regulations determine that a minimum of one parking be provided per dwelling. Most residents have two cars and therefore the second parking. Further, the owner/manager normally is more likely to receive visitors for which the second parking would cater.

The parking should be accessible and tandem parking not to be allowed if not fully accessible for all cars.

h) Owner/Manager to reside on the premises

This is mainly to ensure that the business is conducted in a proper manner and under permanent supervision and to have a responsible person on the premises to control the activities within the set parameters and regulations.

i) Health and Safety certificates

This is according to National regulations. Safety certificates would include a Fire Prevention certificate.

j) Commercial tariffs be payable

Most of the tariffs would stay the same as for a normal domestic tariff. However, tariffs regarding refuse would increase. The reason for this is that a guest house occupied to its potential create more refuse than a normal household. This would increase the operating expense for Council as refuse capacity is taken up quicker. It further means that refuse trucks would most probably have to do more trips to the refuse site. This tariff would be guest house tariffs as determined by Council per it's budget.

k) Special Consent or Departure is not transferable

This is firstly to prevent people from speculating with the temporary rights of an Accommodation Establishment. Further, that would also force a new owner to follow the proper procedures where Council could again determine its conditions for allowing such as accommodation establishment.

In certain cases it might not be desirable to continue this function in an area and this allows Council the opportunity to apply it's mind to all issues and to reconsider a previous approval.

l) Accommodation Establishments should register at a fixed tariff determined by Council each year.

The reason for this is that Council must ensure that the tourist services delivered be properly inspected every 6 months. This registration fee would cover the cost for

EXECUTIVE COMMITTEE MEETING**31 MAY 2001**

such inspections.

The aim of such an inspection is to make sure the accommodation establishments comply with all regulations and conditions applicable. This would also ensure that these facilities would become accredited which would ensure that specific standards are upheld.

- m) An Accommodation Establishment may only be conducted after all conditions have been meet.

This is to ensure that all the conditions of approval are implemented by the applicant before the conducting of the functions.

This would also ensure that a measure of policing could take place. Should such a facility be conducted without all conditions being complied to, the departure would be withdrawn and he applicant would have to re-apply. Law enforcement in respect of conduct conditions would apply.

- n) An Unilluminated Sign of 2000 cm² to be displayed on the erf.

This is to ensure that signage is controlled and kept to acceptable standards.

B.Additional Policy for Self Catering Units

- a) Self Catering Unit

Self Catering units would be subject to all the conditions as set for an Accommodation Establishment together with the following:

As a Self Catering unit contains it's own kitchen, it qualifies as a Second Dwelling. The approval of these should also be considered according to Council's densification policy and availability of adequate service capacity.

Lastly, again the character of the single residential area must be preserved. As a single residential area has a low density the increase in density should be properly considered. This being the reason why only one self catering unit is allowed per Single Residential erf. This would ensure that this type of development would have limited impact on the neighbourhood.

- b) A Bulk services levy be payable to the amount of 50% of the applicable on a single residential erf.

As a self catering unit is in effect a second dwelling which increases the impact on the bulk services, provision should be made for a bulk levy.

EXECUTIVE COMMITTEE MEETING**31 MAY 2001****C.Backpackers**

Backpackers are subject to the same policy as an Accommodation Establishment with the following additions.

- i) A maximum of 10 beds

This policy would ensure that the impact of a Backpacker be the same as a Guest House with 5 bedrooms.

Any backpacker wishing to apply for more beds should apply for a rezoning.

- ii) Parking to be provided at 1 parking bay per 2 beds with two additional parking bays for the owner/manager.

This condition is to prevent applicants to put 10 beds in one room and therefore providing just 1 parking bay.

RECOMMENDED

that the policy be approved for Accommodation Establishments on Single Residential erven.

A.Policy regarding Accommodation Establishments (Ref Guest Houses and B & B's);

B.Additional Policy for Self Catering Units, and

C.Backpackers

THE MATTER SERVED BEFORE THE PORTFOLIO COMMITTEE FOR TOWN PLANNING, TOURISM AND ECONOMIC DEVELOPMENT ON 17 MAY 2001, WHICH COMMITTEE RECOMMENDATIONS AS FOLLOWS:

RECOMMENDED

that the policy be approved for Accommodation Establishments on Single Residential erven.

EXECUTIVE COMMITTEE MEETING**31 MAY 2001****17. OVERSTRAND: POLICY FOR CONDUCTING AN ACCOMMODATION ESTABLISHMENT ON A SINGLE RESIDENTIAL ERF****Department: Town Engineer, Mr Kuchar (tel:028-313 8087)****Cirs JHG Kühn and Dr A Rabie-Rheeder recused themselves from the meeting during discussion of this item.****RESOLVED**

1. that the heading to section A(e) on page 105 of the agenda, be amended to read "Selling of liquor on premises", and
2. that the policy, as set out in the agenda, be approved for Accommodation Establishments on Single Residential erven.

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
18 JUL 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

35 | 84

Loretta Gillion

From: Peter Doble < >
Sent: Wednesday, 17 July 2024 09:34
To: Hanneen van der Stoep
Cc: Merike Lerm; natasha@planactive.co.za; brady.minnaar@overstrand.gov.za; Loretta Gillion; peter.doble@yahoo.com; Peter Doble; Sue Doble; John Bristow; marilyncbristow@gmail.com; lakes.hermanus@gmail.com; stanway.bob@gmail.com; Donovan V/d Westhuizen; marcuslanejones@outlook.com
Subject: Erf 4586 - 25 Harmony Laan Northcliff
Attachments: 1. Notice.pdf; 2. Locality plan.pdf; 3. Site development plan dated 29 April 2024.pdf; 4. Motivation report.pdf

Dear Hanneen

We have waited for seven months for any information regarding the initial application/objections for the above property submitted in December 2023. Now we are faced with a second application, compounding the illegal act driving the first, which appears to be the result of a suspicious connivance between public and private planners.

This is extremely disturbing because the lack of information and direct involvement with interested and affected parties is undemocratic and serves to undermine the transparency which is expected from a locally governing municipality.

This second application is a spurious justification for the same purpose by another name.

It appears as if the municipality is condoning a blatantly illegal act to circumvent planning regulations in order to allow an individual to financially gain at the lifestyle expense of the residential majority. In our experience, where such contraventions exist it is normal for perpetrators to restore the dwelling to its former use and state at their expense.

We are currently absent from Hermanus for the next 30 days and therefore seek to have this application deferred or an extension to the response period. We are travelling without all the relevant files and ease of communications.

We intend to revise and resubmit our original objection, especially in relation to change of title deed, as all the same issues remain relevant. However the manoeuvring behind closed doors is so serious that we intend to take legal counsel. As this case may set a precedent which could adversely affect the Northcliff community, all correspondence will be copied to the appropriate ratepayer representatives and residents groups.

We further request that, if this application proceeds, that we are directly and constantly appraised, consulted and involved in each step of the process and admitted to the planning tribunal in order to verbally reinforce our procedural concerns and vehement dissent.

Please acknowledge and confirm receipt and your earliest direct and personal reply would be appreciated.

Kind regards

Peter & Sue Doble
23 Mossie laan

FILE NO. Erf 4586 - HNC ✓
SCAN NO. HNC Doble
COLLABORATOR NO. 2085263

18 JUL 2024

[Sent from Yahoo Mail for iPhone](#)

Begin forwarded message:

On Monday, July 15, 2024, 14:35, natasha@planactive.co.za wrote:

To whom it may concern

You are regarded as a potentially affected property owner.

Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 (By-Law) requires that notice must be given, and Section 49 allows for a period of not less than 30 days from the date on which notice was given to affected persons to submit comments, objections, or representations in respect of a land use planning applications. Council, during a meeting held on 30 November 2023, resolved that such notice be given via e-mail in accordance with the provisions of the Electronic Communications and Transactions Act, 25 of 2002. Due to ongoing difficulties in service delivery experienced by the South African Post Office, and as per the aforesaid Council resolution, **NO** registered mail/letters will be forwarded in the interim period.

Kindly regard this email as your formal notification of such land use application. **Kindly provide your comment, objection or representations, if any, as per the instructions of the attached notice.**

Also note that the notice will be available at the Town & Spatial Planning Department, and on the municipal webpage at the following link: <https://www.overstrand.gov.za/en/documents/town-planning/land-use-planning-applications>

The subject property: - **Erf 4586 Hermanus is situated at 25 Harmony Avenue, Hermanus.** Please refer to the locality map below:



Plan Active Town & Regional Planners has been appointed by W. & S.K. Loots, the owners of erf 4586 Hermanus, to apply for the administrative penalty, consent use, departure and removal of the title deed conditions of the subject property.

There is an existing single storey dwelling, second dwelling in progress and swimming pool situated on the subject property. The property owners were in the process of converting the approved double garage into a second dwelling unit (change of use) without the necessary building plan approvals. The approved main dwelling and unlawful second dwelling encroach the title deed street building line.

The initial application submitted in December 2023 addressed the unlawful proposed second dwelling unit. Following the public participation period, it was evident that our client's intent for the subject property was to provide tourist accommodation rather than a second dwelling unit. After meeting with the client and the municipality, it was decided that the best way forward was to apply for a consent use to accommodate a guesthouse on the subject property and not a second dwelling. A few alterations to the As Built structures will create a larger interleading dwelling house on the subject property. It is then proposed to make four bedrooms available to guests on short term rental basis.

The application intends to address the unlawful structure, the proposed guesthouse use, a departure to allow a second entrance / access to the property and the removal of the restrictive title deed conditions to accommodate the existing structures and proposed four-bedroom guesthouse. The following is proposed:

1. The determination of an **administrative penalty** for erf 4586 Hermanus to accommodate the As Built change of use of the double garage into a guest bedroom with lounge area as part of the existing dwelling / proposed guesthouse over the title deed street building line and minor additions / alterations (within all respective building lines) in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020;
2. The **removal of restrictive title deed conditions** of erf 4586 Hermanus in terms of Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, to remove conditions C.I 1. and 4. as stipulated on pages 2-3 of title deed no. T7972/2018 to:
 - Accommodate the approved main dwelling's change of use to guesthouse positioned on the 4,5m Harmony Avenue and Mossie Avenue street building line;
 - Accommodate the extended main dwelling (change of use of the approved double garage and main dwelling to guesthouse):
 - to allow a four-bedroom guesthouse on the subject property;
 - to address the encroachment of the proposed guesthouse (change of use from approved double garage to guesthouse) over the 4,72m title deed street building line (positioned 4,352m from the Mossie Avenue erf boundary).
3. The **consent use** of erf 4586 Hermanus in terms of Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020, to accommodate a four-bedroom guesthouse on the subject property;
4. **Departure** of erf 4586 Hermanus in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, to allow a second access point from Mossie Avenue to accommodate the parking layout for the proposed guesthouse.

Please refer to the attached notice, locality plan, motivation report and site development plan for your information.

Kind regards.

Merike Lerm
Pr. Pln A/158/2009

PLAN
ACTIVE

Town & Regional Planners
Stads en Streeksbeplanners

Tel: 028 313 1673

Fax: 028 312 1351

web: www.planactive.co.za



The content of this email is confidential and intended for the recipient specified in message only. It is strictly forbidden to share any part of this message with any third party, without a written consent of the sender. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

REKORDBEHEER
19 JUL 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Loretta Gillion

From: Peter Doble < >
Sent: Friday, 19 July 2024 10:11
To: Riaan Kuchar; Hanneen van der Stoep
Cc: Loretta Gillion; natasha@planactive.co.za; Peter Doble;
Subject: Re: Erf 4586 - 25 Harmony Laan Northcliff
Attachments: 1. Notice.pdf

; Merike Lerm;

Good day

Without prejudice

I acknowledge the response from Ms Lerm but I do not consider that a private company with vested interests should be dictating how and when my democratic rights can be exercised.

Neither in this instance am I willing to conform to the planning departments standard protocols. The municipality and its staff are public servants acting in the interests of all resident ratepayers.

The applicants' agents manipulation of comments and objections and the process by which they may or may not be revealed is irrelevant. So far the track record of providing any feedback is zero. In fact both parties have demonstrated secrecy and underhand tactics which make a total mockery of the public participation process.

In this particular instance, there is due cause to allege that potentially compromising activities have occurred to influence the course of a planning application.

This will focus criminal and civil investigations into the relationships between a municipal planning department and a private planning company which claims to achieve a positive result for paying clients.

This is an extremely serious complaint and I have explained our current circumstances. I require an immediate reply to the points raised in my email dated 17 July with full explanation, clarification and responses to the information requested by 12 noon Monday 22 July 2024.

Sincerely

P A Doble

Sent from my iPad

FILE NO. Erf 4586-HNC
SCAN NO.
COLLABORATOR NO.
2086297

On 18 Jul 2024, at 09:58, Merike Lerm <merike.planactive@gmail.com> wrote:

Good morning Peter

We acknowledge receipt of your email. All comments and objections will be dealt with once the public participation period lapses and as per the municipality's standard protocol. Our response document must be submitted directly to the municipality.

