



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

**A G E N D A**

<b>DATE:</b>	<b>20 APRIL 2026 (MARCH 2026 CYCLE)</b>
<b>VENUE:</b>	<b>VIRTUALLY</b>
<b>TIME:</b>	<b>11:00</b>

# OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT  
Civic Centre  
HERMANUS  
7200

**02 April 2026**

**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 **Monday, 20 April 2026** at **11:00** to consider the attached agenda.

**S MULLER**  
**CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL**

**Distribution:**

1. Mr S Müller (Chairperson)
2. Ms T de Waal (Vice-Chairperson)
3. Mr H Blignaut (Member)
4. Ms R Louw (Member)
5. Mr R Kuchar (Authorised Official)
6. Mr S van der Merwe (Principal Town Planner)
7. Ms H van der Stoep (Principal Town Planner)
8. Mr B Minnaar (Town Planner)
9. Secretariat

# MUNICIPAL PLANNING TRIBUNAL (MPT)

20 April 2026

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- 1. OPENING**
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Report attached
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## 4.1

**ERF 707, 4 MAGNOLIA STREET, NORTHCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE, AMENDMENT OF CONDITIONS IN RESPECT OF AN EXISTING APPROVAL & DETERMINATION OF AN ADMINISTRATIVE PENALTY: INTERACTIVEACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF PRINSEVELD CC**

H van der Stoep  
20 January 2026

Hermanus Administration

(028) 313 8900

**1. EXECUTIVE SUMMARY**

An application was received on 25 April 2024 from Inter Active Town & Regional Planners on behalf of Prinseveld CC on Erf 707, Hermanus for the following:

- ❖ **Consent Use** in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for a place of instruction namely a pre-school/ daycare centre.
- ❖ **Amendment of conditions of an existing approval** in terms of Section 16(2)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the amendment of the required parking required.
- ❖ **Determination of an administrative penalty** in terms of Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020

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.

**2. DECISION AUTHORITY**

Municipal Planning Tribunal

**3. BACKGROUND / SITE HISTORY**

As part of spatial planning provision should inter alia be made in an integrated and holistic manner for supporting community facilities on terms of the predominant land-uses of an area aligned with the dynamic nature of an urban environment and its needs.

From the book "The Heart of our cities" written by Victor Greun, 1964 a city is described as "The city is sum total of countless features and places, of nooks and crannies, of vast spaces and intimate spots, an admixture of the public and private domain, of rooms for work and rooms for living, of rooms for trade, where money and wares change hands, and rooms where music and drama lift the soul, of churches and night spots, of landmarks expressing the spirit of the community, and homes for the comfort of the individual.

The application is for a medium scale pre-school / daycare centre. Children from the ages of 2 – 5 years are accommodated by the pre-school / daycare centre. The pre-school / daycare centre operates from 7:15 in the mornings to 16:00 in the afternoon on weekdays. Up to 20 children are proposed to be accommodated.

The application area was previously used as a private school with students ranging from 10 to 17 years of age which included autistic student accommodation.

We want to clarify that the previous private school and current pre-school / daycare centre are completely unrelated and has different owners, staff and children.

An application was approved in 2005 to rezone the application area to Business Zone 3: Local Business to accommodate offices. The approval also prescribed parking provision.

The 2005 approval reads as follows:

"The Mayoral Committee has on 22 February 2005 resolved as follows: -

1. *that the application for removal of restrictive clauses B(a), B(b), B(c) and B(d) from title deed T45931/2002 be forwarded to the Provincial Administration: Western Cape with the recommendation that it be approved;*
2. *that the application relating to erf 707, Hermanus for rezoning from General Residential Zone to Local Business Zone (offices), be approved, subject to the following conditions:*
  - (a) that the restrictive conditions be successfully removed, and*
  - (b) that 9 parking bays as prescribed by the Town Planning Scheme be provided to the satisfaction of the Manager: Town Planning and Economic Development."*

The development objective is to legalise the existing pre-school / daycare centre, on the application area.

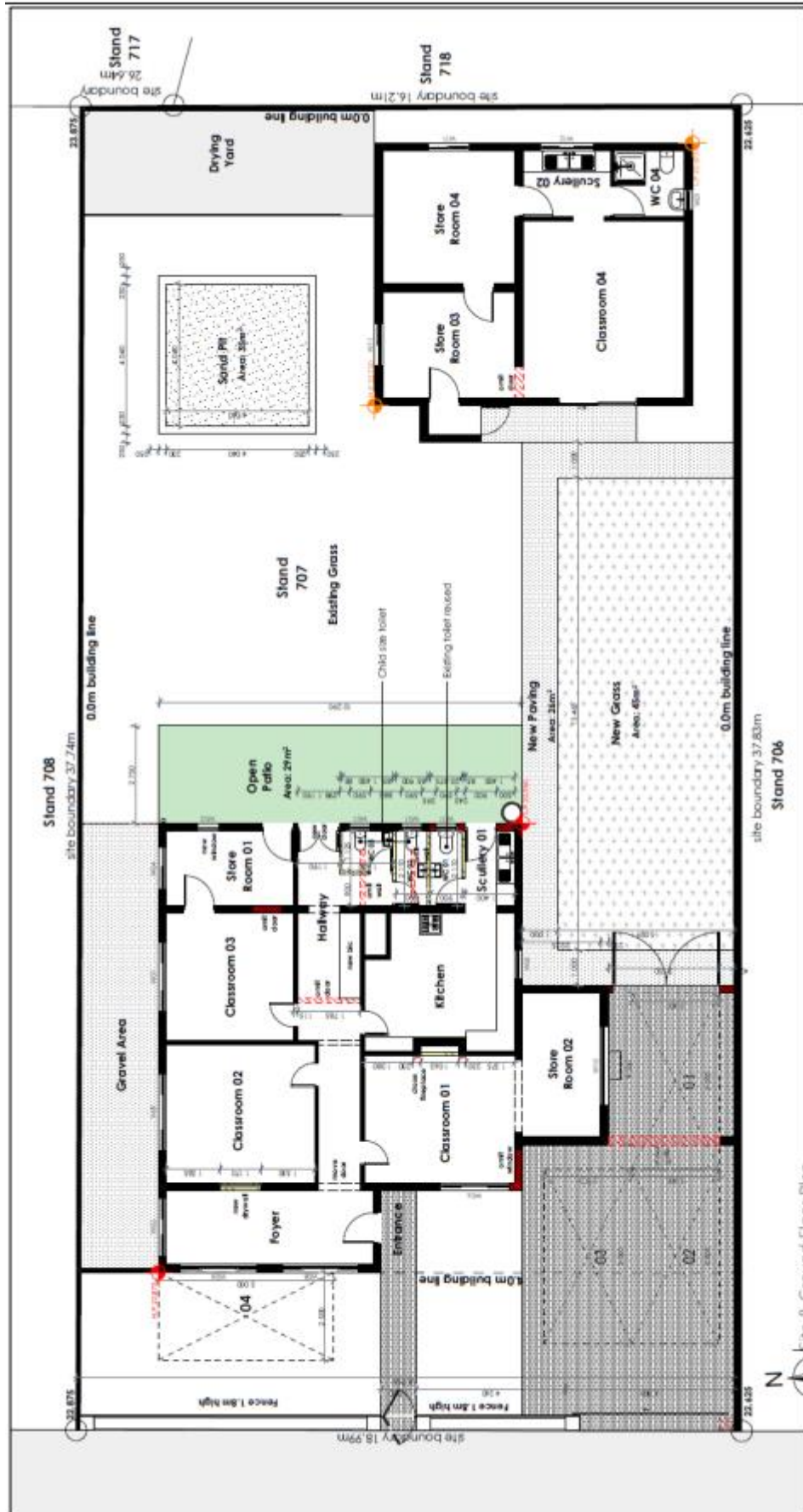


Figure 1: Site Plan

#### 4. SUMMARY OF APPLICANT'S MOTIVATION

##### Introduction and Background

The purpose of this application is to acquire the required land-use rights to legally operate a small-scale pre-school / daycare centre aimed at children whose parents predominantly work in the central areas of Hermanus.

An application for the subject property was approved in 2005 to rezone the application area to Business Zone 3: Local Business to accommodate offices. The approval also prescribed parking provision.

##### The 2005 approval reads as follows:

"The Mayoral Committee has on 22 February 2005 resolved as follows: -

1. *that the application for removal of restrictive clauses B(a), B(b), B(c) and B(d) from title deed T45931/2002 be forwarded to the Provincial Administration: Western Cape with the recommendation that it be approved;*
2. *that the application relating to erf 707, Hermanus for rezoning from General Residential Zone to Local Business Zone (offices), be approved, subject to the following conditions:*
  - (a) *that the restrictive conditions be successfully removed, and*
  - (b) *that 9 parking bays as prescribed by the Town Planning Scheme be provided to the satisfaction of the Manager: Town Planning and Economic Development."*

Children thrive in a structured and orderly environment and subsequently the pre-school / daycare centre has a well-structured program and routines which is continuously actively managed.

The children have full time supervision. Sufficient staff is proposed to ensure that children can receive sufficient personal attention.

The application area presently accommodates a pre-school / day care centre for children between the ages of 2 – 5 years. It is envisaged to restrict the number of children to 20 and to be accommodated within 4 classrooms with a teacher for each class. The school is proposed to operate from 7:15 in the mornings to 16:00 in the afternoon on weekdays only.

According to the general day programme, the indoor activities consist of 70% of the time and outside activities 30% of the time of which most of the outside time is programmed for between 14h00 and 16h00. The programme due to the age differences, provision is also made that not more than 2 classes (i.e. maximum 10 children) will be outside at a time.