AP

19 JUL 2024

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Cc: Loretta Gillion; natasha@planactive.co.za; su Merike Lerm;
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Sincerely

P A Doble

Sent from my iPad

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We want to bring to your attention an error in the municipality's notice that was attached to our email dated 15 July 2024. This was an honest mistake from the municipality's office. The corrected notice is now attached to this email for your reference. Please note that all other documents remain in order and unchanged. Take note that you will receive the complete notification email with all relevant documents attached thereto again during the course of today / tomorrow.

Thank you for your understanding. Should you have any questions or require further clarification, please feel free to contact us.

Regards

Merike Lerm

Pr. Pln A/158/2009

Tel: (028) 313 1673

Fax: (028) 312 1351

web: www.planactive.co.za

----- Original Message -----

From "Peter Doble" <peter.doble@overstrand.gov.za>
 To "Hanneen Van Der Stoep" <hvdstoep@overstrand.gov.za>
 Cc "Merike Lerm" <merike.planactive@gmail.com>; natasha@planactive.co.za;
brady.minnaar@overstrand.gov.za; "Loretta Gillion" <loretta@overstrand.gov.za>;
 "Peter Doble" <peter.doble@overstrand.gov.za>; "Peter Doble" <peter.doble@overstrand.gov.za>;
 "Sue Doble" <sue.doble@overstrand.gov.za>; John Bristow" <john.bristow@overstrand.gov.za>

"Donovan V/d Westhuizen" <donovan.vdwesthuizen@overstrand.gov.za>;

Date 17/07/24 09:33:31 AM
 Subject Erf 4586 - 25 Harmony Laan Northcliff

Dear Hanneen

We have waited for seven months for any information regarding the initial application/objections for the above property submitted in December 2023. Now we are faced with a second application, compounding the illegal act driving the first, which appears to be the result of a suspicious connivance between public and private planners.

This is extremely disturbing because the lack of information and direct involvement with interested and affected parties is undemocratic and serves to undermine the transparency which is expected from a locally governing municipality.

This second application is a spurious justification for the same purpose by another name.

It appears as if the municipality is condoning a blatantly illegal act to circumvent planning regulations in order to allow an individual to financially gain at the lifestyle expense of the residential majority. In our experience, where such contraventions exist it is normal for perpetrators to restore the dwelling to its former use and state at their expense.

We are currently absent from Hermanus for the next 30 days and therefore seek to have this application deferred or an extension to the response period. We are travelling without all the relevant files and ease of communications.

We intend to revise and resubmit our original objection, especially in relation to change of title deed, as all the same issues remain relevant. However the manoeuvring behind closed doors is so serious that we intend to take legal counsel. As this case may set a precedent which could adversely affect the Northcliff community, all correspondence will be copied to the appropriate ratepayer representatives and residents groups.

We further request that, if this application proceeds, that we are directly and constantly appraised, consulted and involved in each step of the process and admitted to the planning tribunal in order to verbally reinforce our procedural concerns and vehement dissent.

Please acknowledge and confirm receipt and your earliest direct and personal reply would be appreciated.

Kind regards

Peter & Sue Doble
23 Mossie laan

[Sent from Yahoo Mail for iPhone](#)

Begin forwarded message:

On Monday, July 15, 2024, 14:35, natasha@planactive.co.za wrote:

To whom it may concern

You are regarded as a potentially affected property owner.

Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 (By-Law) requires that

notice must be given, and Section 49 allows for a period of not less than 30 days from the date on which notice was given to affected persons to submit comments, objections, or representations in respect of a land use planning applications. Council, during a meeting held on 30 November 2023, resolved that such notice be given via e-mail in accordance with the provisions of the Electronic Communications and Transactions Act, 25 of 2002. Due to ongoing difficulties in service delivery experienced by the South African Post Office, and as per the aforesaid Council resolution, **NO** registered mail/letters will be forwarded in the interim period.

Kindly regard this email as your formal notification of such land use application. **Kindly provide your comment, objection or representations, if any, as per the instructions of the attached notice.**

Also note that the notice will be available at the Town & Spatial Planning Department, and on the municipal webpage at the following

link: <https://www.overstrand.gov.za/en/documents/town-planning/land-use-planning-applications>

The subject property: - **Erf 4586 Hermanus is situated at 25 Harmony Avenue, Hermanus.** Please refer to the locality map below:

45/84

REKORDBEHEER
27 AUG 2024
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Loretta Gillion

From: Peter Doble < >
Sent: Sunday, 25 August 2024 17:00
To: Loretta Gillion; natasha@planactive.co.za
Cc: Hanneen van der Stoep; Riaan Kuchar; Brady Minnaar; karibrice
Subject: Subject: ERF 4586, 25 HARMONY AVENUE, NORTHCLIFF, HERMANUS - PUBLIC PARTICIPATION -
Attachments: 25 Harmony Laan - amendment to application app 17072024.doc; 25harmony-primary application objection31012024.doc
Importance: High

We refer to your notice and correspondence dated 17 July 2024.

Please find attached two files which jointly constitute our formal objection to the amendment application following the initial application received 31 January 2024. The objections raised in the first round application still apply as, in our minds, there have only been cosmetic changes. They should therefore be jointly accepted and recognised.

The response to the amendment application raises specific objections but also refers to the manner in which the process has been handled. Whatever the outcome of the matter, we would draw attention to the apparent dishonest and mendacious way it has been presented and conducted. Where the fault lies is for the planning authority to determine but it undoubtedly leaves potentially affected parties with a feeling of distrust.

P A & S E Doble

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REKORDBEHEER
27 AUG 2024
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OVERSTRAND MUNICIPALITY

FILE NO. Erf 4586-HNC ✓
SCAN NO. Peter
COLLABORATOR NO. 2109301

To: PlanActive, Town & Regional Planners

Erf4586 : 25 Harmony Laan - amendment application for departure and removal of restrictive title deed conditions, change of consent use and departure to use Mossie Laan as a second access point

INTRODUCTION

We wish to state our strong objection to the amendment application brought by the owners of ERF 4586, 25 Harmony Avenue Northcliff for the removal of restrictive Title Deed conditions, consent use and a second access departure.

We believe this application is an attempt by the owners and their planning consultants to manipulate the legal planning process to convert the dwellings on ERF 4586 into a Guest House.

According to the motivational report, this amendment is merely a rehashed version of the original application, whereby the owners of ERF 4586 were seeking remediation of existing breaches by the removal of restrictive clauses in the Title Deed.

There is a very pertinent saying to cover this situation. "you can put lipstick on a pig, but it is still a pig."

It is obvious that the re-submission of this request under the guise of a "Guest House" is simply an attempt to circumvent the previous objections raised. For months objectors were ignored or dismissed while activity continued without notice.

It is clear in the report submitted by PlanActive principal planner Ms Lerm that the consultancy was either duped or misled in the first application, which mis-stated the intended purpose. In order to address the situation of "the unlawful second dwelling unit", the consultants admit that they are now in the process of compounding the illegal action. "After a meeting with the client and the municipality, it was decided that the best way forward was to apply for a consent use to accommodate a guesthouse" (sic).

This conveys the image of those influencing the application and those judging it working together to condone an illegal action and then potentially benefit the applicant by granting consent by default. Feathers were truly ruffled by an implication that there has been collusion in the act of finding "the best way forward." The best way for whom?

We believe that the applicant, a qualified property consultant, deliberately started a building conversion with no consultation, no consent and hoping that there would only be an administrative penalty to achieve the objective.

Collusion takes many forms and the ratepayers have a right to be transparently represented by the officials and politicians of the local planning authority. It is the responsibility of the public authority to ensure that its officials and the processes are totally balanced and beyond reproach.

Formal objection points:

1. We wish all the primary objections in our letter dated 25 February 2024 to be noted and considered in this instance. The site unsuitability, disruption of a residential area, social and environmental impacts are all still relevant. (the full original will be attached.) Population growth plus increased tourism facilities is placing excessive stress on old infrastructure such as water, sewerage, sewage treatment plants and stormwater drains.
2. It is perplexing that OM planning makes no distinction between a guest house and airbnb. They are quite different species as the former is subject to specific rules and regulations, constant onsite management and business registration and trading conditions.
3. Northcliff suburb and the streets of Harmony and Mossie are unsuitable for a formal guesthouse. These are quiet residential streets which are narrow with currently little traffic movement. Traffic movement will increase proportionately if this proposal succeeds including service and delivery vehicles. There are no other formal guesthouses in Northcliff, except on or close to the arterial roads.
4. The owners have acted dishonestly by deliberately attempting to avoid the planning laws for personal gain. The maximum administrative penalty should apply before any further decision on the application or amendment.
5. We object to the involvement of a private planning company, the sole purpose of which is to ensure their clients plans are approved. It appears that PlanActive was only called in to rescue the situation when the illegal build was stopped. PlanActive either failed to ask the correct questions or were deliberately misled as to the final purpose of the alterations. It also appears to have deliberately failed to consult during the initial processing or objections and not widely notified the amendment application. We believe that PlanActive should be censured for profiting from its prejudiced actions.
6. The current structure and layout of the premises is not fit or compliant for use as a guesthouse. Plans show a warren of interlocking rooms, many of which were not built for purpose ie: non guest house grade en-suite bathrooms and kitchen facilities. It is built as two parts with separate entries with a central open area. There are no suitable emergency access/exits which would represent a danger to surrounding properties.
7. The rear entry is unsuitable. One is a single door, the other is a former games room entrance. (It would appear that the current 2 bedroom, 1 bathroom flatlet, already used as short term let, but designated a games room on the original change of plan application has been overlooked in the onward claim of a new second dwelling application).

8. The road width of Mossie laan is too narrow, meaning that our driveway is used as a turning circle. Some guests are shocked by the appearance of the rear entry to the Harmony Laan property then ask if our house is actually the accommodation. (Satnavs often single out our property for the applicants address)
9. Parking at the rear is already noted as impossible without overhanging the boundary line which often happens. It is only 4.3m from the building line which will not cater for larger vehicles.
10. There is no communal area for guests. In the past this has resulted in guests spilling out onto the open spaces and roadways. An internal courtyard and pool concentrates noise and disturbance.
11. There has been historically an irresponsible attitude by the owners. On occasions they have left the premises altogether. The premises have been advertised at a low rental price often attracting an inappropriate type of clientele.
12. We doubt that the manager's accommodation will be used for this purpose. A lack of management or supervision has resulted in a history of disturbance. There have been incidents of unsociable behaviour in public leading to formal complaints and numerous requests to owner to control guests and supervise staff. We would require full names and contact details for 24 hour availability.

CONCLUSION

This amended application is a spurious justification for the original purpose – it is low on details and unsubstantial in motive.

It is quite iniquitous that the private planning company working for and behalf of the applicant should also be leading the process of contacting potentially interested an affected parties, deciding on when and how responses to objections can be seen and assessed while simultaneously negotiating on behalf of its clients to structure a route to achieve their desired result.

The planning authority maintains that the amended application was widely circulated. Our findings are that this is incorrect and that few people were even aware of it – even four direct neighbouring properties in Harmony Laan claimed not to have received or seen notice of the amendment application. A single notice board was pegged at the front of the property but hardly in plain sight – nothing exists at the rear.

Such actions create the impression that the planning consultants were hoping to slip through the amendment. Once again this whole process reinforces the opinion that it is contrary to the principle of democratic public participation to allow the applicants' agents to control the process.

We formally request that, if this application proceeds, that we are directly and constantly appraised, consulted and involved in each step of the process. We must be informed of the MPT meeting and would attend the planning tribunal.

Please acknowledge and would all primary and copied recipients confirm receipt.

Peter & Sue Doble
23 Mossie Laan
Northcliff
ERf 4600

25 August 2024

To: Planactive, Town & Regional Planners

From: Peter & Sue Doble

Ref:

Erf4586 : 25 Harmony Laan-application for removal of restrictive title deed

We, the owners of 23 Mossie Laan – the property which immediately faces the rear entrance of 25 Harmony Laan – wish to declare a formal objection to the justification and motivation as contained in the email dated 31 January 2024.

The reasons and historical evidence raises major concerns on the following grounds:

1. The attempt to restructure the property without consent and in contravention to the title deed is disingenuous.
2. Indications that any retrospective removal of restrictive conditions is expected in return for an administrative penalty is unreasonable and frankly lacks credibility.
3. A separate dwelling accessible only to the rear of the property (detailed as a games room on the Motivation plans) is already let on a regular basis. It is a two bedroom, one bathroom fully furnished dwelling. Initially this was for longer term lets but more recently overnight or short stays have been regularly introduced.
4. There has been a reluctance to indicate or clarify the exact purpose of the recently converted section which was previously two garages. However all indications would point to a further letting unit.

There has been a history of direct complaints to the owner following behaviour and actions ranging from annoying to unpleasant and abusive. The owner frequently insists that his “guest/clients” are vetted and are predominantly “quality European visitors” but having experienced most first hand, this is not the case. It is offered as an inexpensive daily let that attracts multiple types.

UNSUITABILITY

Unfortunately we find the covert manner in which this restructuring has been intentionally not revealed to the neighbours in the closest and most affected properties nor the local planning authorities to be extremely disturbing.

- a) The footprint of 25 Harmony Laan while signified as a single residential dwelling, already consists of two separate living units. (ie before the additional conversion in question).
- b) There exists an independent rear entry to the building from Mossie Laan. This is accessed via a double glass door. This leads to independent accommodation.
- c) Given its structure and access our opinion is that it is currently unfit for purpose.
 - i) The current “second dwelling” is accessed directly from the street leading inevitably to overspill especially in the hot weather. Some people inevitably sit outside, sometimes inappropriately dressed, and in full view of neighbouring properties and passers by.

- ii) Noise levels from groups and loud music frequently happens
- iii) The double glass doors are the only entry/exit point and source of ventilation meaning that they are frequently left wide open.
- iv) The main room of this unit is shown on the plan as a “games room.”
- v) The accommodation can be over-occupied which also leads to problem behaviour.
- vi) It is believed that there is no alternative exit in case of emergency.

LETTING SUBDIVISIONS

Our contention, which has not been denied, is that the purpose of the newly converted area and the need to remove the restriction of the title deed is for a third dwelling unit. The plans are presenting the conversion as a “second dwelling.”

The following questions were sent on February 8 2024 to Planactive in order to gain a clearer understanding. After two weeks without acknowledgement, a reply was received from Merike Lerm intimating that these questions were not germane to the public participation process.

This lack of openness and important detail provides neither credibility nor confidence to affected parties which is the whole purpose of a planning application.

They are therefore repeated here:

LIST OF QUESTIONS FOR PLANACTIVE AND OWNERS PRIOR TO FULL RESPONSE ON THE APPLICATION

1. What is the purpose of the reconstructed second dwelling on this property?
2. How many actual separate physical “dwelling units” are there currently on the total property and how many are proposed in total.
3. How many bed units are there currently and how many bed units are proposed in total?
4. What is the actual reason that the owners did not consult or even mention the intended works to the immediate and affected neighbours before the conversion works started? What were they intending to hide?
5. Please state the reasons why the conversion of garages to a potential dwelling were not formally disclosed or planning permission applied for? The stated reason in the documents provided by Planactive are not credible.
6. Is it intended that there will be two separate “dwellings” which will be separately accessed at the rear of the property in Mossie laan? The current rear unit used as an airbnb/short lets does not show on the plan as such.
7. If the whole property is rented ie three separate units or “dwellings” – then how many individual guests in total do the owners expect?

8. Who will be responsible for planning, managing, monitoring and overseeing the actions, behaviour and attitude of any guests and be available and accessible 24/7.

9. Where is parking expected as there are no longer any garages on the property including the owners vehicles? Is it intended that all parking will be offroad including municipal land?

10 The current state of the property (facing Mossie laan) could be described as hastily unfinished. Including the illegal work and subsequent debris – left in full view of neighbours' property and not the owners – plus strewn gravel with numerous weeds represents a poorly planned and cheaply executed job. Is it the owners intention (with or without a grant on this application) to ensure a complete upgrade to the rear of the building?

NORTHCLIFF RESIDENTIAL COMMUNITY

The properties in Northcliff are family dwellings and neither they nor the area was designed for multiple occupancy. If, as we suspect, the proposed “second dwelling” also becomes a profitable letting opportunity, then it will have a significant and disruptive effect on the quiet suburban street and calm ambience of the local residences.

25 Harmony Laan building area already covers an exceptionally high percentage of the total erf. This restricts the amount of available space for parking vehicles – and leaving almost none for recreational use. These bids for title deed change are a key problem in altering the nature of the environment and there is a gradual creep of small businesses and rentals appearing.

Mossie Laan is a narrow, quiet road with little traffic. It enjoys a unique position of having only one side of the road with houses facing the roadway. The other side is the rear of Harmony Laan which, in the main, is infrequently accessed. All the properties on both sides of the road – apart from 25 Harmony – are enclosed by walls, fences and gates. The rear entry to Erf4586 is the only premises with vehicles parked openly and hence a natural draw to potential theft. The current open access single entry/exit point of the unit in use at the rear, is a further cause for neighbourhood concern, as a potential draw to planned and opportunistic theft.

SOCIAL IMPACT

Airbnb and short term lets have become a major problem in many parts of the world. In some cities it has such a bad reputation that local authorities are banning the practice. Hermanus is facing that challenge and these types of structural changes and title deed amendments are the thin end of the wedge.

One of the most contentious issues is the monitoring of self-catering accommodation. Owners often turn a blind eye as their objective is to maximise bookings and deal with the complaints – if and when they occur. Appalling behaviour by inconsiderate groups degrade areas to the point where life for permanent residents becomes intolerable.

It is incumbent on the municipality to carefully weigh the economic benefits of tourism at the risk of alienating ratepayers. This policy not only has a significant impact on the formal accommodation sector which has to follow strict regulations and legal requirements but also the full time residents who have deliberately chosen a select location and are prepared to pay for that privilege.

The owner of 25 Harmony describes his profession as a real estate agent and must therefore have the appropriate knowledge of property development and letting. We have enjoyed for the most part an open dialogue. There have been some issues with both his long term and short term lets.

Mostly these have been resolved but the worse instances occur when there is no-one on the property to monitor and police activities. During the festive season (when the owners were not on site) we have been endured football in the street, litter in our garden, shouting, swearing, verbal abuse, public urinating, washing left on open areas and individuals parading or seated in various states of undress.

However our longer term subjection to being persecuted by the drunken antics of large inconsiderate groups highlights a parallel and worst case. The property Erf4601 to our rear in Bird Lane is owned by absentee landlords ie neither they nor a manager is ever on site. Parties numbering at least 12 people have been allowed into the residence. Following numerous complaints to our ward councillor and at all levels of the municipality, there exists an extensive file of emails and evidence to the municipality. In a major abrogation of collective responsibility, the legal services department concluded that it has no legal responsibility for activities carried out by the person(s) renting a title deed residence. (Feb 2022).

The Overstrand municipality has clearly overlooked its own approved accommodation policy (attached) as presented by R Kuchar and confirmed at an executive meeting on May 2001. Attention is particularly drawn to the para headed Residential Community.

It is contrary to the principles of local government to deny free and fair representation for all. In fact it is the whole point of its existence and the reason that it has the power to implement and enforce its own laws. Such bylaws are reviewed and frequently implemented for minor social infringements. The municipality has a duty of care to all its ratepayers and cannot encourage or allow uncontrolled lettings behaviour to cause annoyance and resentment from other property owners and then conclude that the only recourse is direct mediation/legal action between owners/neighbours or attempting to involve the overworked SAPS and court system.

This anomaly yet again demonstrates that the municipality works in silos with no cohesive agreement and departments defending inaction due to their boundaries of responsibility.

ENVIROMENTAL IMPACT

Hermanus has already experienced the strain on its essential resources as semigration has led to a growth in population.

It appears that environmental concerns – water scarcity, drainage, congested roads, limited parking, damaged infrastructure – are usually overtaken by the lure of an alleged economic thrust from increased tourism. The beneficiaries of the tourists are limited primarily to businesses and guest accommodation – rarely the local residents who suffer the disbenefits.

- a) the main roads into town are becoming heavily overused affecting traffic flow and present a danger to motorists, cyclists and pedestrians
- b) parking is too limited and being occupied by working commuters
- c) the atmosphere and access to shops, cafes and restaurants is heavily weighted towards visitors
- d) water resources are overstretched as the high useage during holidays and weekends has demonstrated
- e) inner neighbourhoods are subject to poor driving and parking
- f) law enforcement is spread thinly especially during load shedding

CONCLUSION

On the basis of the above responses, this document and attachments are submitted as our clear objection to the macro and micro effects of allowing permission to expand the property occupation of erf4586 or remove any restrictive title deed.

We urge the Overstrand municipality and in particular the Town Planning department to take note of the issues at stake and not ignore the wider picture.

P A & S E Doble
25 February 2024

Loretta Gillion

From: Peter <[redacted]>
Sent: Friday, 30 August 2024 21:34
To: Loretta Gillion; brady.minnaar@overstrand.gov.za; natasha@planactive.co.za
Subject: Planning objection - 25 Harmony laan

The attached photograph was taken at 20.00 hrs on 30 August at the rear of the address of the applicant. Please ensure that it is added to our objection as an example of the poor parking and inconsideration of the owner and their clients.

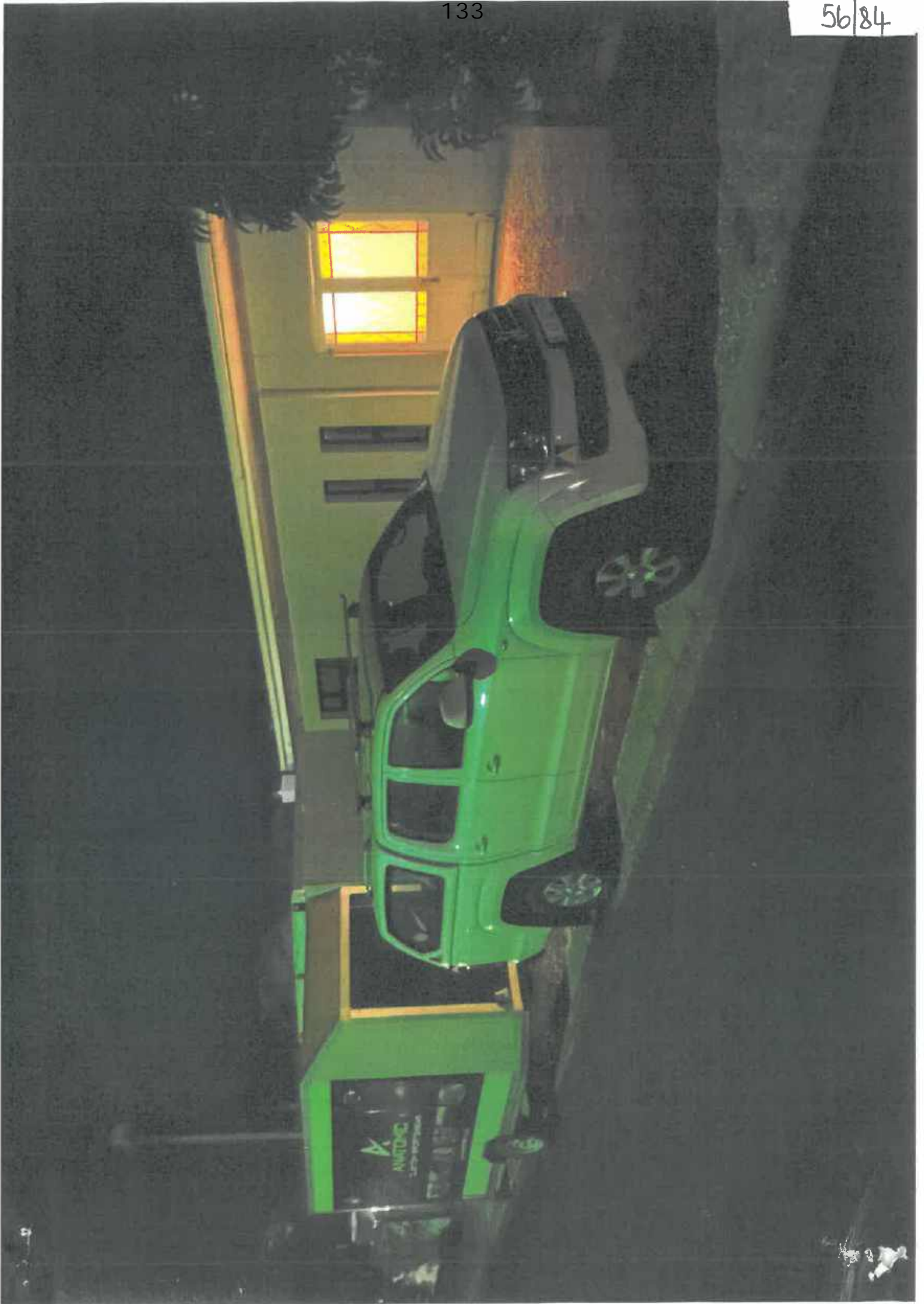
Regards

Peter and Sue Doble



TP - A Theart
 (H Olivier)

FILE NO. Erf 4586-HNC
SCAN NO.
COLLABORATOR NO.
2116348



05 SEP 2024

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

57/84

Loretta Gillion

From: cornia smit < >
Sent: Friday, 30 August 2024 15:10
To: Loretta Gillion
Subject: Fwd: Besware: Erf 4586, 25 Harmonielaan, Northcliff

Vir aandag: Haneen van der Stoep

Geagte Haneen

ERF 4586, 25 HARMONIELAAN

Hiermee wil ons ten sterkte beswaar maak teen die aansoek om die dubbelmotorhuis deel te maak van 'n gastehuis. Die bestaande dubbelmotorhuis is reeds omskep na 'n gaste wooneenheid, sonder enige toestemming van die munisipaliteit of insae van die omliggende inwoners. Hierdie was dus 'n onwettige verandering en siende dat die eienaar 'n geregistreerde eiendomsagent is, behoort hy bewus dat hy die nodige regulasies moet volg. Die omskepte gaste wooneenheid in Mossiestraat, sowel as die hoof woning in Harmonielaan is ook tot onlangs as wooneenhede uitverhuur op AirBnB. Dit het gebeur sonder enige toesig op die perseel en het al gelei tot steurnis in die middel van die nag tot die direkte bure. Dit het ook 'n parkering probleem tot gevolg aangesien daar nie genoeg parkeerplek is vir die 2 eenhede se gaste nie.