Presently the Overstrand Municipality does not have a specific spatial policy for the accommodation and location of places of instruction (i.e. pre-schools / daycare centres), however a Western Cape guideline the "*Development Parameters: A Quick Reference for the Provision of Facilities within Settlements of the Western Cape*" and will be used as format for the motivation of the subject application.

In summary the following three overarching aspects are considered as the main points of consideration for assessing applications for pre-schools / day care centres:

- a. The scale of the facility,
- b. The desirability of the facility in terms of the appropriateness of its location, and
- c. The impact on the surrounding area.

### The proposal

The proposal is for a medium scale pre-school / day care centre of not accommodating more than 20 children.

The application objective is to legalise the existing pre-school / day care centre.

In order to legalise the existing pre-school / day care centre, application is for the following will be applicable:

- A consent Use for a Place of Instruction, and
- An amendment of the Conditions 2 and 2(b) of the 2005 approval to read as follows:
  2. *that the application relating to erf 707, Hermanus for rezoning from General Residential Zone to Local Business Zone (offices), be approved, subject to the following conditions:*
    - (b) *that 9 parking bays as prescribed by the Town Planning Scheme be provided to the satisfaction of the Manager: Town Planning and Economic Development."*

### The Motivation

#### Overarching Principles

The motivation is dealt with under the main headings of the scale, desirability and impact of the facility. The following sketch illustrates the composition and planned layout of the facility:

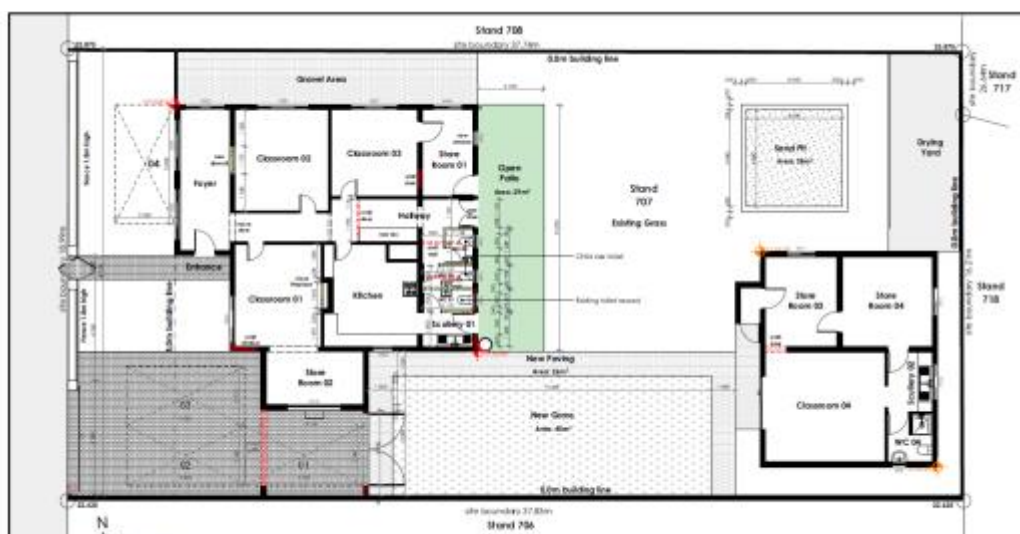


Figure 9: Site Plan

### The scale of the pre-school / day care centre

The scale of such a facility is one of the main informing factors for the placement of such facilities. Medium scale facilities of this nature can be accommodated within local areas.

However, this small-scale facility is located within a business area adjacent and opposite offices, a laundry and a welfare facility with a collector road directly abutting and in the vicinity of the subject erf. The Hermanus Primary School is also located less than 150m from the application site. These uses generate substantial activity, movement and noise during office hours.

Given the scale of the facility and taking into consideration that less than 3 hours per day the maximum of 10 children under control of teachers will be outside the surrounding uses, the impact will be low.

### The desirability of the facility in terms of the appropriateness of its location:

The desirability of a pre-school / day care centre is one of the vital components of a normal urban holistic environment.

As previously mentioned in the report, in terms of the Overstrand Municipal Growth Management Strategy, 2010 a pre-school is encouraged within the specific planning unit (Planning Unit 13) in which the subject application site is located. The need for such facility is self-evident for parents of young children working in the business area and surrounding areas of Hermanus and also making use of public transport via the taxi rank. The premises is also located in close proximity ( $\pm 150\text{m}$ ) of the Hermanus Primary School and located on a collector route. The location of the application site adheres to the principle of ensuring a well-distributed network of facility as a means of maximising accessibility.

The following map illustrates the location and subsequently the function of such facility within a general area:

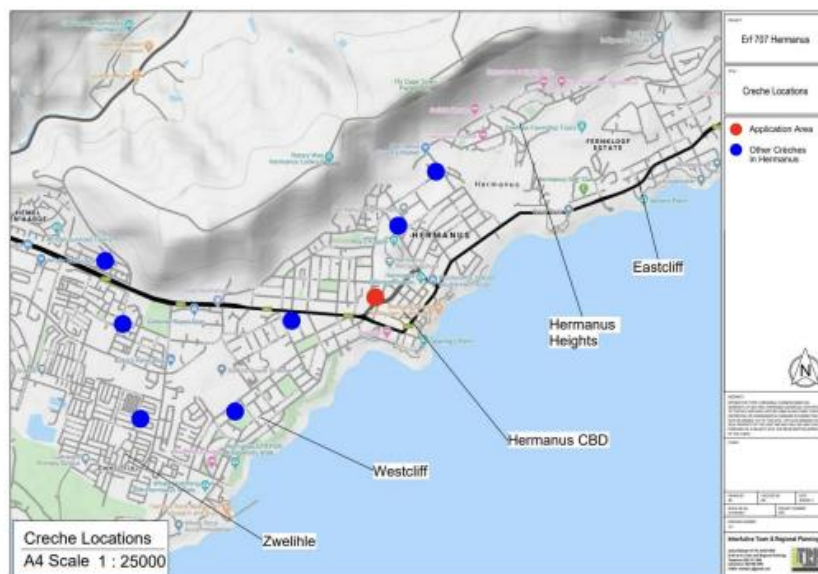


Figure 10: Crèche Locations

The need of such facility within the business area is subsequently justified from many perspectives including the municipalities own spatial policy.

### **The impact on the surrounding area**

When considering this point of motivation consideration should be taken from the previous two motivational points of scale and desirability. In a central business area, a large facility of more than 24 children in terms of other town planning schemes and the draft Provincial guideline document "*Development Parameters: A Quick Reference for the Provision of Facilities within Settlements of the Western Cape*" is supported.

### **Motivation in terms of the Provincial Development Guideline Parameters**

The following part of the motivation involves the specific points of development parameters for pre-primary schools and early childhood development centres.

### **Locational Criteria**

The location for the pre-school / daycare centre was chosen to be close and within walking distance to the primary school as well as the Hermanus central business area in order to be convenient for working parents. It is also often that parents with a child in pre-school has another child or children in the nearby primary school which is convenient to drop of the children close to each other. In terms of the locational criteria Provincial guideline document "*Development Parameters: A Quick Reference for the Provision of Facilities within Settlements of the Western Cape*", a medium-Scale pre-school can be located close to a local access road and should be incorporated into the local area without detrimentally affecting its character. The operator is required to reside on the premises, and the residential appearance is to be retained to a standard that does not detract from the residential character and streetscape of the surrounding area.

In this scenario this medium-scale school (i.e. maximum 20 children) is not in a residential area but within the transitional area from residential to businesses, however it is located on an access road. The general appearances of the directly abutting properties are still residential of nature as is evident from the following photograph:



The premises is in close proximity of the Hermanus Primary school and municipal offices on a main access road with substantial street parking in compliance with the requirements of a largescale pre-school. Subsequently it is considered that the medium-scale pre-school complying with the requirements of a large-scale pre-school is consistent with these criteria of location.

### **Site Criteria**

The following site criteria in terms of the Provincial guideline document "*Development Parameters: A Quick Reference for the Provision of Facilities within Settlements of the Western Cape*" is applicable:

- The absolute minimum facility size (building footprint, not erf size) is to be 130m<sup>2</sup> in totality.
- At least 1.5m<sup>2</sup> of space should be available per child the facility serves.
- The building size of a large-scale ECD Centre should be at least 300m<sup>2</sup> to 500m<sup>2</sup>.
- The general rule of thumb to determine facility size is to provide 0,15m<sup>2</sup> per person of the residential population being served (e.g. if the residential population is 6000 people, then the ideal facility size would be 900 m<sup>2</sup>).
- One third (33.33%) of the total area of the building to be used for circulation, administration and ancillary uses.

First of all, the footprint of the building of 205m<sup>2</sup> exceeds the minimum total size for a pre-school.

The proposed 20 children will require 30m<sup>2</sup> and subsequently exceed this requirement.

The building size of the building as previously mentioned is 205m<sup>2</sup> which is not compliant with a large pre-school, however, a large pre-school is not proposed but a medium scale school and is therefore considered sufficient.

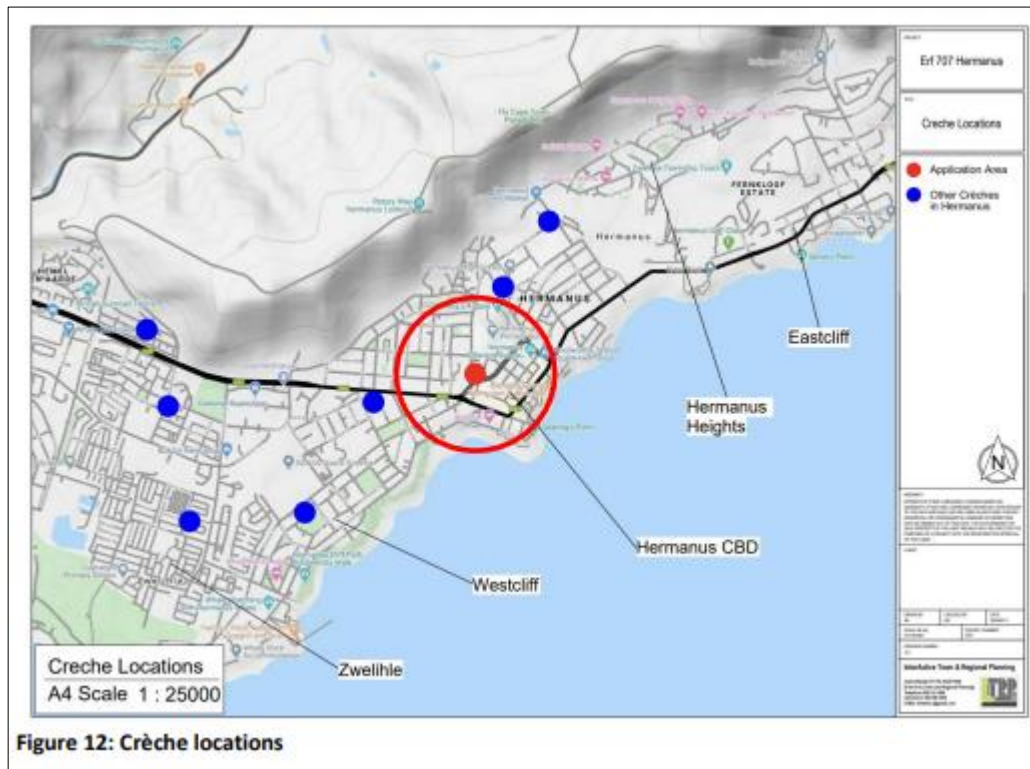
Based on the size of the planning unit in terms of Overstrand Municipal Growth Management Strategy, 2010 the estimated population of the planning unit is 660 people thus a facility of almost 100m<sup>2</sup> would be required. Given that people bringing their children from all over Hermanus bring their children to the Hermanus Primary School, it is estimated that the existing school of 205m<sup>2</sup> will be consistent with the size of the building.

The area for circulation, administration and ancillary uses is calculated at 285m<sup>2</sup> which is also consistent with the said guidelines.

### **Accessibility, Distance and Site Spacing Criteria**

The application site enjoys exceptionally good access. The mentioned guidelines advise that ideally, a pre-school facility to be within a maximum of 750 metres or 15-minute walk time of its users.

In the following sketch a circle of 750m radius around the application site is shown. No other pre-school is located within this radius and accessibility is augmented by the general taxi rank located within this 750m radius.



Based on the above the application site can be considered fully consistent with the point of access criteria.

Population threshold criteria In terms of provincial guidelines for development parameters of facilities the following criteria is set for population threshold: “The following sets out the number of people / dwelling units that will justify the need for ECD:

- 2400 people (600 dwelling units) for low-income areas.
- 3600 people (900 dwelling units) for high income areas, where a demand has been warranted.

Cautionary note: The provision of an ECD is highly dependent on the community profile. As a general rule of thumb, 40% of the children the age group (1 – 5) should be provided for.

The pre-school / daycare facility on the application site being located within the Hermanus business area can be considered as a middle-income area given that the direct adjacent residential areas are middle/high-income areas whilst the children from the outside area being catered for are from lower, middle- and higher-income groups.

The measurement for this pre-school / day care centre cannot clearly be determined by a specific radius, given that the fact that it is located within the Hermanus business area close to the general and central taxi rank and the Hermanus primary school from where parents travel from surrounding areas outside the direct threshold and catchment area. However, based on the Overstrand Municipality Growth Management Strategy, 2010, the number of dwelling units within the planning unit in which the application site is located amounts to almost 300 dwelling units.

It can be assumed that the daily inflow of people from the outer areas to the Hermanus central and especially the primary school area of almost 1 100 children will account and contribute to the threshold figures and the need and justification for such pre-school / day care centre in addition to the existing dwelling units within the threshold area.

### **Other criteria**

The following guideline other criteria is provided for the assessment and justification of a pre-school from a provincial perspective:

- All facilities must comply with National Health and Safety regulations.
- In lower income communities: preferably within walking distance and on the route taken by older children walking to school.
- Noise factor to be taken into account when clustering facilities.
- A drop off area must be provided for parents, taxis and busses, particularly in residential areas. • All sites must be of acceptable proportion and gradient.
- Parking must be provided in larger ECD centres for at least the minimum staff contingent.

In terms of National Health and Safety regulations, the existing pre-school is fully compliant and was already subjected to a number of inspections.

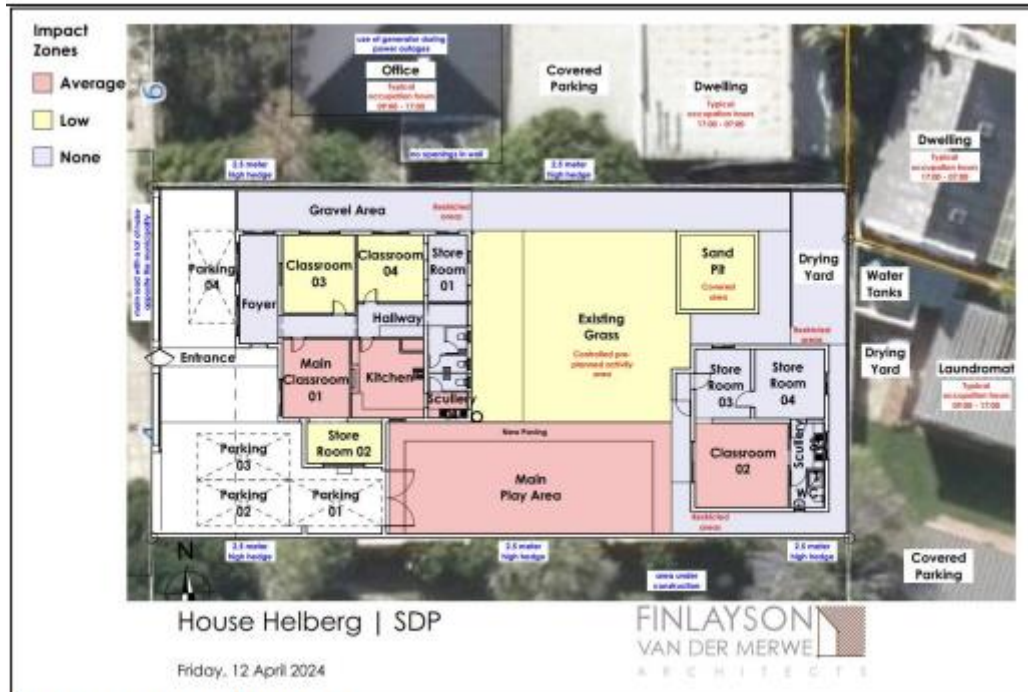
Although the pre-school / daycare centre provides for all income groups, the pre-school / daycare centre is on the same route from the taxi rank where the lower income communities walk to the school. Respectively, the application site is only 120m from the taxi rank and the Hermanus Primary School is 150m further from the application site, meaning that both facilities are within easy walking distance for the lower income communities.

The noise factor is taken into account given the location of the application site being adjacent to existing but also possible future office working environments.

Furthermore the consideration must be taken that unamplified human voice is not considered a disturbing noise in terms of the Western Cape Noise Control Regulations, 2013. Nevertheless, in respect and consideration of the location in relation to the existing and future working areas the following specific noise mitigation measures are proposed to mitigate potential noise.

- Windows will be kept closed, especially on the northern side which faces offices.
- A 2,5m hedge is located between the pre-school / day care centre and the adjacent office,
- A restricted area is provided between the pre-school / day care centre and the adjacent office with the main play area furthest away from the adjacent existing offices,
- Break times and the playing of children outside will be limited to specific times and children will always be under supervision.
- No generators are or will be used.
- The application area is on a busy road which generates significant ambient noise, thus mitigating the potential additional impact of the pre-school / day care centre.

Cognisance must also be taken of the layout of the building as shown in the following sketch illustrating the noise mitigation measures.



**Figure 13: Site Development Plan**

The surrounding area is a mixed-use area with significant ambient noise, thus being compatible with the nature of the proposal.

In terms of the Spatial Development Framework, 2020, community facilities should also be located at points of highest access in urban settlements which this pre-school / day centre complies with.

In terms of a drop-off area guideline, provision is made for a drop-off area, and the number of parking is consistent with the Overstrand Municipal Land Use Scheme, 2020. In addition to this street parking is also available within the adjacent street.

Aligned with the provincial parameter guidelines, the application site is fully compliant in terms of the erf's proportion and gradient. The gradient is flat and the proportion of the property is rectangular with ample movement areas, and dedicated areas for the different functions of such pre-school / day care centre, inter alia making provision for safe vehicular area, play areas and also restricted movement areas.

Lastly, in terms of the Provincial guideline document "DEVELOPMENT PARAMETERS: A Quick Reference for the Provision of Facilities within Settlements of the Western Cape, relating to parking where it is required that "Parking must be provided in larger ECD centres for at least the minimum staff contingent" even as the pre-school / day care centre is not a large scale school, provision is made for staff parking, and is fully consistent in terms of the Overstrand zoning scheme, 2020.

DETERMINATION OF AN ADMINISTRATIVE PENALTY

Application includes the determination of an administrative penalty for the existing land use.