Indien die aansoek om n 4 slaapkamer gastehuis goedgekeur word, gaan die parkering net nog 'n groter probleem word aangesien daar nie parkering is vir die voertuie van 4 stelle gaste sowel as die toesighouer van die gastehuis se voertuig nie. Die buurt is baie bedrywig met laerskool verkeer in die week sowel as Saterdag met sportgeleenthede en parkering en obstruksie van strate met voertuie is n probleem.

Die plan van die voorgestelde verandering toon n gastekamer sonder n badkamer, wat blyk dat dit nie 'n gesofistikeerde gastehuis sal wees nie, aangesien bitter min mense wat in n gastehuis huur met n vreemde gas n badkamer sal wil deel nie. Dit opper die vraag oor watter tipe mark hy gaan lok en wat die gevolglike steurnisse daarmee tesame gaan kom.

Northcliff is oor die algemeen 'n nie besoekers area vir vakansiegangers of toeriste, en meer toegespits op permanente inwoners wat dit n rustige en familie georiënteerde buurt maak en hierdie aansoek gaan lei tot inbraak tot die rustigheid en vloei van verkeer tydens spitsstye wanneer ouers kinders skool toe bring.

Groete
 Cornia Sauerman (Smit) & Corrie Sauerman
 Tel:
 Nerinaweg 6, Northcliff

FILE NO. Erf 4586-HNC
SCAN NO.
COLLABORATOR NO.
2116250

Disclaimer

Loretta Gillion

From:
Sent: Wednesday, 28 August 2024 17:56
To: Loretta Gillion
Subject: Erf 4586



TP - A Theart
 (H Olivier)

Vir aandag: Haneen van der Stoep

Beste Haneen

Erf 4586, 25 Harmonielaan verwys.

Ons dien hiermee ons beswaar in teen die deel maak van die omskepte dubbelmotorhuis van 'n beplande vierslaapkamer gastehuis op bogenoemde erf. Sover ons kennis strek is die verandering van die dubbelmotorhuis in wooneenhede gedoen sonder goedkeuring van die Munisipaliteit.

Dit is vreemd dat die eienaar van die eiendom nie bewus was daarvan dat hy toestemming van die Munisipaliteit moet hê vir die verandering nie, aangesien hy 'n eiendomsagent is.

Tot baie onlangs is die huis (met ingang in Harmonielaan) en die wooneenhede (met ingange in Mossielaan) op AirB&B uitverhuur, wat 'n instroming van vreemde persone, raserige, laataand kuiers en voertuie wat in die straat parkeer word, veroorsaak het. Daar is selfs een naweek per minibus taxi gaste afgelaai en die Sondag weer opgelaai.

Ons voel dat Northcliff 'n area is wat meestal permanente inwoners het en feitlik geen vakansiehuse nie. (Dit was 'n groot beweegrede toe ons destyds eiendom in Northcliff gekoop het.)

Die kom en gaan van vreemde persone in die area kan 'n negatiewe invloed op die veiligheid van die buurt hê. Northcliff is bekend as 'n rustige, veilige en gesins woonbuurt en ons as jarelange permanente inwoners sal dit graag so wil behou.

Ons sien ook geen verblyf vir die bestuurder op die plan aangedui nie (wel parking). Volgens ons kennis moet daar 'n bestuurder 24/7 op die perseel van 'n formele gastehuis wees – wat in hierdie aansoek nie die geval blyk te wees nie.

Ons staan hierdie aansoek ten sterkte teen en vertrou dat Overstrand Munisipaliteit die belange van die Northcliff permanente inwoners op die hart sal dra en beskerm.

Groete

Jacques & Lizbé Langenhoven

Nerinastraat 8, Hermanus, 7200
 Posbus 906, Hermanus, 7200
 Erf 4578

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FILE NO.	Erf 4586-HMC ✓
SCAN NO.	Jac
COLLABORATOR NO.	2110891

29 AUG 2024

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REKORDBEHEER
28 AUG 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Objection: Building + Property Remodelling in Northcliff
(ERF-4586)

To: PLANACTIVE GROUP (Town & Regional Planners) _____

From: JW and MC Bristow (10 Talana Street, Northcliff - ERF: 4442)

Date: 27 August 2024

ERF - 4586 : 25 Harmony Lane/Laan - amendment application for departure and removal of restrictive title deed conditions, change of consent use and departure to use Mossie Lane/Laan as a second access point.

Introduction

We wish to document and place on record our objection to the amendment application brought by the owners of ERF 4586, 25 Harmony Avenue Northcliff for the removal of restrictive Title Deed conditions, consent use and a second access departure.

This application, lack of due process and inadequate transparency is unacceptable. Furthermore, the application appears to be an attempt by the owners and consultants to bend the rules (manipulate?) and legal process that pertains to conversion and remodeling of the dwelling(s) on ERF- 4586 into a Guest House.

Having reviewed the application process and engaged and discussed the matter with residents in Mossie Lane and elsewhere in Northcliff, it is rather obvious that there have been a series of machinations between the owner, clients, Consultants (PlanActive), and no doubt other parties to "creatively" rectify and manipulate an untenable (unlawful?) situation.

Hence it is reported that consultants are now undertaking the following action: *"After a meeting with the client and the municipality, it was decided that the best way forward was to apply for a consent use to accommodate a Guesthouse"*.

The re-submission of this request under the guise of what is now called a "Guest House" is nothing more than an attempt to bypass previous objections raised. For months objectors and objections were ignored or dismissed while activity continued on the site without notice.

In our opinion it would appear that the applicant, a qualified property consultant, deliberately started a building conversion with no consultation, and no consent, hoping that there would only be an administrative penalty to achieve the end objective.

FILE NO. <u>Erf 4586-HNC</u> ✓
SCAN NO. <u>HNC 4586</u>
COLLABORATOR NO.
<u>2110412</u>

As residents, ratepayers, investors in our town and environment, we ratepayers have a right to be transparently and professionally represented by the officials and politicians of the local planning authority (and the Overstrand Municipality). It is paramount and a key responsibility of this local authority to ensure that its officials and the processes in place, are balanced and beyond reproach. In the current climate of rampant corruption, crime, and lawlessness across South Africa and locally, the local municipality/authority should be beyond reproach

Formal objection points:

1. The site unsuitability, disruption of a residential area, social and environmental impacts are all still relevant.
2. Population growth plus increased tourism facilities (eg. B + B's) are placing excessive stress on old infrastructure such as water, sewerage, sewage treatment plants and stormwater drains and there is no plan or documented process by the Overstrand Municipality (OM) to address these well documented challenges.
3. Mayor Dr Annelie Rabie highlighted the difficulties that the OM and local businesses were experience to recruit and retain capable professional employees in the OM because of a shortage of affordable accommodation in her mid-term Report back on 25 July 2024 in the Municipal Auditorium. The same applies to nurses, carers and other much needed employees across greater Hermanus
4. It is concerning and confusing that OM planning makes no distinction between a guest house and airbnb. They are quite different activities and modes of accommodation as the former is subject to specific rules and regulations, constant onsite management and business registration and trading conditions.
5. Northcliff suburb and the streets of Harmony and Mossie are unsuitable for a formal guesthouse given these are quiet residential streets which are narrow with currently little traffic movement. Traffic movement will increase greatly if this application/proposal succeeds including service and delivery vehicles.
6. The actions of the Owners in this case/matter are also questioned in this case, given it would appear that the ongoing actions, processes, changing the submissions, and then engaging PlanActive is also questioned.
7. Equally concerning is that overall approach appears to ignore or bend the existing rules, complete the illegal building activity and then simply proceed to accept and pay the maximum administrative penalty regardless of due-process.
8. It is also apparent that the entire process of consultation and transparent has been adequate throughout the entire application process of also appears to have deliberately failed to consult during the initial processing or objections and not widely notified the amendment application.

The following further objection points are equally of concern:

9. The current structure and layout of the premises is not fit or compliant for use as a Guesthouse. Plans show a maze of interlocking rooms, many of which were not built for purpose ie: non-Guesthouse grade en-suite bathrooms and kitchen facilities. It is built as two parts with separate entries with a central open area. There are no suitable emergency access/exits which would represent a danger to surrounding properties.
10. The rear entry only has one door and is unsuitable and impractical for a Guesthouse unsuitable. One is a single door and the other is a former games room entrance.
11. There is confusion in respect of the existing situation and new second dwelling application. The current 2 bedroom, 1 bathroom flatlet, is already used as short term let, but the designated games room on the original change of plan application has been overlooked in the new /revised request?
12. The road width of Mossie Lane is too narrow, meaning that neighbor's driveways are used as a turning circle. Some guests are shocked by the appearance of the rear entry to the Harmony Laan property then ask if our house is actually the accommodation.
13. Parking at the rear is impossible without overhanging the boundary line.
14. There is no communal area for guests. This results in overflowing onto the open spaces and roadways. An internal courtyard and pool exacerbate noise and disturbance.
15. It is doubtful that the manager's accommodation will be used for this purpose. A lack of management or supervision has resulted in a history of disturbance.

Conclusions

Regarding this matter and proposed property reconfiguration, the entire application process has been and is fatally flawed, and the amended application is a spurious justification for the original purpose – it is poor on detail, confusing, unclear, and unsubstantiated in reason and motive.

It is also greatly concerning and unacceptable that the private planning company working for and behalf of the applicant should also be leading the process of contacting potentially interested and affected parties, deciding on when and how responses to objections can be seen and assessed, while simultaneously negotiating on behalf of its clients to structure a route to achieve their desired result.

The planning authority (OM) maintains that the amended application was widely circulated. Our findings are that this is incorrect and that few people were even aware of it. A recent information note on a Northcliff Residents Whatsapp group has highlighted that at least four direct neighbouring properties in Harmony Lane

27 August 2024

Loretta Gillion

From: John Bristow <
Sent: Wednesday, 28 August 2024 08:58
To: Loretta Gillion; natasha@planactive.co.za; Hanneen van der Stoep; Riaan Kuchar; Brady Minnaar; karibrice; Kari Brice
Subject: OBJECTION + ABSENT PUBLIC PARTICIPATION - ERF 4586, 25 HARMONY AVENUE, NORTHCLIFF, HERMANUS
Attachments: 20240828-Harmony_Lane#25-Objection_Amend to application-JWB-27 August 2024.pdf

Dear Madam/Sir,

Please find attached document outlining our objections to the proposed changes and developments on ERF-4586, Northcliff, Hermanus. Please also kindly acknowledge receipt of the attached document.

We wish to document and place on record our objection to the amendment application brought by the owners of ERF 4586, 25 Harmony Avenue Northcliff for the removal of restrictive Title Deed conditions, consent use and a second access departure.

This application, lack of due process, and inadequate public consultation and transparency is unacceptable. Furthermore, the application appears to be an attempt by the owners and consultants to bend the rules (manipulate?) and legal process that pertains to conversion and remodeling of the dwelling(s) on ERF- 4586 into a Guest House.

The entire situation and process as it stands is unacceptable, should be restarted in its entirety, and processed in a professional, robust and informed manner. Proper public participation and transparency should be the order of the day.

Kind regards,
JOHN + MARILYN BRISTOW
m: (

28 AUG 2024

Loretta Gillion

From: Loretta Gillion
Sent: Thursday, 29 August 2024 08:10
To: 'John Bristow'
Cc: Hanneen van der Stoep; Riaan Kuchar; karibrice@hermanus.co.za; Kari Brice
Subject: RE: OBJECTION + ABSENT PUBLIC PARTICIPATION - ERF 4586, 25 HARMONY AVENUE, NORTHCLIFF, HERMANUS

Dear Mr J & M Bristow

Receipt is hereby acknowledged of your email.

Kindly note that the public participation process includes the following:

- **email** notification to all property owners in the relevant Extension;
- **site notice**;
- advertisement in the **local newspaper**;
- advertisement in the **Provincial Gazette**, and
- notification on the municipal **website**.

Hope you find the above in order.

Regards

Loretta Gillion

Administrative Officer: Town & Spatial Planning
 Directorate: Planning & Development, Overstrand Municipality, Hermanus
 A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20
 T: 028 313 8900 | E: loretta@overstrand.gov.za

From: John Bristow <
Sent: Wednesday, August 28, 2024 8:58 AM
To: Loretta Gillion <loretta@overstrand.gov.za>; natasha@planactive.co.za; Hanneen van der Stoep <hvdstoep@overstrand.gov.za>; Riaan Kuchar <rkuchar@overstrand.gov.za>; Brady Minnaar <bminnaar@overstrand.gov.za>; karibrice <karibrice@hermanus.co.za>; Kari Brice <kbrice@overstrand.gov.za>
Subject: OBJECTION + ABSENT PUBLIC PARTICIPATION - ERF 4586, 25 HARMONY AVENUE, NORTHCLIFF, HERMANUS

Dear Madam/Sir,

Please find attached document outlining our objections to the proposed changes and developments on ERF-4586, Northcliff, Hermanus. Please also kindly acknowledge receipt of the attached document.

We wish to document and place on record our objection to the amendment application brought by the owners of ERF 4586, 25 Harmony Avenue Northcliff for the removal of restrictive Title Deed conditions, consent use and a second access departure.