- ***The nature, duration, gravity and extent of the contravention;***  
The application area was used for a crèche with less than 5 children since February 2024.
- ***The conduct of the person (allegedly) involved in the contravention;***  
The owner is fully willing to cooperate and go through the necessary processes to legalise the existing crèche and allow for the proposed pre-school / day care centre.
- ***Report by a quantity surveyor in matters of unauthorised building/construction;***  
There has been no construction as the transgression was one of land use.
- ***Whether the unlawful conduct was stopped; and***  
The crèche is still operational as this application is to legalise the existing use. The crèche also provides employment as well as care for children which is considered to be undesirable if stopped.
- ***Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.***  
To our knowledge, the owners have not previously contravened any planning law.

DESIRABILITY

The application proposal is considered desirable for the following reasons:

- The pre-school / daycare centre provides for an important need in the community which is to have a suitable place for younger children to go while parents are working.
- The pre-school / daycare centre is well located in the sense that is close to the primary school and withing the Hermanus CBD and has easy access to the transport network.
- The location of the pre-school / daycare centre is within an area with significant ambient noise, especially from the road, thus reducing potential additional noise impact.
- Potential noise impacts are mitigated, supervised and managed.
- The application area is within a mixed-use area and thus compatible with the character of the area.
- The application proposal is consistent with the relevant policy documents and Western Cape provincial development parameter guidelines.

As motivated above, the proposal is considered desirable and is compatible with the character of the surrounding area.

**POLICIES AND REGULATIONS**

Overstrand Municipal Spatial Development Framework, 2020: The application area falls within the CBD as well as a heritage overlay area:



Management Approach		
Commercial / Community Nodes		
<b>CBD</b> Central Business District	Business uses, commercial, retail and offices should be concentrated within the central business district and within the existing areas. High density residential uses should be promoted within the CBD area with supporting community facilities where appropriate.	
Special Places		
	New Hermanus Harbour	Preserve coastal walkway to Old Hermanus Harbour
	Magnetic Observatory	Public facility with regional significance
	Fick's Pool	Preserve and enhance public amenities.
	Spring & War Memorial	
	Old Hermanus Harbour	Preserve as part of the urban conservation and tourism area.
	Hoy's Kopie	Conserve and enhance the existing open space system.
Industrial		
	Industrial Development	Industrial activities within the Greater Hermanus area should be restricted to service and clean light industry.
Heritage		
	Heritage Areas / Overlay Zones	Compile a Heritage Management Plan for the demarcated precincts with heritage informed development guidelines.
Open Space / Linkages		
	Open Space Linkages	Protect and enhance open space corridors and linkages between the mountain and urban environments.

Figure 7: Spatial Development Framework 2020 Spatial Proposals Plan

2.8 OUR FACILITIES

Hermanus

Facilities	Additional Required 2021	Additional Required 2026	Additional Required 2031	Total Required
Small crèche/ Childhood Dev.Centre	3	3	6	12

### 2050 Vision: Greater Hermanus

LO 4 (ii) Buildings that accommodate community activities, as well as education, health and entrepreneurial development and business and skills training, should be located at points of highest access in urban settlements.

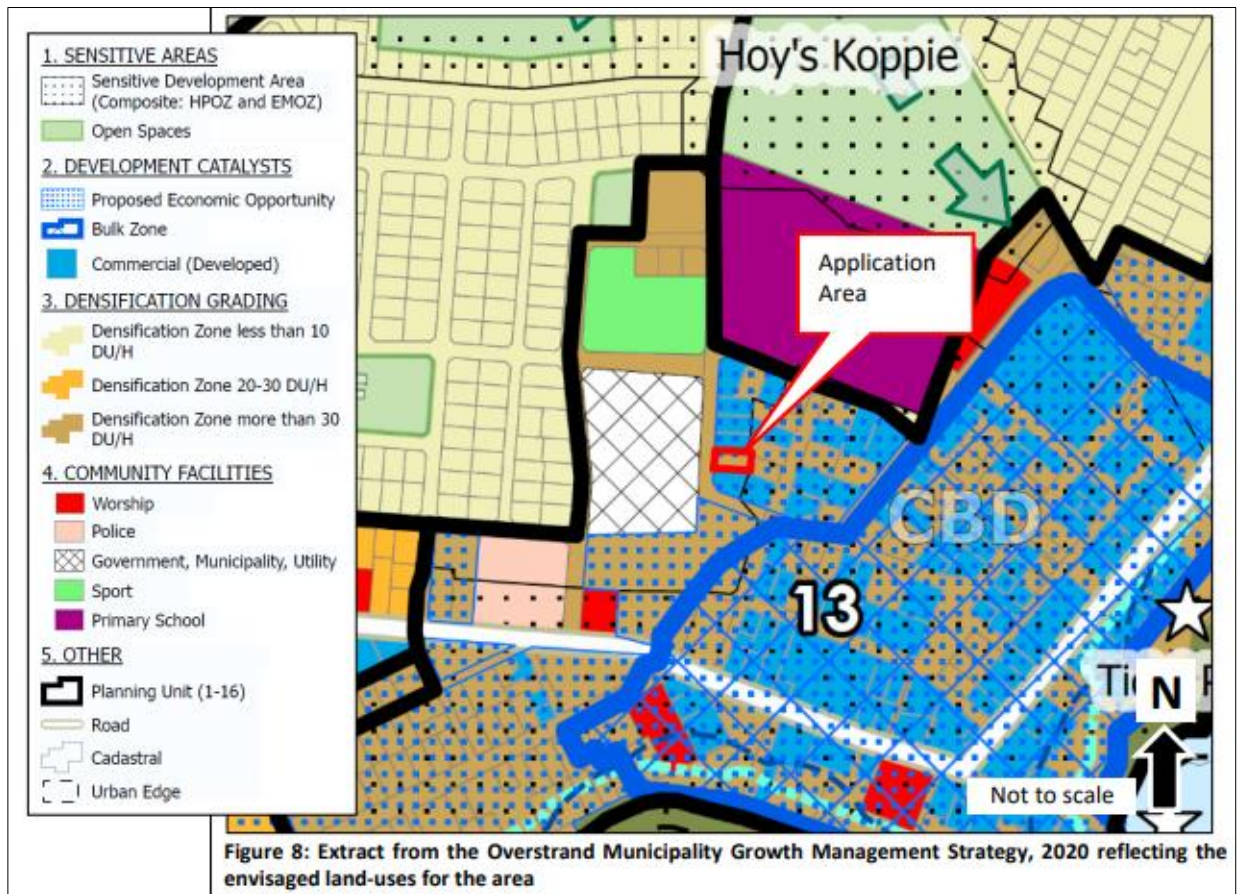
The application is consistent with the Overstrand Municipal Spatial Development Framework, 2020.

### Overstrand Municipality Growth Management Strategy, 2010 and draft 2020

The application area is within an area earmarked for densification for more than 30 dwelling units per hectare and is within a proposed economic opportunity area.

In terms of the 2010 Growth Management Strategy, one pre-school facility can be justified in the location of the application site, Planning Unit 13. Presently no pre-school is located within this Planning Unit.

The application is consistent with the Overstrand Municipality Growth Management Strategy, 2010 and draft 2020.



**Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020**

Application for administrative penalty:

- (1) A person who is in contravention of this By-Law, 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
- (2) A person making an application contemplated in Subsection (1) must –
  - (a) submit an application;
  - (b) pay the prescribed fee;
  - (c) provide the information contemplated in Subsections (3); and
  - (d) comply with the duties of an applicant in Section 84.
- (3) The applicant must, to the satisfaction of the Municipality, provide the following information such as-
  - (a) the nature, duration, gravity and extent of the contravention;
  - (b) the conduct of the person (allegedly) involved in the contravention;
  - (c) a report by a quantity surveyor in matters of unauthorised building/construction;
  - (d) whether the unlawful conduct was stopped; and
  - (e) whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.”

**DEVELOPMENT PARAMETERS: A Quick Reference for the Provision of Facilities within Settlements of the Western Cape guideline document**

The purpose of this guideline document is described as follows: “The aim of this guideline is to provide relevant stakeholders with the various aspects that need to be taken into consideration when either putting together or assessing a development application in the Western Cape. The guideline sets out the various considerations which need to be taken into account when providing for a facility within a settlement. It considers locational requirements, general standards applicable to the facility, the required threshold population densities and accessibility concerns that need to be taken into consideration when planning for the provision of a facility.”

Important and relevant to the application, it is noted in the said document that “In line with the need to promote compact settlements and to reduce the need for motorised travel, where appropriate, multi-functionality of space must be promoted at both the facility and the land use scale. Generally, facilities should be placed on some form of activity node or corridor, depending on its place in the hierarchy of facilities. For example, a lower order facility – such as an Early Childhood Development Centre - will have a lower threshold and smaller range and therefore be placed at a fairly localised node or activity corridor with primarily localised access. Conversely, a higher order facility – such as a University - would have a higher threshold and large range and therefore be placed at a higher-order activity spine or corridor, with a high degree of access.”

The following extract of this guideline document provides relevant criteria for a pre-primary school:

#### PRE-PRIMARY SCHOOLS AND EARLY CHILDHOOD DEVELOPMENT CENTRES



##### DESCRIPTION

A Pre-Primary School or Early Childhood Development Centre can be defined as a facility which provides for the care of, learning and support for babies and/or young children. This includes a day-care centre, crèche, nursery school and aftercare centre.



##### LOCATIONAL CRITERIA

**A Large-Scale ECD Centre** (25 children and more) should be located adjacent to public open spaces, schools, churches and other community facilities, on main access roads. In terms of the Policy, this clustering promotes sharing of parking, maximises access and confines the traffic impact to a defined area.

**A Medium-Scale ECD Centre** (10 - 24 children), on the other hand, can be located on or close to a local access road and should be incorporated into the local area without detrimentally affecting its character. The operator is required to reside on the premises and the residential appearance of the building is to be retained to a standard that does not detract from the residential character and streetscape of the surrounding area.

**A Small-Scale ECD Centre** (less than 10 children) can be located within a dwelling house on or close to a local access road and should be incorporated into the local area without detrimentally affecting its character. The operator is required to reside on the premises and the residential appearance of the building is to be retained to a standard that does not detract from the residential character and streetscape of the surrounding area.



##### SITE CRITERIA

Site size considerations are the following:

- The absolute minimum facility size (building footprint, not erf size) is to be 130m<sup>2</sup> in totality.
- At least 1.5m<sup>2</sup> of space should be available per child the facility serves.
- The building size of a large-scale ECD Centre should be at least 300m<sup>2</sup> to 500m<sup>2</sup>.
- The general rule of thumb to determine facility size is to provide 0,15m<sup>2</sup> per person of the residential population being served (e.g. if the residential population is 6000 people, then the ideal facility size would be 900 m<sup>2</sup>).
- One third [33,33%] of the total area of the building to be used for circulation, administration and ancillary uses.



##### ACCESSIBILITY, DISTANCE AND SITE SPACING CRITERIA

Ideally, an ECD within a maximum of **750 metres** or **15 minute** walk time of its users.



##### POPULATION THRESHOLD CRITERIA

The following sets out the number of people / dwelling units that will justify the need for ECD:

- **2400 people (600 dwelling units)** for low income areas.
- **3600 people (900 dwelling units)** for high income areas, where a demand has been warranted.

**Cautionary note:** The provision of an ECD is highly dependent on the community profile. As a general rule of thumb, 40% of the children the age group [1 - 5] should be provided for.



##### OTHER CRITERIA FOR CONSIDERATION

- All facilities must comply with National Health and Safety regulations.
- In lower income communities: preferably within walking distance and on the route taken by older children walking to school.
- Noise factor to be taken into account when clustering facilities.
- A drop off area must be provided for parents, taxi's and busses, particularly in residential areas.
- All sites must be of acceptable proportion and gradient.
- Parking must be provided in larger ECD centres for at least the minimum staff contingent.

#### ❖ Planning Principles:

Spatial Justice: which refers to the need for redressing the past apartheid spatial development imbalances and aims for equity in the provision of access opportunities, facilities, services and land.

#### **Possible results of the development**

The pre-school / daycare centre will be equitably available for children. The application proposal is consistent with the principle of spatial justice.

Spatial Sustainability, which refers to the fact that a spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.

**Possible results of the development**

The proposal is for a use of an existing developed property within the urban edge and will therefore not impact on valuable agricultural land, environmentally sensitive and biodiversity rich areas, or scenic and cultural landscapes. The application proposal is consistent with the principle of spatial sustainability.

Efficiency: which refers to the manner in which settlements themselves are designed to function in such a way that there will be a minimum need to travel long distances to access services, facilities and opportunities.

**Possible results of the development**

The pre-school / daycare centre is well located in terms of distances to travel since it is in close proximity to the primary school and within the Hermanus CBD, where parents typically work. The application proposal is consistent with the efficiency principle

Spatial Resilience: which, in the context of land use planning, refers to spatial plans, policies and land use management systems which should enable communities to be able to resist, absorb and accommodate any economic and environmental shocks which might occur in a timely and efficient manner.

**Possible results of the development**

The proposal is for a use of an existing property and will not impact on spatial resilience. The application proposal is consistent with the principle of spatial resilience.

Good Administration: which, in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure that a joint planning approach is pursued. Possible results of the development Consultive practices are being followed in this application as it is done in consultation with the Planning Department of the Municipality who will also advertise the application in such a manner as to enable the Government and the general public to participate in the eventual decision-making process.

The application proposal is consistent with the principle of good administration.

**5. ADMINISTRATIVE COMPLIANCE**

Methods of advertising		Date published	Closing date for comments
Notices via e-mail / site notice	<b>Yes</b>	24 June 2024	26 July 2024
Internal Departments	<b>Yes</b>	24 June 2024	26 July 2024
Ward Councillor	<b>Yes</b>	24 June 2024	26 July 2024

Total comments	<b>FIVE (5)</b>
Total letters of support	<b>NONE</b>
Was public participation undertaken in accordance with section 46- 50 of the By-law on Municipal Land Use Planning?	<b>Yes</b>
Was the application processed correctly (if no, elaborate below):	<b>Yes</b>
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)	<b>Yes</b>






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

Name	Date received	Summary of comments
<b>Building Control</b>	25/06/2024	No objection. The building plan application must comply with all applicable law.
<b>Fire Department</b>	17/07/2024	No objection subject to compliance with the provisions of SANS 10400-A:2016, 10400-T:2020 and the By-Law relating to fire safety.
<b>Services Report</b>	22/05/2024	See Annexure G.

#### 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Notices were e-mailed to surrounding property owners and the Hermanus Ratepayers Association. A notice board was also placed on-site by the consultant.

Five (5) letters of objections were received during the public participation process. See list below. The applicant was provided with an opportunity to respond to the objections. See Annexures D and E respectively.

LIST OF OBJECTORS	
	<i>L Coetzee (Office Park sectional title owner)</i>
	<i>P Spronk (Office Park sectional title owner)</i>
	<i>P Spronk</i>
	<i>Plan Active Town- and Regional Planners</i>
	<i>Van Dyk Land Surveyors</i>

The letters of objections, the applicant's reply and the Municipal Town Planner's response thereon can be summarized as follows:

#### BACKGROUND BY APPLICANT

An application was submitted on 25 April 2024 for a Consent-Use application to operate a day care centre on Erf 707 Northcliff Hermanus including an application for the amendment of the conditions of an existing approval and the determination of an administrative penalty. Objections were received from the owners and tenants of the adjacent properties Erven 717 and 708 Hermanus.

**Application objective**

The application is for a pre-school / daycare centre to accommodate a maximum of 20 children between the ages of 2 – 5 years old operating from 7:15 in the mornings to 16:00 in the afternoon on weekdays creating a facility for children of parents primarily working or staying in close vicinity of the small-scale daycare centre.

In addition to the above, the application objective is to legalise the existing operational daycare centre.

**Objections**

Five (5) objections were received from related occupants of Erven 708 and 717 Hermanus.

The objectors are:

- Louise Coetzee, 7 Patterson Street
- P. Spronk, 7 Patterson Street
- Pauline Spronk, owner of Erf 708 Hermanus, 6 Magnolia Street and employee of Plan Active Town & Regional Planners
- John Mc Lachlan on behalf of Plan Active Town & Regional Planners
- L.A. van Dyk for Van Dyk Land Surveyors & Associates Inc: Pauline Spronk

It is evident from the above that all the above objectors are in some or another way related and is likely that these objections were orchestrated.

The main objection to the application is noise.

It should be acknowledged that cities / towns are places where people come together to enjoy the benefits of living and working in close proximity to others. Through the arrangement of activities, built form and open space, urban development must ensure that these benefits are accessible to all and generate further opportunities for social and economic development. Sustainable development can only result when there is a goal to improve the environmental, social and economic situation. Whether driven by the public or private sector, the objective should always be to create a better city or town for all to benefit from. This application proposal serves as an element toward contributing to creating a better town for the public good.

**Background to the objectors**

All the objectors operate from neighbouring offices on Erven 708 and 717 Hermanus including the owner and employee of Plan Active Town and Regional Planners, a surveyor operating from the same property, then also the same person as the owner of Plan Active Town and Regional Planners, P Spronk as a trustee of the office park trust and Mrs Louise Coetzee one of the sectional title owners of the Office Park complex.

It is evident that reasons provided are not applicable to their own interest but can be seen as efforts to enhance their reasons of objections. The objectors in general ignored the provincial guidelines and their comments are considered mainly subjective unjustified personal opinions.

The objectors do not acknowledge the need of pre-school children being close to their parents during business hours and they also ignore the fact that the primary school is within 200m from the application site.

### **Methodology followed in the response to the objections**

The response to the objections is dealt with by summarizing the points of objection where to each of the analysed points are responded to.

#### **✚ OBJECTION – Illegal Use**

*The school is operated illegally since January 2024.*

*The school showed complete disrespect of the Overstrand Municipal Scheme regulations being Business 3: Local Business for the use of shops, dwelling unit (above ground floor) in accordance with 6.3.2., flats (above ground floor) offices, restaurant, caretaker's accommodation and self-catering. Only after approval a consent use can be utilised for a place of instruction.*

### **APPLICANT'S RESPONSE**

It is clearly stated in the application that "The purpose of the application is to acquire the required land-use rights to legally operate a small-scale pre-school / daycare centre aimed at children whose parents predominantly work in the central areas of Hermanus."

The application for the pre-school / daycare centre is in contradiction with the objector's derogatory statement of "The school shows complete disrespect of the Overstrand Municipality" actually proves respect for the law and the Overstrand Municipality.

Given the function of the pre-school / daycare centre, the immediate termination of the school from a humanity perspective would cause serious disruption to the parents and children already accommodated at the school.

The objectors create the impression of complete incompatibility but ignores the complimenting effect and function of a pre-school / day care centre within this area of employment of Hermanus and surround.

Furthermore the objectors also ignores the fact that their business operation is also lacks compliancy with the Overstrand Municipality Zoning Scheme criteria.

The operators from the school undertook to comply with the reasonable conditions of the application.

As background to the above it should be noted that Erf 707 Hermanus was originally zoned Residential Zone 1: Single Residential (SR1), which permitted the operation of a creche with less than 5 children as a primary right. The current operators indicated that upon review, it was discovered that the rezoning was already approved but not updated at that stage by the Overstrand Municipality, leaving only the Consent Use Application outstanding.

It should also be noted that the creche has received the necessary health certificate and approval from the Overberg District Municipality for a capacity of 50 learners but has limited this to 20 in respect and consideration of the neighbourhood.