This application, lack of due process, and inadequate public consultation and transparency is unacceptable. Furthermore, the application appears to be an attempt by the owners and

R A STANWAY

E-mail :
Tel :
Mobile :

6 Mossie Avenue
Hermanus
7200

Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200
26th August 2024

*TP-A Theart
(H Olivier)*

Attention: loretta@overtrand.gov.za

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
27 AUG 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Dear Sir,

ERF 4586, 25 Harmony Avenue: Application for Removal of Restrictive Title Deed Conditions. Consent Use. Departure & Determination of an Administrative Penalty

My interest in the application is that I am the owner of No. 6 Mossie Avenue (Erf 4559), a few properties southwards down Mossie Avenue from the illegal property in question that is actually facing onto and accessing Mosie Avenue (not Harmony Ave).

I am in opposition to the application for the following reasons, namely.

1. There is no **need** for additional tourist accommodation in Mossie Avenue because to the best of my knowledge and belief, there are already at two to three other "quasi-guest houses" operating in Mossie Avenue, while there are a number of other properties that appear to operate as temporary tourist accommodation establishments in the peak season on an "Airbnb" basis
2. It is highly **undesirable** to have vehicles parked – sometimes bumper-to-bumper in season in a quiet residential street (almost a cul-de-sac) and the noise and attendant disruptions are unacceptable in a quiet residential area
3. Finally, if the **poor previous track record** of the owners of the illegal property facing onto and accessing Mossie Avenue are anything to go by, their tenants have caused nothing but noise and disruption for years, while operating illegally
4. It is high time that the Overstrand Municipality undertakes a proper census of what must be hundreds of such illegal tourist dwellings in the residential suburbs of Hermanus and regulates, regularizes an appropriate number and rates them accordingly.

RA Stanway

R A STANWAY (Owner of Erf 4559)

2.7 AUG 2024

FILE NO. Erf 4586-HWC ✓
SCAN NO. Stanway
COLLABORATOR NO. 2109641

Loretta Gillion

From: Bob Stanway < >
Sent: Monday, 26 August 2024 18:47
To: Loretta Gillion
Subject: Objection to Erf 4586 Hermanus
Attachments: Objection to Erf 4586, Hermanus.pdf

Dear Loretta,

Attached please find my objection to the above application.

Please acknowledge receipt of my comments.

Thanking you,

Bob Stanway

Telephone : +

Mobile :

Post : 6 Mossie Avenue, Northcliff, Hermanus, 7200

27 AUG 2024

Loretta Gillion

68/84

DOCUMENT CONTROL

From: Theo Pegel <t >
Sent: Monday, 26 August 2024 18:14
To: Loretta Gillion
Subject: Besware: Erf 4586, 25 Harmonielaan, Northcliff

OVERSTRAND MUNICIPALITY

Erf 4586 - HNC ✓

SCAN NO.

Pegel

COLLABORATOR NO.

2109640

Beste Haneen

Erf 4586, 25 Harmonielaan, verwys

1. Ons wil asb ten sterkste beswaar aanteken teen die aansoek om die bestaande omskepte dubbelmotorhuis deel te maak van n beplande 4 slaapkamer gastehuis. Hierdie omskepping/verandering van n dubbelmotorhuis na n gaste wooneenheid was gedoen sonder enige toestemming by die Munisipaliteit. Die eienaar se pleidooi dat hy onbewus was van die nodige regulasies en toestemming is onaanvaarbaar synde dat die eienaar n eiendomsagent is. Ons dring daarop aan dat n maksimum boete gegee word vir die eienaar se oneerlikheid en onwettige manier van handel.
2. Die eienaar het beide wonings (die huis in Harmonielaan en die 2 slaapkamers in Mossiestraat) nog tot onlangs uitverhuur op Air B&B sonder enige toesig terwyl hy en sy gesin elders was, met die gevolg dat ons as bure las het van geraas van gaste in die middel van die nag en met te veel voertuie wat parkeer word in die straat. Die eienaar is al bewus gemaak van sy gaste se geraas.

Vir n formele gastehuis moet daar n bestuurder 24/7 op die perseel wees. Kan die eienaar asb bevestig
 -waar die 24/7 bestuurder van die gastehuis gaan bly aangesien dit nie aangedui is op die plan nie. Die bestuurder se parkering word wel aangedu -n kontaknommer verskaf van die bestuurder.
3. Indien beide die gastehuis se kamers en die Air B&B – eenhede in Mossiestraat (soos huidiglik die geval is) uitverhuur word sonder n bestuurder op die perseel- wat staan ons as eienaars te doen?
 Wat gaan die gevolge wees en by wie kan klagtes ingedien word oor geraas of parkering.
4. As ons geweet het dat die eienaars belangstel om die erf in n besigheidperseel te ontwikkel, het ons nie in ons rustige woonbuurt, Northcliff n huis gekoop nie. Die area is nie geskik vir n gastehuis vir die tipe mark wat hy tans lok nie. Soos aangedui op die planne is daar n gastekamer sonder n badkamer, wat my al reeds die idee gee dat dit nie n gesofistikeerde gastehuis sal wees nie aangesien baie min betaalde gaste n badkamer met vreemde gaste sal wil deel.
5. Die Northcliff buurt is tradisioneel nie n besoekers- area vir vakansiegangers nie, maar meer vir permanente inwoners wat ook gelei het tot die besonderheid van die buurt. Hierdie aansoek is n poging om dit wat die algemene inwoners beskou het as n belegging te na te kom en af te breek

Groete,

Wendy Pegel & Theo Pegel

29 Harmonielaan, Northcliff
Erf 4584

27 AUG 2024

DOCUMENT CONTROL

70/84

Loretta Gillion

OVERSTRAND MUNICIPALITY

From: Karen Oosthuysen < >
Sent: Tuesday, 27 August 2024 09:01
To: Loretta Gillion
Subject: Harmony 25 Northcliff

FILE NO. Erf 4586
HNC
SCAN NO.
Karen ✓
COLLABORATOR NO.
2109628

Goeie dag Loretta,

Dankie vir jou oorweging vir die verhoë. Ons is nuwe huiseienaars in Harmony laan en die betrokke huis is 2 huise van ons af. Uit die aard van die saak wil ons asb dit anoniem rig. Kan jy asb ontvangs van die epos bevestig?

Dankie by voorbaat.

Objection to Rezoning Residential Property to Commercial Use Near a Primary School
Harmony lane, Northcliff, Hermanus.

- 1. Increased Traffic and Safety Concerns:** The introduction of a business in a residential area, particularly near a primary school, will likely lead to increased traffic. This poses significant safety risks for young children who walk or cycle to school. The higher volume of vehicles can increase the likelihood of accidents and make it more challenging for children to navigate the area safely.
- 2. Noise and Disturbance:** Businesses often generate more noise compared to residential properties. This can disrupt the peaceful environment that is essential for both the residents and the school. The noise from business operations, deliveries, and customer traffic can be particularly disruptive during school hours, affecting the learning environment.
- 3. Impact on Property Values:** Rezoning to accommodate a business can negatively impact the property values of surrounding residential homes. Potential buyers may be deterred by the presence of a commercial establishment, leading to a decline in demand and property values in the area.
- 4. Incompatibility with Residential Character:** The primary purpose of residential zoning is to maintain a quiet, safe, and family-friendly environment. Introducing a business disrupts this character and can lead to further commercial encroachment, gradually transforming the neighbourhood into a commercial zone, which is not in line with the original zoning intentions.
- 5. Parking and Congestion Issues:** Businesses typically require more parking spaces than residential properties. This can lead to congestion and parking shortages, inconveniencing residents and creating additional hazards for school children. The increased demand for parking can also spill over into residential streets, causing further disruption.
- 6. Environmental Concerns:** Commercial activities can lead to increased pollution, including noise, air, and light pollution. These environmental changes can have adverse effects on the health and well-being of both the residents and the school children. The presence of a business can also lead to more waste generation, which may not be adequately managed in a residential area.
- 7. Precedent for Future Rezoning:** Allowing this rezoning could set a precedent for future requests, leading to a gradual erosion of the residential nature of the neighbourhood. This could

27 AUG 2024

result in a domino effect, where more properties are rezoned for commercial use, further disrupting the community and its intended residential purpose.

71/84

Loretta Gillion

From: Karen Oosthuysen <karen.oosthuysen@overstrand.gov.za>
Sent: Tuesday, 27 August 2024 17:54
To: Loretta Gillion
Subject: Re: Harmony 25 Northcliff

Hi there Loretta,

Thank you for your reply.
We are Harmony 21.

Kind regards

On Tue, 27 Aug 2024 at 15:11, Loretta Gillion <loretta@overstrand.gov.za> wrote:

Dear Ms K Oosthuysen

Receipt is hereby acknowledged of your email.

Kindly also provide your erf / street number.

Regards

Loretta Gillion

Administrative Officer: Town & Spatial Planning

Directorate: Planning & Development, [Overstrand Municipality, Hermanus](https://www.overstrand.gov.za)

[A: 16 Paterson Street](https://www.overstrand.gov.za), Hermanus, 7200 P: P O Box 20

T: 028 313 8900 | E: loretta@overstrand.gov.za

From: Karen Oosthuysen <karen.oosthuysen@overstrand.gov.za>
Sent: Tuesday, August 27, 2024 9:01 AM
To: Loretta Gillion <loretta@overstrand.gov.za>
Subject: Harmony 25 Northcliff

Loretta Gillion

73 | 84

OVERSTRAND MUNICIPALITEIT

REKORDBEHEER

27 AUG 2024

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

From: Sune Greeff < >
Sent: Monday, 26 August 2024 23:27
To: Loretta Gillion
Subject: Fwd: Erf 4586, 25 Harmonielaan, Northcliff, Hermanus
Attachments: Harmony House 4 bed Screenshot_8-2-2024.jpeg; 2 bed Harmony Ave_8-2-2024_231719_www.booking.com (2).jpeg

OVERSTRAND MUNISIPALITEIT

REKORDBEHEER

27 AUG 2024

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

Vir aandag: Haneen van der Stoep

Beste Haneen

Ek het nagelaat om my eerste epos met lys van besware gedateer 21 Februarie (sien onderaan) by te voeg tot my verhoë aan u gerig van gister, 25 Augustus 2024. Die inligting en besware is steeds van toepassing.

Dis voor die hand liggend dat die eienaar, Mnr Loots, die publiek om die bos wou lei met sy aanvanklike aansoek vir 'n sogenaamde tweede woning, wat toe eintlik 'n derde woning was! Die eerste aansoek is toe vervang met 'n nuwe aansoek van die eienaar om sy woning in 'n 'n gastehuis te omskep met 4 slaapkamers.

Soos voorheen genoem word die huis tans geadverteer as 'n 4 slaapkamer woning, met 'n afsonderlike 2 slaapkamer-eenheid aan die agterkant van die huis in Mossielaan (daar kan dus tans 12 mense in totaal slaap) - sien advertensies aangeheg as bewys.

Bo en behalwe hierdie hoeveelheid kamers word daar nou 'n dubbelmotorhuis omskep in nog 'n gaste eenheid - m.a.w. meer gaste gaan geakkommodeer kan word op die perseel.

Die huidige parkering (vir 6 motors) sal dus nie voldoende wees indien daar nog 'n parkering vir 'n 24/7 bestuurder ook moet wees nie.

Groete
Suné

----- Forwarded message -----

From: Sune Greeff < >
Date: Wed, Feb 21, 2024 at 10:35 PM
Subject: Erf 4586, 25 Harmonielaan, Northcliff, Hermanus
To: <loretta@overstrand.gov.za>

FILE NO. Erf 4586-HNC ✓
SCAN NO. Greeff
COLLABORATOR NO.
2109337

Geagte me van der Stoep

Ek verwys na die dokumentasie ontvang vanaf Plan Active rakende Erf 4586, 25 Harmonielaan, Northcliff en wil beswaar aanteken teen die verdere aanbou en omskepping van 'n dubbelmotorhuis in 'n wooneenheid.

My redes is as volg:

1) Volgens die dokument van Plan Active was die eienaar, Mnr Loots onbewus dat hy moes aansoek doen by die munisipaliteit of dat hy toestemming moet kry by sy bure vir aanbouings/veranderinge van 'n dubbelmotorhuis na 'n wooneenheid. Dit is vir my moeilik om te glo dat Mnr Werner Loots onbewus is van hierdie plaaslike munisipale wet aangesien hy al vir jare werksaam is as 'n eiendomsagent in Hermanus!

Ek voel ten sterkste dat daar teen die eienaar opgetree sal word en dat die boete nie afgeskaf moet word nie.

2) Ek wil dit onder u aandag bring dat daar alreeds 'n tweede woning op dieselfde erf 4586 uitverhuur en bewoon word deur gaste op 'n gereelde basis (die woonstel agter sy hoofhuis (in Mossiestraat) word geadverteer op Bookings.com en AirBnB).

Ons bekommernis is dat hierdie aansoek nie gedoen word vir 'n tweede woning soos genoem in die advertensie nie, maar moontlik 'n aansoek is vir 'n **DERDE** (3e) woning op Erf 4586. Die hoofhuis word alreeds gereeld uitverhuur as 'n selfsorg-vakansiehuis op AirBnB of Bookings.com gaste (slaap 8 mense), as ook die huidige woonstel agter die huis (slaap 4 mense) - sien beide wonings se advertensies aangeheg.