### **TOWN PLANNER'S RESPONSE**

The aspect of disrespect of Municipal Laws; The applicant did consult with the Municipality of their intention. During the consultation the applicant was informed that an application will be required for a Place of Instruction and that it will be a high-risk application. Should they proceed, it will be at their own risk, and the outcome of such an application is not guaranteed.

Due cognisance is taken that an immediate termination will cause serious disruption. Should the application not be in favour of the applicant, a relocation time period will be granted to ensure that possible disruption be kept at the minimum.

The statement of the applicant that the objector's office does not comply with the Overstrand Land Use Scheme is uncalled for. The objectors use of their property is in line with the primary rights e.g. offices.

It should be noted that the applicant did obtain an Overberg District Council health certificate, however the land use is not compliant in terms of the Overstrand Land Use Scheme.

### **OBJECTION – Noise Factor**

*The school has a detrimental impact on the tenants as a result of the noise originating from the sand play area canalised from the canopy built over the sand play area and also from the play areas directly built adjacent to the boundary wall.*

*The pre-school /daycare centre is currently operational with less than the targeted 20 children and the noise factor emanating from the children's play area has already caused a disturbance in the operation of my office activities. My office windows must be closed during telephone conversations and client meetings.*

*In terms of the Western Cape Noise Control Regulations, 2013 the objector attests to the disturbing noise emanating from toddlers shrieking, crying and yelling in the sand pit situated virtually on the boundary between Erven 707 and 708 Hermanus. There is also noise of several toddlers riding plastic scooters.*

*The objector also mentions that the traffic in Magnolia Avenue is not a disturbing factor to the office activities as the sound is absorbed by the trees in the front section of Erf 708 Hermanus. The disturbance is caused by the noise emanating from the play area situated at the back of Erf 707 Hermanus in the enclosed play area on the boundary between Erven 707 and 708 Hermanus.*

*It is mentioned that "the potential noise impact is not mitigated, supervised and managed as per the motivation report."*

### **APPLICANT'S RESPONSE**

As mentioned in the opening paragraphs of the report, it is clear that noise is the main objection to the application.

The objections are considered to be taken out of context and exaggerated by the objectors. The impression exists that there might be a personal non-related dispute between the owners.

The operators has in response to the objections in writing confirmed that “The creche limits outdoor play to just **one hour per day**, aligning with Hermanus Primary School’s outdoor play schedule.”

“Once playtime is over, all activities occur indoors, ensuring that noise is limited. Additionally, the creche is closed on public and school holidays, which further reduces any potential disturbance.”

The operators responded further by stating that “Furthermore, 90% of the creche's learners are part-time, which further reduces noise and activity levels.”

The objectors strongly worded statement that “the potential noise impact is not mitigated, supervised and managed as per the motivation report.” is confusing as it refers to a **potential use** (present tense) that is “not mitigated, supervised and managed as per the motivation report.”

Based on an independent sample, it was confirmed that the employees of the nearby PSG building were not even aware of noise originating from the pre-school / daycare centre in strong contrast of the objectors’ objection providing it as if it is a fact. Sound from the primary school however is evident at the said offices, but mostly only during playtimes.

### **TOWN PLANNER’S RESPONSE**

The applicant did indicate that the outdoor play is limited to the Primary School outdoor play schedule. First and foremost, the Primary School has been in existence since the early 1900’s. Therefore, businesses established in the area accepted the possible noise impact.

Primary school: The outdoor play area is not a confined space in close proximity of the adjacent erven. The school noise thus disperses and limits the direct impact on neighbouring businesses.

The mitigating measures as proposed in the motivation cannot limit the effect of children’s noise (especially small children) in the outdoor play area and should also not be required to do so.

Due cognisance is taken of the independent sample of the PSG building; however, this is not a true reflection of the direct impact on the objector’s office. The PSG building is not located adjacent to the pre-school/daycare. A true sample would have been to measure the noise from the objector’s erf.

During a site inspection to the objectors’ office to establish the “exaggerated noise levels”, it became clear that the application for a pre-school/ day care centre does have an impact on the adjacent erf. During play time all windows alongside the application erf have to be closed due to the noise emanating from the pre-school/ daycare centre. The noise does have an impact on the professional services rendered by the objector to the public, especially reception and consultation with clientele.

✚ **OBJECTION – Desirability and compatibility of the application site**

*The school does not fit in the environment and character being used predominantly for office use.*

*Land-use Planning unit 13, referred to by the applicant, does not proposed a pre-primary school and daycare among offices but rather the need for a primary school within the area, where a primary school already exists.*

*The pre-school / daycare centre is not in a desired location as the area is earmarked for business purposes- offices. The dominant land-use in the area is office use as the area has attracted high-end users like PSG and investment companies. It is stated that the operation of the pre-school / daycare centre will be detrimental to the area and will be out of character.*

*It is mentioned that accessibility is of great importance, and that the subject erf is in close proximity to the taxi rank and major routes to the primary and high school. This need is justified from many perspectives, including the municipality's own spatial policy. However, the surrounding land-uses surrounding Erf 707 Hermanus are disregarded. Accessibility does not validate the proposed change in use to a pre-primary school and daycare on a property rezoned specifically for office use.*

**APPLICANT'S RESPONSE**

The objectors incorrectly claim that the area is a predominantly office-based area; it actually has a diverse range of zoning and uses, including:

- Residential
- Business (1 and 2)
- Authority
- Public and private open spaces
- Community zoning

Local businesses include medical practices, a laundromat, a public library, bookshops, the Hospice Shop, local government offices, and a bowling club. This variety of land-uses clearly demonstrates that the area is not an exclusively office use area.

The objectors do not give acknowledgement to the function and secondary influences and impact of the existing primary school in its present location. It is often found that a pre-school or daycare centre in within close proximity of a primary school.

The fact that the primary school and the pre-school are part of the Hermanus CBD and abutting the employment area is considered complimentary to the variety of land-uses within the development node of the application area.

From an urban design point of view it is placed that towns are made up of a multitude of components often with conflicting requirements and demands therefore to create successful and well performing urban environments, the impact or people required consideration and therefore it is essential to understand the performance of the whole and not the optimisation of individual parts. Urban design seeks to provide a holistic understanding of city-making and takes balanced approach to the requirements of the individual urban and landscape components while prioritising the performance of the

urban environment as a whole (Taken from the City of Cape Town's Designing Quality Places: Urban Design Policy- August 2024.)

It is evident that the objectors fail to acknowledge the view of a balanced approach and a holistic understanding of city-making to enhance the performance of an area and subsequently disregarding progressive latest urban planning trends.

### **TOWN PLANNER'S RESPONSE**

The applicant's reply on the objection is based on the area earmarked Business Zone 1: Bulk Zone 1. The CBD area is a mixed-use area as indicated in the land uses mentioned in the reply. However, the area between Magnolia Street, Aberdeen Street and Royal Street has been identified by the Planning Division for primarily office use, with a residential component (Office node). The area is predominantly zoned as Business 3: Local Business.

The applicant references various land uses in a wider area, not applicable to the demarcated area for primarily office use and the application for a Place of Instruction does not coincide with the land uses within the demarcated area. The applicant is correct in identifying land uses within the office node that is not only office related, however the Laundry is an historical activity, and should it be at any stage cease to operate, the erf may only be used for offices and residential. The Hospice Shop was approved to be subservient to office use. The application to comply with the requirement is in the planning process.

Due notice is taken to the Urban Design Policy of the City of Cape Town. The policy is based on a holistic approach to balance conflicting land uses to create successful environments taken into consideration the impact on the surrounding activities or people. Of importance is that a balanced approach be taken to weigh the impact on the surrounding community. The informants allow the City and or a Municipality to guide forward planning to identify areas with activities conducive to balance the impact of various activities.

The Municipality implemented this approach in demarcating the Office node on the edge of the CBD core, a transition area between the core and the residential area. The proposed activity is not advantages in establishing the Office node, especially the impact on the office related uses. The impact on the objector's erf and the professional service it renders cannot be ignored in executing their primary rights.

### **OBJECTION – Safety concerns**

*The objectors claim that the placement of existing pre-school / daycare centre that is not in the interest of the children and parents being on a busy local access road. They claim that the lack of demarcated parking bays for drop-off and collection of children a safety hazard is to the children and even more if the children have to cross Magnolia Avenue to get access to the school entrance.*

*An extended objections supported with photographs were raised about the safety impact of the pre-school and daycare centre claiming that regular protests are held in Hermanus with the end destination at the Overstrand Municipality building.*

**APPLICANT'S RESPONSE**

The point of objection raised by the objector's has no direct relevance or impact on the objector's property. This point of objection is rather seen as a point simply used by the objector to denigrate the application to favour their views and objections.

Safety is obvious without doubt a non-negotiable matter to the operators of the pre-school / daycare centre.

The location of schools are encouraged along collector roads as through-traffic within residential areas are not ideal. Together with this, the objectors ignore the fact that pre-school children are accompanied by their parents. - this is normal. Furthermore the likelihood is that the parents would park on the premises where provision will be made once approved.

In terms of the protest actions, the objectors appear to create the impression that protest take place almost daily, which is not true.

The area is generally safe, which is evident by the number of children safely walking to Hermanus Primary and Hermanus High School. If the area was not a safe area, it is also likely that the objector would have provided more security measures on their property or relocated to a safer area.

Subsequent to the above, the points of objections are not considered valid points of objection, or relevant to the objectors' land-uses and is subsequently requested to be rejected by the deciding authority.

**TOWN PLANNER'S RESPONSE**

The safety concerns are noted, but management remains the responsibility of the pre-school/ day care to deal with protest actions. The issue with regard to the drop-off will be dealt with under parking.