In hierdie geval sal daar dus seker aansoek gedoen moet word vir hersonering aangesien hy die 3x wonings as 'n gastehuis besigheid bedryf?

3) KLIËNTE PROFIEL:

Die bestaande hoofhuis (toegang: Harmonielaan) word gereeld aan groot groepe vakansiegangers uitverhuur (slaap 8x mense), plus dan die woonstel wat 4 mense kan akkommodeer. Weens die feit dat sy akkommodasie redelik bekostigbaar is, trek hy nie noodwendig die regte profiel mense wat ons in Northcliff-buurt wil hê nie. Dit doen afbreuk aan die residensiele buurt se standaard, waarde van omliggende eiendomme en die rustigheid van Northcliff-buurt.

4) GERAAS & GEEN BEHEER

Ons is permanente inwoners met klein kinders wat woon in Harmonielaan 27 en wat direk geraak word deur die uitverhuur van Mnr Loots se wonings aan vakansiegangers. Die hoofhuis van Erf 4586 se leefarea en swembad/onthaal area, waar gereeld partytjies gehou word, grens direk aan ons woning en die klank is hoorbaar in ons eetkamer en kombuis.

Die eienaar is nie op sy perseel wanneer gaste sy hoofhuis in Harmonielaan bewoon nie. . Daar is dus geen toesig of beheer oor sy gaste se gedrag, die aantal gaste wat die huis okkupeer, geraas of sekuriteit nie. Ons het al twee keer vantevore vir Mnr Loots in kennis gestel dat sy gaste harde musiek maak, raas en partytjie hou na 03h00 in die nag.

Die feit dat daar gereeld nuwe groepe die huis beset, skep ook 'n veiligheidsrisiko vir ons in.

Die woning word nie net Desember-maande uitverhuur nie, maar ook naweke en gedurende die jaar soos besprekings inkom.

5) ONVOLDOENDE PARKERING

Met die verdere aanbou en omskepping van die dubbelmotorhuis in ekstra wooneenhede is ek van mening dat daar nie genoeg parkering in Mossiestraat of Harmonielaan sal wees vir al die gaste nie, By 'n vorige insident was daar al 8 motors en 'n minibustaxi geparkeer by Erf4585 deur gaste wat die huis okkupeer - natuurlik was die eienaar onbewus hiervan.

Laastens wil ek ook noem dat ek Overstrand Munisipaliteit op die 9e Junie 2023 in kennis gestel het van die bouery wat by Erf 4586 plaas vind sonder enige van die bure se medewete. Op die 12 Junie 2023 het ek 'n skriftelike klagte ingedien en omtrent 10 dae daarna het die bouery opgehou, maar is weer hervat die 27e Junie 2023. Volgens Plan Active het die O.M eers 'n brief op 20 Julie 2023 (vanaf Liezel Lubbe) uitgereik aan mnr Loots wat hom geforseer het om met die bouery te stop. Teen daardie tyd was die struktuur reeds aangebring, en is 'n muur binne-in die erf aangebring.

Dit sal waardeer word indien u my geldige besware in ag sal neem aangesien die konstante uitverhuur aan gaste 'n nadelige impak het op die waarde van my eiendom, Erf 4585, asook die Northcliff-buurt.

Suné Barnard (nee Greeff)

Tel:

27 Harmonielaan, Northcliff, Hermanus, 7200

5.0

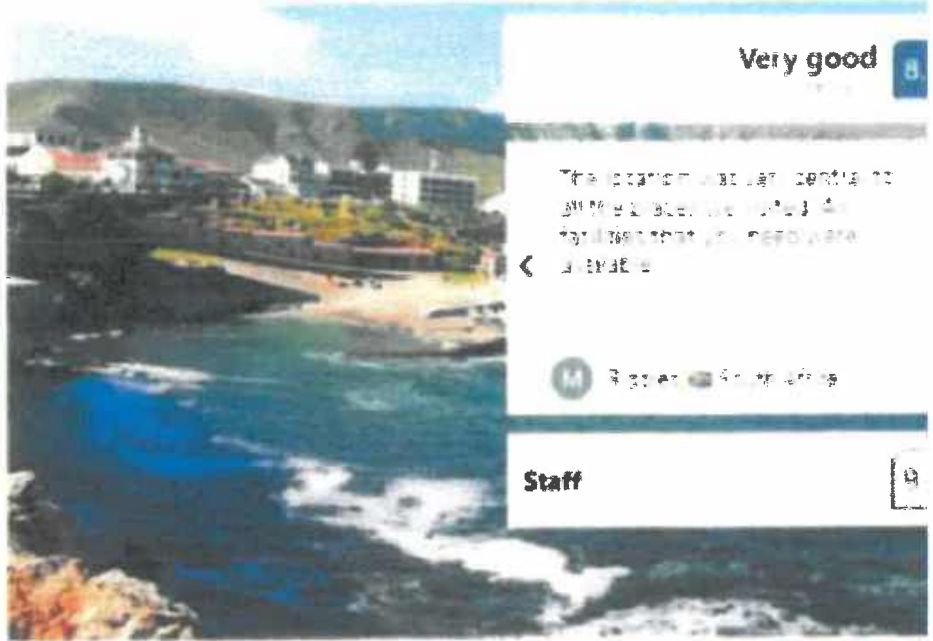
Hermanus 4Bed Home(King Bed) with pool walk to sea



Check available dates

We Price Match

53 Hermanus, Western Cape, Hermanus - South Africa - Excellent location - show map



Very good

The location was just perfect to all the places we visited. All facilities that you need were available.

M 4 great 4/5

Staff



+ 18 photos

220m² size



Outdoor swimming pool



Free parking



Pet-friendly

Private entrance



Family-friendly



Free WiFi



View

This King Bed with pool walk to sea features accommodation with private guests who are just 2 km from Mt Heron Wildlife Reserve. The property is very well located, just 11 km from village square.

Some of the accommodation features a flat screen TV, a fully equipped kitchen and accommodation offers a fireplace.

Great family choice in Hermanus, Western Cape. 17 km from the coast.

Property highlights

Perfect for a 2-night stay!



Top location: Highly rated by recent guests (9.2)

Holiday homes with:

77/84

Genius ★★★★

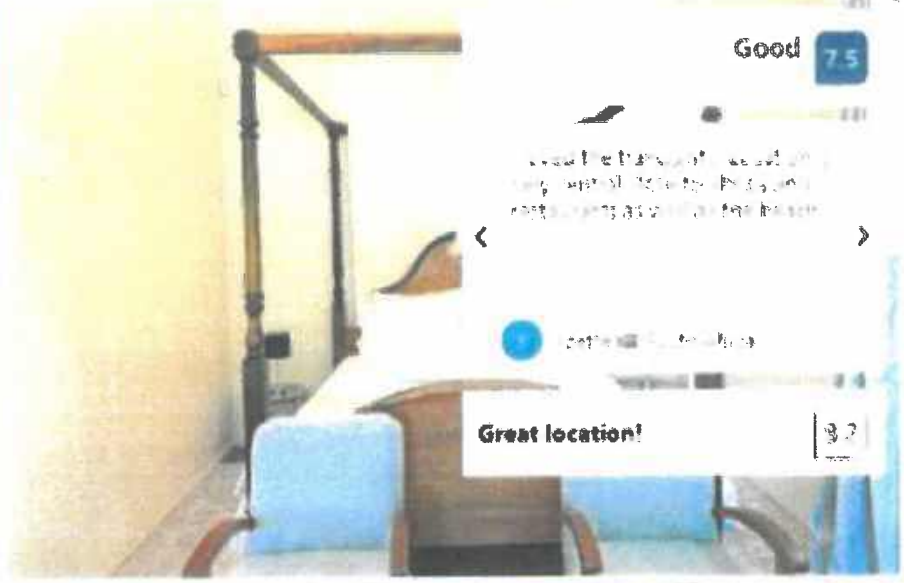


Reserve your apartment stay

Hermanus 2 bed (Incl King bed) - Walk to the sea!

We Price Match

15 Hermanus Avenue, 7130 Hermanus, Eastern Cape [Great location - show map](#)



Good 7.5

View the Hermanus location on a map. It's close to the beach, restaurants and other amenities.

Great location! 9.2



100 m² size

FED facilities

Free Wifi

View

Washing machine

Flat screen TV

Hot tub

- you're in luck!

Book your stay now. Walk to the sea, restaurants, and take in the view. Reserve your apartment today!

ults

ZAR 1,791

Genius

Reserve

78 | 84

Loretta Gillion

REKORDBEHEER

26 AUG 2024

DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

From: Sune Greeff <
Sent: Sunday, 25 August 2024 22:14
To: Loretta Gillion
Subject: Besware: Erf 4586, 25 Harmonielaan, Northcliff

FILE NO. Erf 4586 - HNC
SCAN NO. Sune
COLLABORATOR NO.
2109324

Vir aandag: Haneen van der Stoep

Beste Haneen

Erf 4586, 25 Harmonielaan verwys.

1. Ons wil ten sterkste beswaar maak teen die aansoek om die bestaande omskepte dubbelmotorhuis deel te maak van 'n beplande 4 slaapkamer gastehuis. Hierdie omskepping/verandering van 'n dubbelmotorhuis na 'n 'gaste woon eenheid' was gedoen sonder enige toestemming by die Munisipaliteit. Die eienaar se pleidooi dat hy onbewus was van die nodige regulasies en toestemming is onaanvaar synde dat die eienaar 'n eiendomsagent is. Ons dring daarop aan dat 'n maksimum boete gegee word vir die eienaar se oneerlikheid en onwettige manier van handel.

2. Die eienaar het beide wonings (die huis in Harmonielaan en die 2 slaapkamers in Mossiestraat) nog tot onlangs uitverhuur op AirBnB **SONDER ENIGE TOESIG** terwyl hy en sy gesin elders was - met die gevolg dat ons as direkte bure las het van geraas van gaste in die middel van die nag, te veel voertuie wat geparkeer word in die straat, ens. Die eienaar was al bewus gemaak van sy gaste se geraas.

Vir 'n formele gastehuis moet daar 'n bestuurder 24/7 op die perseel wees. Kan die eienaar asb bevestig:
 - waar die 24/7 bestuurder van die gastehuis gaan bly aangesien dit nie aangedui is op die plan nie.
 Die bestuurder se parkering word wel aangedui.
 - 'n kontak nommer verskaf van die bestuurder

3. Indien beide die gastehuis se kamers en die AirBnB-eenhede in Mossiestraat (soos huidiglik die geval is) uitverhuur word sonder 'n bestuurder op die perseel - wat staan ons as eienaars te doen? Wat gaan die gevolg wees en by wie kan klagtes ingedien word oor geraas of parkering?

4. As ons geweet het dat die eienaars belangstel om die erf in 'n besigheidperseel te ontwikkel, het ons nie in ons rustige woonbuurt, Northcliff, 'n huis gekoop nie. Die area is nie geskik vir 'n gastehuis vir die tipe mark wat hy tans lok nie. Soos aangedui op die planne is daar 'n gastekamer sonder 'n badkamer, wat my al reeds die idee gee dat dit nie 'n gesofistikeerde gastehuis sal wees nie aangesien baie min betaalde gaste 'n badkamer met vreemde gaste sal wil deel.

5. Die Northcliff buurt is tradisioneel nie 'n besoekers-area vir vakansiegangers nie, maar meer een vir permanente inwoners wat ook gelei het tot die besonderheid van die buurt. Hierdie aansoek is 'n poging om dit wat die algemene inwoners beskou het as 'n belegging te na te kom en af te breek.

Groete,

Suné Barnard (née Greeff) & André Barnard

27 Harmonielaan, Northcliff
Erf 4585

157
TP-A Theart
(H Olivier)

19 JUL 2024

80/84

DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

SUBJECT: Objection to proposed relaxation of Restrictive Clauses to the Title Deeds of ERF 4586 and application for conversion of the dwellings into a Guest House.

Date: 18th July 2024

From: James Robertson, owner of 25 Mossie Lane, Northcliff, Hermanus.

I hereby wish to state my objection to the second application brought by the owners of ERF 4586, 25 Harmony Avenue Northcliff for the Removal of Restrictive Title Deed Conditions and new application to convert the dwellings on ERF 4586 into a Guest House.

According to the Motivational Report, this application would seem a revised application of the original application sought in December 2023, whereby the owners of ERF 4586 were seeking remediation of existing breaches by the removal of Restrictive Clauses in the Title Deed, the only difference now being that they no longer wish to convert the dwellings into a bed and Breakfast, but a Guest House.

Having heard absolutely no feedback on the original application sought and my subsequent objection dated the 9th of February 2024, I have now received the above notice with the fresh application for the removal of restrictive clauses in the existing Title Deeds and the proposed conversions of the existing dwellings into a Guest House.

This entire process lacks transparency and a disregard by the responsible parties for the affected rate paying residents. As such, the main reasons for my original objection dated the 09th of February 2024, regarding noise, and social disturbance remain the same.

1. The current positioning of the dwellings remains unchanged (still in breach of the Title Deed Restrictions) and the necessary parking bays that will be required in accordance with the Overstrand Municipal Policy on "Accommodation Establishments" will result in the parking bays for rooms/ guests 3 -6 extending over the boundary line and onto the pavement. According to the plans, the distance from the front of the dwelling facing Mossie Lane to the boundary line is 4.3m. The average length of a compact car is 4.2 to 4.3 m. It is therefore reasonable to expect that any vehicle even if parked with its bumper up against the front door of the dwelling, is going to extend onto the pavement.
2. We have often experienced unacceptable noise and disturbance from tenants/guests residing in the dwelling which has access from Mossie Lane.

In addition, having gone over the plans submitted with the notice received on the 15th of July, I would like to raise the additional objections.

TITLE NO.	Erf 4586 - HNC ✓
SCAN NO.	James
COLLABORATOR NO.	2085617

P 18 JUL 2024

1. According to the Overstrand Municipality Policy on the establishment of a Guesthouse, it is specifically stated that a Guesthouse may only have one kitchen. This is to prevent guests from cooking or preparing meals for themselves therefore effectively running an air Band B. According to the plans there are clearly 2 kitchens, albeit one labelled as a kitchenette, which is a small kitchen. This is clearly in breach of the policy.
2. The bathroom layout for an “upmarket” guesthouse is not congruent, as Bedrooms 1 and 2 have to share a single bathroom across the passage, not illegal in itself, but certainly very unusual for a modern guesthouse. Again, Guest Bedroom 3 does not have a bathroom on -suite and the guests must walk down the passage to bathroom 3.

It appears very obvious to me that the re- submission of this request under the guise of a Guesthouse is just an attempt to circumvent the previous objections raised when the original application was sought to convert the dwellings into an air Band B

From the plans submitted, it is clear that by merely closing the door between the “New Braai Room” and the “New Lobby” you have 2 separate dwellings which could easily be rented out as such.

I therefore object to this application as submitted.

Yours Faithfully.



James Robertson

Owner, Erf 4306, 25 Mossie Lane.

Loretta Gillion

From: James Robertson < >
Sent: Thursday, 18 July 2024 16:08
To: Loretta Gillion
Cc: , natasha@planactive.co.za; Hanneen van der Stoep
Subject: Objection to application sought by ERF 4586 Northcliff.
Attachments: Objection dd 18 Jul 2024.pdf

To whom it may concern.

Please find attached a letter stating my objection as an affected party, to the application sought by ERF 4586 Northcliff, for the removal of restrictive conditions within the existing title deeds in order to remedy existing breaches and allow for the conversion of a residential dwelling into a Guest House.

Regards
James Robertson
Tel:

Sent from [Mail](#) for Windows

18 JUL 2024

83 | 84

REKORDBEHEER

26 AUG 2024

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

Loretta Gillion

From: James Robertson < >
Sent: Monday, 26 August 2024 15:28
To: Loretta Gillion; natasha@planactive.co.za; Hanneen van der Stoep
Subject: FW: Objection ERF 4586 Harmony Lane Northcliff

To Loretta Gillion

As an affected neighbour residing at 25 Mossie Lane, I am opposed to the relaxation of clauses in the Title Deeds and planning permission to create a guest house at the above location.

As the owner of a property in Northcliff, I made a financial decision to invest and live in a Residential Community in Hermanus.

Effectively a Guesthouse must be registered as a private company or sole proprietor, which then sets a precedent for further conversion of residential property into property with business rights.

As has been demonstrated in numerous municipal areas, once a business precedent has been set, the residents are eventually squeezed out.

I am a pensioner and have bought my home for very specific reasons and I cannot afford to have my largest asset (my home) drastically devalued and my life-style de-based as a result of being surrounded by businesses whether guest houses or otherwise.

I strongly object to any further granting of any business rights in the suburb of Northcliff.

Sincerely yours

James Robertson

FILE NO.	ERF 4586-HNC ✓
SCAN NO.	James
COLLABORATOR NO.	2109313

75110714

22 AUG 2024

84/84

Loretta Gillion

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

From: Mark Lane-Jones < >
Sent: Wednesday, 21 August 2024 10:42
To: Loretta Gillion
Subject: Re: ERF 4586, 25 HARMONY AVENUE, NORTHCLIFF, HERMANUS - PUBLIC PARTICIPATION

Dear Loretta

We live at ERF 4605. Please note we have the following concerns re the above planning application.

Difficult to see how 6 cars can comfortably park in that space. Feel the road will be used for convenience.

Holiday/guest accommodation in a primarily residential area easily causes conflict re noise, especially with pool and large groups.

Yours

Mark and Mary Lane-Jones
 14 Steenbok St
 Northcliff
 Hermanus.

} (WhatsApp)

FILE NO. Erf 4586-HNC
SCAN NO.
COLLABORATOR NO.
2106632

21 Aug 2024



TP-A Theart
(H Olivier)

OVERSTRAND MUNISIPALITEIT
162
REKORDBEHEER
02 OCT 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Annexure F i/8

6 Magnolia St / Str
PO Box / Posbus 296
HERMANUS
7200
Tel: (028) 313 1673
Fax / Faks: (028) 312 1351
Email:

planactive@hermanus.co.za

Website:

www.planactive.co.za

TOWN & REGIONAL PLANNERS
STADS-EN STREEKSBEPLANNERS

Our reference: PA23043/ML
Your reference: 4586 HNC
Applicaton ID: 4544/2023

2 October 2024

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

FOR ATTENTION: MRS HANNEEN VAN DER STOEP

FILE NO. Erf 4586-HNC
SCAN NO.
COLLABORATOR NO.
2132599

Sir

PROPOSED DETERMINATION OF AN ADMINISTRATIVE PENALTY, REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND DEPARTURE : ERF 4586 HERMANUS

- S.K. & W. LOOTS

Reference is made to our application dated 6 December 2023, the revised application dated 16 May 2024 and your email with objections attached thereto dated 17 September 2024.

Ten (10) objections were received. The objections can be summarized as follow:

- *The objectors waited seven months for correspondence / information on the application.*

We take note of the concern of the adjacent property owners directed to the municipality; however due process was followed.

- *The second application is merely a rebranding of the initial application.*

We want to clarify the situation regarding the initial application for short-term rental use on the subject property. The initial use of the structures was not explicitly disclosed to us, leading to a misunderstanding of the rental rights. The property owners believed they were entitled to rent out two guest rooms, which they confirmed after the first public participation process.

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

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

Handwritten initials and date: AP 2 Oct 2024

Our clients intend to continue using the property for short-term rentals and have taken the concerns raised by the community into account. To address these, they have revised the application to apply for a four-bedroom guesthouse rather than simply renting two bedrooms. This change to a guesthouse scenario aligns with the regulations of the land use scheme for SR1 zoned properties, and the existing double garage structure meets the required building lines. By applying for a guesthouse, our client aims to enhance management practices and noise control, directly addressing concerns about guest behavior and potential disturbances.

Regarding the assertion that this new application is just a rebranding of the first, we assure you that each application undergoes an independent evaluation according to established regulations and community standards. The municipality remains committed to making planning decisions that serve the best interests of the community.

- ***It appears as if the municipality is condoning a blatantly illegal act to circumvent planning regulations in order to allow an individual to financially gain at the lifestyle expense of the residential majority.***

We take allegations of misconduct seriously and appreciate your vigilance in monitoring these issues. The municipality is committed to upholding all planning regulations and ensuring that any development serves the best interests of the community. We understand your frustration and concern about potential illegalities.

The statements regarding the restoration of properties in cases of contravention are noted. The owners are now attempting to rectify the contravention by submitting the administration penalty application and subsequent removal of restrictive, title deed conditions, consent and departure applications in order to legalise the As Built structures and the respective uses thereof on the subject property.

- ***The public participation process was flawed. The consultants should not be leading the public participation process.***

We want to emphasize that both public participation periods adhered to the due process as instructed by the Overstrand Municipality. As a consulting firm, we do not have the authority to determine the extent of the notices or the time frames for the process. However, we have submitted proof to the municipality demonstrating that public participation - including notice distribution and signage on site - was conducted in accordance with their guidelines.

- ***Objectors will not be told how and when his democratic rights can be exercised.***

We understand the frustration with the perceived influence of private interests on public processes. And we agree that it is essential that the municipality operates transparently and in the best interest of the community. The comments about the handling of objections and the lack of feedback are duly noted; however due process was followed to ensure a fair and transparent public participation process.

- ***In addition, the objector states that the consultants and municipality work together to condone illegal action and benefit the applicant.***

Regarding your allegations of potential impropriety, we want to emphasize that we take such claims seriously. We are committed to upholding the integrity of our processes. We find the allegations concerning relationships between municipal staff and private entities to be unfounded and inappropriate. It is essential to maintain focus on the facts and the integrity of the processes involved.

The rental use of the structure on the subject property was not disclosed and therefore the original application did not address the short term rental use. This was not done deliberately - the owners were under the impression that they were within their rights to rent out two guest rooms. The property owners confirmed the use of two bedrooms in the dwelling for short term rental purposes following the first public participation process. Our clients also confirmed that they wish to continue to use the subject property for short term rental purposes. Our clients took into consideration the concerns raised and have decided to revise the application to a guesthouse usage to address the concerns raised. The as-built structure on site adheres to the 4m street and 2m lateral building lines as specified in the land use scheme for SR1 zoned properties. To address the short term rental use and improved management for the short term rental use, the clients have decided to apply for a four-bedroom guesthouse instead of merely renting out two bedrooms (a primary right). Guesthouses have to meet certain criteria in terms of management and noise control, hence the proposal will address objectors' concerns about guests' claimed distasteful behaviour, parties on the premises and opportunistic crime.

It is standard protocol for consultants to meet with municipal officials to discuss land use applications – to address requirements, to determine the feasibility and to ensure that we provide a realistic expectation on the risk of the application to the client. This is by no means considered collusion.

- ***The property owner must have been aware of the by-laws that applied to the property and objectors insist that the unlawful structures must be demolished (and not legalized by means of paying an administrative penalty only).***

It was stated in both the original and revised application that the owners of erf 4586 Hermanus converted the existing garages into a habitable area without the necessary land use and building plan approvals. Initially it was anticipated to convert the garage structure into a second dwelling unit. It is however now proposed to make the structure interleading with the main dwelling to create a larger dwelling house on the subject property. It is then proposed to change the use of the dwelling house to a four-bedroom guesthouse. The proposed amendments are to address all existing and proposed land uses and structures on the subject property.

- ***The unlawful construction of the double garage merely followed by the process of determining an administrative penalty to correct the unlawful construction will set a precedent for future development in the area.***

The proposed guesthouse application does not set a precedent – each land use application is considered on its own merit.

- ***The current structure and layout of the premises is not fit or compliant for use as a guesthouse:***
 - ***It is built as two parts with two separate entries with a central open area / multiple units are proposed;***
 - ***There are no suitable emergency exits;***
 - ***The rear entry to the dwelling / guesthouse is unsuitable;***
 - ***There is no communal area for guests;***
 - ***The plan lacks a manager's / owner's room.***

The existing dwelling (with garages), to be used as a guesthouse will be altered and where applicable additions will be made to make the dwelling interleading and meet the definition of a "dwelling house" with regards to the construction of the structure. The proposed site development plan indicates all the proposed changes to the dwelling to ensure that the dwelling meets the guesthouse requirements. This includes interleading rooms, sufficient number of bathrooms, a manager's / owner's room and communal areas. All objections referencing multiple units on the site should note that the proposed guesthouse will be one dwelling unit only comprising of four guest bedrooms and a manager's / owner's bedroom. The proposed alterations to the structures therefore addresses the objectors' concerns of multiple units to rent on the subject property. If the guesthouse is developed within the land use parameters for SR1 zoned erven, it can easily revert to a single dwelling house in future.

The application and future building plans are circulated to all relevant departments, including the Fire & Safety department. It is a standard condition of approval that conditions specified by the aforementioned department must be complied with.

- ***Objectors have the following parking and traffic concerns:***
 - ***the road width of Mossie Avenue is too narrow (vehicles then use adjacent properties as a turning circle);***
 - ***The parking provided at the rear side of the property is impossible with only 4,3m from the building line.***
 - ***The direct access from Mossie Street also leads to overspill on hot days – with people sitting outside and act / dress inappropriately.***

The Overstrand Land Use Scheme Regulations (2020) determines that one parking bay per guest room must be provided on site and an additional two parking bays for the owner / manager. A total of six (6) parking bays are provided for on site in line with the parking requirements: provision is made for four (4) parking bays for guests and two (2) parking bays for the owner / manager. The proposed parking layout was discussed with Mrs Hanneen van der Stoep (Senior Town Planner: Overstrand Municipality). The municipality will consider tandem parking for use by the owner / manager only. All parking bays adhere to the minimum parking requirements. Parking bays no. 1 and 2 will take access from Harmony Avenue. Parking bays no. 3 – 6 will take access from Mossie Avenue. Two separate access points are however proposed from Mossie Avenue:

- a. access point that gives access to the tandem manager's / owner's parking bays no. 5 and 6;
and
- b. access point that gives access to guest parking bays no. 3 and 4.

An application for departure is therefore included to allow two access points from Mossie Avenue to accommodate the proposed parking layout. Refer to the site development plan attached.

The conditions of approval will restrict the number of guest rooms, which will in turn restrict the volume of additional traffic that will be generated by the proposed guesthouse.