** OBJECTION – Parking**

*It is claimed that the proposed parking is not compliant, feasible or accessible as per the Overstrand Municipal Scheme Regulations.*

*A section of the street boundary wall to widen the entrance / exit cannot be demolished to make way for access to parking bay 4 and 3 as it has historical value.*

*The parking is not utilized as depicted on the SDP, currently provision is made for only one (1) vehicle on site.*

*Parking must be provided for 10-15 cars of parents to collect children at 12h15 and again 10-15 that will collect them at 16h00.*

*Parking bays situated in Magnolia Avenue are used by Overstrand residents visiting the library and conduct business at the Overstrand Municipality.*

*When Municipal tenders are submitted in the tender boxes situated at the municipal building's Magnolia Avenue entrance, the parking bays in Magnolia Avenue are fully occupied.*

*It is not reasonable to expect the municipality to furnish parking bays to the pre-school that is not on the interest of the public or will inconvenience ratepayers.*

### **APPLICANT'S RESPONSE**

The parking proposed for the pre-school / daycare centre is in contradiction with the objector's opinion, fully compliant with the Overstrand Municipal Scheme Regulations.

The Overstrand Municipal Planning By-Law, 2020 requires for a creche or day-care centre "one bay per 10 children plus a stop-and-drop facility where a day care centre makes provision for more than 30 children or determined by the Municipality".

The proposed pre-school / daycare centre is proposed for 20 children meaning that two (2) parking bays are required. The parking layout proposal was discussed with the relevant municipal engineer which supported the current proposed layout making provision for two (2) staff parking and two (2) parent parking. The claim that 10 to 15 parking bays need to be provided is completely incorrect from the objectors. It appears that the objectors try to put the application in a bad light. The statement is completely unfounded.

As mentioned in our application, the creche has fixed hours for drop-off and pick-up, with parents arriving from 7am, well before the business day begins at 8am. The creche closes at 4pm., avoiding conflict with the 5pm business closing times and peak traffic hours. It should also be acknowledged that drop-off and pick-up times are quick and prompt (approximately 2 minutes), and there are no significant impact on surrounding areas or public parking.

In light of the above the point of objection should be ignored.




**TOWN PLANNER'S RESPONSE**

The parking requirements in terms of the Land Use Scheme are 1 bay per 10 children plus a stop-and-drop facility where a daycare centre makes provision for more than 30 children or determined by the Municipality.

This requirement relates to facilities in residential areas. The application site is located on a business zoning and therefore the requirements for residential areas are not applicable.

The requirement for a Place of Instruction is 1 bay per classroom or office plus a stop-and drop facility. There are four (4) classrooms and the requirement of 4 bays per classroom are complied with. The drop and go facility are located in the street as indicated by the applicant. The parking requirements for a Place of Instruction are met in terms of the Overstrand Land Use Scheme, and the parking arrangement has been viewed positively by the Engineering Department.

 **OBJECTION – Inconsistencies**

*A place of instruction is not consistent with the approved use of the subject erf, which is designated for office.*

*The repeated reference to the area being within the CBD and primarily utilized for business purposes is misleading.*

*The applicant inconsistently described the ECD facility, initially referring to it as a small-scale pre-school and daycare but later as a medium-scale school.*

*The pre-school be accessible to all income groups and capped to 20 children- questions the viability- expect more children to be accommodated to make it feasible and subsequently being detrimental to the surrounding professional office uses.*

*Pre-primary schools and daycare centres are vital components of a holistic environment, but their location should be compatible with surrounding land-uses and not negatively impact them.*

*It is stated that the Site Development Plan (SDP) is incorrect and incomplete. They claim the sand pit with awning differs from what has been indicated on the SDP and that the position of various other playground equipment has also not been indicated on the SDP.*

*The one objector claims that the motivational report mentions that there is restricted area provided between the pre-school / day care centre and the offices, but the statement is incorrect. There is a sand pit with an awning and colourful painted tyres placed right next to the boundary wall in close proximity to the office space most adversely affected by the noise.*

*The objector also claims that the motivational report indicates that the pre-school / daycare centre will keep its windows closed as part of the noise mitigation measures but considers it to be impractical and not beneficial for a class full of children not to have fresh air, especially in summer.*

*He further claims with regards to inconsistencies that the motivational report mentions that a 2,5m hedge would be a noise mitigating factor, but states that there are no hedges situated on Erf 707 Hermanus.*

*The objector claims that the statement in the motivational report that there are no other pre-schools situated in the immediate area to be incorrect.*

### **APPLICANT'S RESPONSE**

It is acknowledged that the current zoning does not allow for a pre-school, hence the reason for the application.

It is not clear why the objectors find it misleading stating that the premises is within the CBD, as it is within the Hermanus Central Business Area as defined in terms of the Overstrand Municipal Spatial Development Framework, 2020 and shown in the extract, even being on the edge of the CBD, it is still within the CBD. Even though, different types of businesses are found and accordingly interpreted by the local authority, no reason is foreseen for the terminology to be misleading.



The use is considered, especially on the proposed scale and within close proximity of the primary school to be complimenting the area by providing a facility where pre-school can be accommodated within close proximity of the areas where parents work.

The objection made that the location of such a facility should be compatible with the surrounding land-uses and not negatively impact them is supported, however as mentioned in the motivation report it is considered compatible, complimenting and supporting. It is considered that the objectors are subjectively opposed to the application.

The resistance of the objectors against the pre-school / daycare centre appears rather to be a matter of intolerance and over- sensitivity as the description of the noise appears to be exaggerated.

The mitigation measures can be implemented, and it would be a good idea to negotiate measures.

It is important to understand that a town is a complex functional system of mutual linked urban components such as residential, commercial, industrial, public services, educational, recreational and transport land-uses. For the optimal and harmonious

functioning of these different land-uses it is most important that the different characteristics in terms of erf sizes, residential units and types, land values, building values, floor area, building design, land ownership and socio-economic population characteristics are taken into account when urban areas are planned and applications being made. This contributes to particular land-use patterns, population and morphological structures. These components should be orderly sited to obtain the most balanced and efficient utilization, functioning and development of land. Land is a scarce resource; therefore it is imperative that every portion of land be utilized effectively and optimally and contributing and complimenting each other.

### **TOWN PLANNER'S RESPONSE**

The applicant acknowledges that the Place of Instruction is not a primary right on the business zoned erf, therefore the reason for the application.

The area falls in the area demarcated as CBD as per the Spatial Development Framework, 2020. In terms of the Overstrand Land Use Scheme, the application area falls in the CBD Bulk Zone 2 area. However, the area between Magnolia, Aberdeen and Royal Streets has been demarcated for office use with a residential component only by the Planning Division of the Overstrand Municipality, which is not reflected in the forward planning documents. The demarcation will be reflected with the review of the Overstrand Spatial Development Framework, presently in process.

The Consultant refers to a pre-school/daycare centre interchangeable. The difference in terminology and categorization of an ECD stems from the different legislation applicable and definitions. In terms of the Provision of Facilities within Settlements of the Western Cape- guideline document, the application falls within the category of a Medium Scale ECD Centre. The Overstrand Land Use Scheme does not apply the same general set of guidelines for ECD's as per the Western Cape Guidelines. The scheme allows land use activities in relation to the erf's zoning and is more restrictive and descriptive of the use of a property. Therefore, in terms of the Overstrand Land Use Scheme, the application on a business zoned erf, a Place of Instruction is applicable, which falls in the category of a Medium Scale ECD in terms of the Western Cape guidelines on ECD's.

The statement of the viability of the day care/ pre-school is noted, however does not fall within the ambit of the Municipality to verify the financial viability of the establishment.


The objector acknowledges the fact that pre-school and daycare centres are vital components of a holistic environment and part of the urban fabric. However, the location of such facilities should be considered carefully not to impede on existing activities in the surrounding area. The applicant responded as follows..., *"therefore it is imperative that every portion of land be utilized effectively and optimally and contributing and complimenting each other."*

In this scenario that application for a Place of Instruction located is not contributing or complementing the surrounding area since it has a direct impact in terms of noise pollution on the objector's erf and is not in line with the municipal planning for the area demarcated as an office node.

The SDP submitted with the application does not reflect the present situation. There is a play frame alongside the objector's boundary. With regard to the mitigating factors - the sandpit, jungle gym and other play equipment are located along the objector's fence, and it will be very difficult to mitigate the noise in an outside play area.

The closure of windows as mitigating measure is proposed in the motivating memorandum, however it does seem impractical, since the noise pollution rather relates to the outdoor play time.

The applicant's comment of intolerance and over sensitivity is uncalled for and an emotional response on the objections raised.

 **OBJECTION – Economic feasibility**

*It is stated that "it is not economically viable to operate a fully-fledged pre-school / day care centre with rent and other expenditures as well as salaries for teachers and supporting staff with only 20 children, and sooner than later it is anticipated that the number will increase drastically.*

**APPLICANT'S RESPONSE**

The point of objection is considered as another attempt of derogate the application.

The feasibility of the business is of no concern of the objectors and the statement of the objectors that the number of children is unfounded assumption without any base.

Therefore this point of objection should be ignored.

**TOWN PLANNER'S RESPONSE**

The economic feasibility of the day care centre/pre-school is not a function of the Municipality, but that of the proprietor.

**APPLICANT'S CONCLUSION:**

It needs to be understood that a town like Hermanus consists of functional systems of mutual linked urban components such as residential, commercial, industrial, public services, educational, recreational and transport land-uses. For the optimal and harmonious functioning of these different land-uses it is important that the different characteristics are taken into account when applications are considered. These components should be orderly sited to obtain the most balanced and efficient utilization, functioning and development of land. In addition to this it should also be taken into consideration that towns are dynamic and changes all the time in terms of needs, desirability due to technological evolution, however the principle of mutual linked urban components towards a functioning town remains.