Guesthouses (especially of this scale) generate low traffic and noise pollution to residential areas. In most instances' guests do not arrive or depart at the same time either. The staggered nature of the arrivals and departures from the guesthouse together with the maximum number of guests

allowed will further mitigate the proposed guesthouse's traffic impact and ensure that the surrounding area and its road network are not overwhelmed with vehicular traffic. It is therefore submitted that the traffic and noise generated will be low and in keeping with the residential character.

- ***The title deed conditions should remain since it protects the character of the area. To accommodate the unlawful structure and proposed guesthouse use will have a negative impact on the calm ambiance of the residential area.***

The conditions imposed in the title deed were done when approving the General Plan of Hermanus Township Extension No. 4 in 1945. In the past no land use management schemes or zoning schemes existed and thus title deeds determined and governed how an area and property should be developed. If only title deed conditions were to govern the development of towns, the development of a town will be detrimentally restricted. Thus, relevant national and provincial legislation, the development management schemes, zoning schemes and spatial planning policies were promulgated to manage land use development. The restrictive title deed conditions are not aligned with the present-day planning principles and policies in terms of sustainability and resilience.

Removing title deed conditions will allow the owners of the subject property to produce an income-producing asset. The social benefit of maintaining the restrictive conditions are minimal, given the low impact the development will have on the residential amenity. In comparison, there will be social and economic benefits flowing from the removal of these conditions, including increasing employment opportunities in the area, making the area more attractive to visitors (increase in tourism to the area) and optimizing the use of the land. The proposed development is therefore also in the public interest.

Further investigation into similar land use applications indicated that a restrictive title condition does not vest neighbouring owners with private rights to property within the meaning of Section 25 of the Constitution. Section 25(1) of the Constitution reads as follows:

Property

25. (1) No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.

The restrictive title conditions which are requested to be removed are considered limitations on the building lines and use of land imposed in the public interest. Neighbouring property owners do have an interest in the restrictions, but it does not vest them with any private rights to property within the meaning of Section 25 of the Constitution. Section 25(1) of the Constitution permits the deprivation of property rights if it is done in terms of a law of general application and is not arbitrary. As a result the removal of restrictive title deed conditions are permitted and empowered by the current relevant planning laws namely Section 47 of the Spatial Planning and Land Use Management Act, 16 of 2013, Section 39 of the Western Cape Land Use Planning Act, 3 of 2014, and Overstrand Municipality's Municipal Planning Bylaw (2020).

- ***There have been multiple complaints from neighbours about the guests visiting the property that cause noise pollution and have distasteful behaviour. The rental rooms / units are described as “an inexpensive daily let that attracts multiple types”. All guest bedrooms do not have their own bathroom – further questioning the type of guests that will be accommodated here.***

By formalizing the guesthouse use, obtaining land use approval will provide neighbouring property owners added assurance of stricter management rules that apply to guesthouse establishments. This includes regulations concerning noise and disturbance, thus addressing any concerns the neighbours may have. The owners / manager residing on the premises are a requirement for this consent use and must be in place to ensure that the guests do not cause a disturbance or pollute (unlike unsupervised guests may be more likely to).

- ***The area is not a preferred area to accommodate tourist accommodation (permanent residences and not characterised by holiday accommodation) – another location should be considered.***

The Overstrand Spatial Development Framework (2020) earmarks the area where erf 4586 Hermanus is situated, for urban development purposes. The Overstrand SDF (2020) favours tourism-related development and describes the following statements for compliance for tourist facilities and tourist accommodation:

- Promote tourism development by means of strategically identifying areas which should be prioritised for tourism infrastructure / facilities development;
- Determine the nature and extent of infrastructure and facility development needed to make key natural areas accessible to all the Overstrand's inhabitants and tourists.

In addition, the 2050 Vision of the Overstrand SDF (2020) includes the key policy of ensuring that tourism destinations are accessible, safe and attractive by means of maintaining and developing new facilities. In addition, one of the Local Spatial Development and Growth Management principles is to promote tourism development based on the ecological and heritage value of the region. The strategies and policies for promoting tourism in the area do not exclude the Northcliff area where Erf 4586 Hermanus is situated..

Erf 4586 Hermanus will be used for guesthouse (tourism accommodation) purposes. The guesthouse will be accommodated in approved and As Built structures – none of which encroach the Land Use Scheme Regulations' street or lateral building lines. The residential character is therefore retained. The zoning will remain SR1. It is submitted that the proposed residential land use will respect the character of the area and is therefore compatible with the area.

The application, if approved, will provide alternative holiday accommodation options (guesthouse) within an existing urban area clearly characterised and described as a tourism village in spatial planning policies, in close proximity to the many amenities that Hermanus has to offer. The proposal is in line with the relevant spatial planning policies and benefit not only Hermanus but also the Overstrand Area as a whole. The proposed guesthouse will promote tourism in the Hermanus area. As a result, the impact of the proposed land use application on the spatial integrity of the area will be minimal and is therefore consistent with the Overstrand SDF (2020).

- ***The change of use should not be allowed. Habitable spaces should not be allowed within the building lines.***

As previously mentioned, the As Built structures meet the 2,36m title deed building lines requirement as well as all land use scheme 2m lateral and 4m street building line requirements. The proposed guesthouse use will therefore not encroach any land use scheme building lines and can be considered for approval.

- ***There has been historically an irresponsible behaviour from property owners (leaving the premises with guests visiting). The objectors therefore doubt that the manager's room will be used for the intended purposes.***

By formalizing the guesthouse use, obtaining land use approval will provide neighbouring property owners added assurance of stricter management rules that apply to guesthouse establishments. This includes regulations concerning noise and disturbance, thus addressing any concerns the neighbours may have. The owners / manager residing on the premises is a requirement for this consent use and must be in place to ensure that the guests do not cause a disturbance or pollute (unlike unsupervised guests may be more likely to).

- ***There are concerns from one objector for the increase in crime (opportunistic theft).***

Tourist accommodation and guesthouses typically do not bring higher levels of crime to an area. By formalizing the guesthouse use, obtaining land use approval will provide neighbouring property owners added assurance of stricter management and safety rules that apply to guesthouse establishments.

- ***Objectors raise environmental / services concerns due to increased tourist accommodation and activities in Overstrand.***

All services on the subject property already exist. The As Built structures and proposed guesthouse use will have no impact on the usage of the existing available services since no additional loading of the existing civil infrastructure is anticipated. Additional services (if required) will be provided to the satisfaction of the Overstrand Municipality.

The proposed land use application does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998). The subject property is not situated within the Overstrand Municipality's Zoning Scheme Environmental Overlay Zone (2020).

- ***The proposed guesthouse will have a negative impact on the property values of the area.***

This objection was not substantiated and we disagree with the statement. A well-managed guesthouse can enhance the overall aesthetic and appeal of the neighbourhood, making it more desirable for potential buyers. In addition, the presence of a guesthouse can stimulate local businesses, leading to improved amenities and infrastructure, which further boosts property values. Lastly, guesthouses often require regular maintenance and upkeep, which can lead to overall improvements in the neighborhood's appearance and property conditions.

Conclusion

The applicant is aware of the development pressures on Hermanus, however the proposed development does not constitute compromising development due to its minimal impact and compatibility with the surrounding area.

In addition, approving the proposed development will not set a precedent since each land use application is evaluated on its own merit.

It is our opinion that the application complies with the criteria of SPLUMA, LUPA and the Bylaw when considering the desirability of the application. From our response to the objections above it is evident that the development's impact on existing rights will be minimal. The subject property will be developed within the zoning scheme regulations' parameters (keeping the impact on views, privacy etc. to a minimum). The possible impact on the environment, heritage and traffic was considered and fully addressed in the application document and our response to the objections. There will be no increase in pollution and no factual information exists that the proposed guesthouse will adversely impact on the safety, health and well-being of the surrounding community or the existing rights of other landowners. The subject property's zoning will remain SR1 and the surrounding properties will still be able to exercise the development rights attached to them as well as enjoy the amenity of the area where most erven are zoned for SR1 purposes.

The proposed development meets the principle of efficiency since it promotes the optimization of land use, appropriate land development in a residential area and mild diversification of land use.

Lastly, the proposed development is consistent with the criteria for the consideration of the application in terms of the Overstrand Municipal Bylaw as well as the spatial planning guidelines for the area, since it promotes a low-impact, small-scale guesthouse establishment that does not require deviations from the applicable zoning scheme, while still allowing the area to be retained for residential living. The proposed development will not constitute an intensive and disruptive commercial enterprise.

The proposed development will not diminish the area's residential footprint. It will not constitute an undesirable non-conforming land use and will introduce appropriate land use diversity that is compatible with the surrounding area.

We trust that you find the above response to the objections in order.

Yours faithfully



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

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS,
CONSENT USE, DEPARTURE & DETERMINATION OF AN ADMINISTRATIVE
PENALTY: ERF 4586, NOTHCLIFF (4544/2023)**

Stormwater (SW) : Refer to conditions
Electricity : Refer to conditions
Water : Refer to conditions
Sewer : Refer to conditions
Roads and traffic : Refer to conditions

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the owner's cost;
3. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*;
4. 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;
5. that any additional and / or extended vehicle entrances will be for the owner's account;
6. that no reservation of on-street parking be allowed;
7. that stormwater discharged from higher lying properties and generated in the catchment area of the property be allowed to drain freely through the property;
8. that stormwater reticulation and connection(s) to the municipal system be provided at the owners cost, if required.



**RICARDO ANDREW
PRINCIPAL TECHNOLOGIST:
DEVELOPMENT CONTROL**

23/07/2024
DATE

TEMPLATE CONVEYANCING CERTIFICATE

I / we, **HENDRIK LOUBSER VAN ZYL** (Conveyancer's name) hereby wish to certify that a search was conducted in the Deeds Registry, Cape Town regarding the following properties (including both current and earlier title deeds / deed of transfer):

EA 4586 HERMANUS IN POTENT 859 m² HEND BY DECO
OF TRANSFER NO. 77972 / 2018 WITH PILOT DEED
743029 / 2011

In respect of the aforementioned title deed it was found that there are / ~~are no~~ restrictive conditions registered against such property or properties prohibiting it from being utilized or ~~developed~~ for the following purpose (as elaborated on in more detail in the accompanying application):

TO ACCOMMODATE THE USE OF THE DWELLING GARAGE INTO A
GUEST HOUSE AS PART OF THE EXISTING DWELLING AND TO ABOLISH THE BUILDING LINE RESTRICTION
 (Proposed use / development / zoning property)

Please list the relevant restrictive title deed conditions, including both the deed number, clause, and description.

Title Deed	Clause	Description
7 7972 / 2018	C 1 (1) C 1 (4)	RESIDENTIAL USE ONLY BUILDING LINE RESTRICTION
7 43029 / 2011	C 1 (1) C 1 (4)	RESIDENTIAL USE ONLY BUILDING LINE RESTRICTION

Please indicate the correct process by which the relevant conditions will be addressed:

CAN BE AMENDED OR ALTERED BY THE
ADMINISTRATOR / SUCCESSOR IN TITLE.

Compiled by **HENDRIK LOUBSER VAN ZYL**

Date 7th May 2024



Sign and Stamp

VAN ZYL KRUGER ATTORNEYS
 SUITE 520, TYGER LAKE
 2 NIAGARA ROAD
 TYGER WATERFRONT
 PO BOX 4019
 TYGER VALLEY 7636

INFRASTRUCTURE AND PLANNING

Enquiries: Liezl Lubbe
 Tel: 028 313 8944
 Email: liezllubbe@overstrand.gov.za
 Reference: 4586, Hermanus



PERSON/REGISTERED OWNER OF PROPERTY	W Loots		
ADDRESS	25 Harmony Avenue Northcliff Hermanus 7200		
REG NR/ ID NO	7703045106087	DATE	20 July 2023

NOTICE TO STOP BUILDING WORK FORTHWITH (IMMEDIATELY)

An inspection conducted on 20 July 2023 revealed that you are in the process of doing alterations to a building on Erf No 4586, Hermanus located at 25 Harmony Avenue, Northcliff

The work being the conversion of garages into habitable spaces in the area of Overstrand Municipality (being the local authority in question) which is in contravention of Section 4(1) read with Section 4(4) of the National Building Regulations and Building Standards Act No. 103 of 1977 (the Act), as no prior written approval for the erection of such building has been obtained from the said local authority.

In terms of Section 4(1) of the Act, no person shall without the prior approval in writing of the local authority in question, erect any building in respect of which plans and specifications are to be drawn and submitted in terms of this Act.

In terms of Section 4(4) of the Act, any person erecting any building in contravention of the provisions of Section 4(1) shall be guilty of an offence.

Acting under delegated powers, I hereby order you in terms of Regulation A25 (6) of the National Building Regulations, promulgated under Section 17(1) of the said Act, **to stop** forthwith the erection of the said building work.

FAILURE TO COMPLY WITH THIS NOTICE CONSTITUTES A CRIMINAL OFFENCE IN TERMS OF REGULATION A25(11) OF THE NATIONAL BUILDING REGULATIONS. Overstrand Municipality may, without further notice, institute legal proceedings against you.

SIGNED: (Delegated Official)			ADDRESS (Where served)	
SERVED:	DATE:		TIME:	
SERVER:	NAME:		SIGN:	
RECIPIENT:	NAME:		SIGN:	