Given the above, the objectors' mutual primary objection is about noise, but is clearly exaggerated. They also do not acknowledge or promote the latest urban planning trends towards holistic city-making following a balanced approach towards urban areas but merely object for the purposes of their own one-dimensional office use. They used several other points of objections/reasons which has no impact on their property to resist this application for a pre-school / daycare centre.

Thus, by not accommodating diverse land-uses, results to an unbalanced and incomplete town.

### **TOWN PLANNER'S RESPONSE**

The conclusion is noted with regard to latest urban planning trends; however, it remains each municipality responsibility to direct the latest urban trends to the benefit to all its residential and business inhabitants. The area has been demarcated for local business with residential. Thus, creating an office node in close proximity of the Municipal Offices.

The Consultant is correct that the primary objection is about noise, however it is not exaggerated as claimed. During a site inspection it was found that the noise is very audible and windows facing the pre-school must be closed during the outdoor play timeslot.

**As per the Hermanus Kleuterkampus website the daily program in the play areas is as follows:**

#### **Children between 4-5 years**

Free play outside:	8:10 – 8:35
Activity on playground:	8:35 to 9:05 (this time slot has various activities proposed of which one is outdoor)
Free play outside:	10:45 to 12:00
Free play outside:	14:00 – 15:30

#### **Children 2-3 years**

Free play outside:	8:10 – 8:35
Activity on playground:	8:50 to 9:00 (this time slot has various activities proposed of which one is outdoor)
Free play outside:	10:45 to 12:00
Free play outside:	14:00 – 15:30

Thus approximately 3,5 hours relates to outdoor play, which does have a detrimental impact on the adjacent professional office and is unclear how the consultant intend to mitigate outdoor play (noise) for children from 2 years up to the age of 5 years old.

## **8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS**

See Paragraph 7 above.

## **9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner's comment on objections/and response thereon)**

See Paragraph 7 above.

### **Internal and External Departments**

The application was supported by all internal municipal departments.

**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

The pre-school/day care centre is available to all children.

Spatial sustainability

The erf is located within the CBD and thus would have no impact on the natural environment.

Efficiency

Additional services to the property will not be required as the erf is fully serviced. However, should upgrade be required, it will be to the applicant's account.

Spatial Resilience

The building will be subject to the National Building Regulations, 1977 and SANS.

Good administration

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

**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**

In terms of the SDF the application site is located in the are depicted as part of the CBD, Bulk Zone 2 and not the core of the CBD. The management directive is to develop the CBD as a commercial zone consisting of retail, offices and commercial activities. Higer residential density should be promoted with the appropriate community facilities if required. The higher density residential of permanent residency has not realised and therefor the appropriate community facilities is not required, such as the proposed pre-school/ day care facility. The CBD is too expensive in terms of rental and rates and taxes to make smaller

privately owned ECD facilities viable. The erven are too small with little space for the required outdoor area necessary for outdoor activities.

In terms of the Growth Management Strategy, the application site is located outside the core, Bulk Zone 1 of the CBD in an area depicted for economic opportunity. The economic opportunity for the area has been limited to office use by the Planning Division. This has been promoted and supported by the Municipality over the years. The application (consent use for a pre-school/ day care centre) does not fall within the ambit of the economic opportunity envisaged by the Planning Division and the proposed land use is not conducive for an office environment.

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

N/A

**10.6 Impact on Municipal Engineering Services**

No additional services will be required. The proposed development is supported by the Engineering Services Department, subject to conditions (attached as Annexure F).

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

N/A

**10.8 Existing and proposed zoning comparisons and considerations**

N/A

**11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS**

N/A

**12. THE DESIRABILITY OF THE PROPOSAL**

**DETERMINATION OF AN ADMINISTRATIVE PENALTY**

Application includes the determination of an administrative penalty for the existing land use.

○ ***The nature, duration, gravity and extent of the contravention;***

The application area was used for a crèche with less than 5 children since February 2024 according to the applicant but has progressed to a day care/pre-school.

○ ***The conduct of the person (allegedly) involved in the contravention;***

The owner was informed by the Municipality that the use will be an application and a high-risk application due to the possible noise impact. The applicant still proceeded with the land use activity.

- ***Report by a quantity surveyor in matters of unauthorised building/construction:***

There has been no construction as the transgression was one of land use.

- ***Whether the unlawful conduct was stopped; and***

The applicant was informed in 2023 that the proposed activity is illegal, and an application must be submitted. The applicant did proceed with an application and with the opening of the day care centre/ pre-school.

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

The owners have not previously contravened the Overstrand planning law.

#### NEED AND DESIRABILITY:

The application is for a consent use: Place of Instruction on Erf 707 and amendment of approval conditions, dated 2005 to depart from the parking requirements. The property was rezoned in 2005 to Local Business for office use with nine (9) parking bays on site. The latest approved building plan for Erf 707 is building plan no 76152, dated 1976.

The implication of the aforementioned is that it is unclear whether additions were made to the building after 1976 and should the erf revert back to its primary uses, whether it will be able to comply with the parking requirements as per the Overstrand Land Use Scheme.

The CBD in Hermanus consist of Business Zone 1 and 2: General Business: Bulk Zone 1 and a Bulk Zone 2 of which the Bulk Zone 1 is the commercial hub. Bulk zone 1 is the area earmarked for mixed land uses consisting of commercial, offices and residential component. The Bulk Zone 2 consists of related to office use with a residential component or higher residential density.

The area demarcated for office use with residential component is located between Magnolia, Aberdeen, Dirkie Uys and Royal Streets. The demarcated area (Office Hub) consists of the 22 erven of which 18 erven have business zoning. The business activities relate primarily to office use. The applicant made reference to various other land uses in area, such as the primary school, which is located outside the office Hub. The commercial uses to which the applicant refers: is the Hospice retail shop and the laundromat. The retail component of Hospice is subservient to the office use; the latter is presently under construction. The Laundromat is a historical land use, which also has a residential component. The area is thus predominantly office related and is not deemed a mixed-use area as per the motivation.

The application for a pre-school/daycare centre needs to be evaluated against the background and context of the creation of an office node in the Bulk Zone 2.

#### This the reasons for creating the office node are as follows:

- ❖ The close proximity to the Municipal Head Office the area is surrounded by the local street network, thus creating an island.

- ❖ The area has limited access to the Bypass Road e.g. Royal Street which is a main feeder to the commercial hub of Hermanus town.
- ❖ Dirkie Uys street, the northern boundary of the office hub becomes a one-way street and does not have access to Royal Street but forms a ring road via Paterson Street into Aberdeen Street.
- ❖ Due to the aforementioned configuration of the road network adjacent the primary school, land use activities generating constant vehicular movement, motor vehicles, delivery trucks and noise pollution have been limited by the restriction of retail and land uses activities generating noise pollution and safety concerns.
- ❖ The proposed land use is evaluated against the aforementioned and is not in line with the office environment which is evident in the objections received.
- ❖ Office space is a structured business activity and entails space where meetings, conferencing and sharing of ideas take place.
- ❖ The focus is on productivity and privacy, accessibility and sufficient parking.

The application erf is located directly adjacent to objectors' professional practice. A portion of the play area, which consists of a sandpit and a jungle gym are adjacent to the objector's offices. During a site inspection at the objectors' offices, the noise generated by the outdoor play activity is extremely audible. The objector's office windows need to be closed during this period to enable the office to continue with its activities. The outdoor play activity is not the only noise generator, the pre-school also offers music activities, which in itself is a noise generator, which is not taken into account. The objector clearly stated it will be unreasonable to expect the small children not to make noise whilst playing outside. The use for a daycare centre/pre-school impedes on the essence of an office node such as conferencing with clientele and productivity.

The Consultant made two points in relation to the existing noise contributors in the area such as the primary school located in close proximity to the office hub. Due consideration should be given that the primary school's noise is spread over a large area and the noise disperses, thus lessen the impact of noise pollution. The primary school is buffered by the local network and do not directly impact the objector's professional practice. The second point was that the objector is exaggerating the noise levels. This is not correct, during a site inspection during outdoor playtime, the noise is very audible and disruptive. The windows had to be closed to proceed with the office activities. The applicant is incorrect to indicate that the activity is not disruptive to an existing professional office space.

There is a need for ECD's within the Overstrand Municipal area, however this should not be the only determining factor in evaluating the application. The applicant was informed of the risk associated with the land use in a predominantly office environment but choose to proceed with an application. A consent use is a secondary right that should not be to the detriment of the surrounding properties or planning direction for development in the area.

Due to the fact that the planning direction for the demarcated area has been implemented over the years for primarily office use, the consent application is found to not be desirable due to the noise impact on the office environment.

### 13. RECOMMENDATION

1. 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 707, Hermanus for consent use to allow a place of instruction namely a pre-school/daycare centre, **not be approved** in terms of the provisions of Section 61 of the By-Law.

that the application in terms of Section 16(2)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 707 Hermanus for the **amendment of conditions of an existing approval** (Conditions 2 and 2(b) for the amendment of the sufficient parking required to read as follows:

2. *that the application relating to erf 707, Hermanus for rezoning from General Residential Zone to Local Business Zone (offices and place of instruction), be approved, subject to the following conditions:*

*(b) that sufficient parking be provided in terms of the town planning scheme.*

**not be approved** in terms of the provisions of Section 61 of the By-Law.

3. 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 707, Hermanus for the illegal land use is **not considered** since the application is not recommended for approval.
4. that the applicant and persons who commented be notified of their right of appeal in terms of 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 proposed application has a negative impact on the adjacent office land use.
- ❖ The planning direction is restricted to office use and residential land uses.
- ❖ The proposed land use is not conducive to an office environment due to the noise factor.
- ❖ The negative impact of outdoor play activity cannot be mitigated.

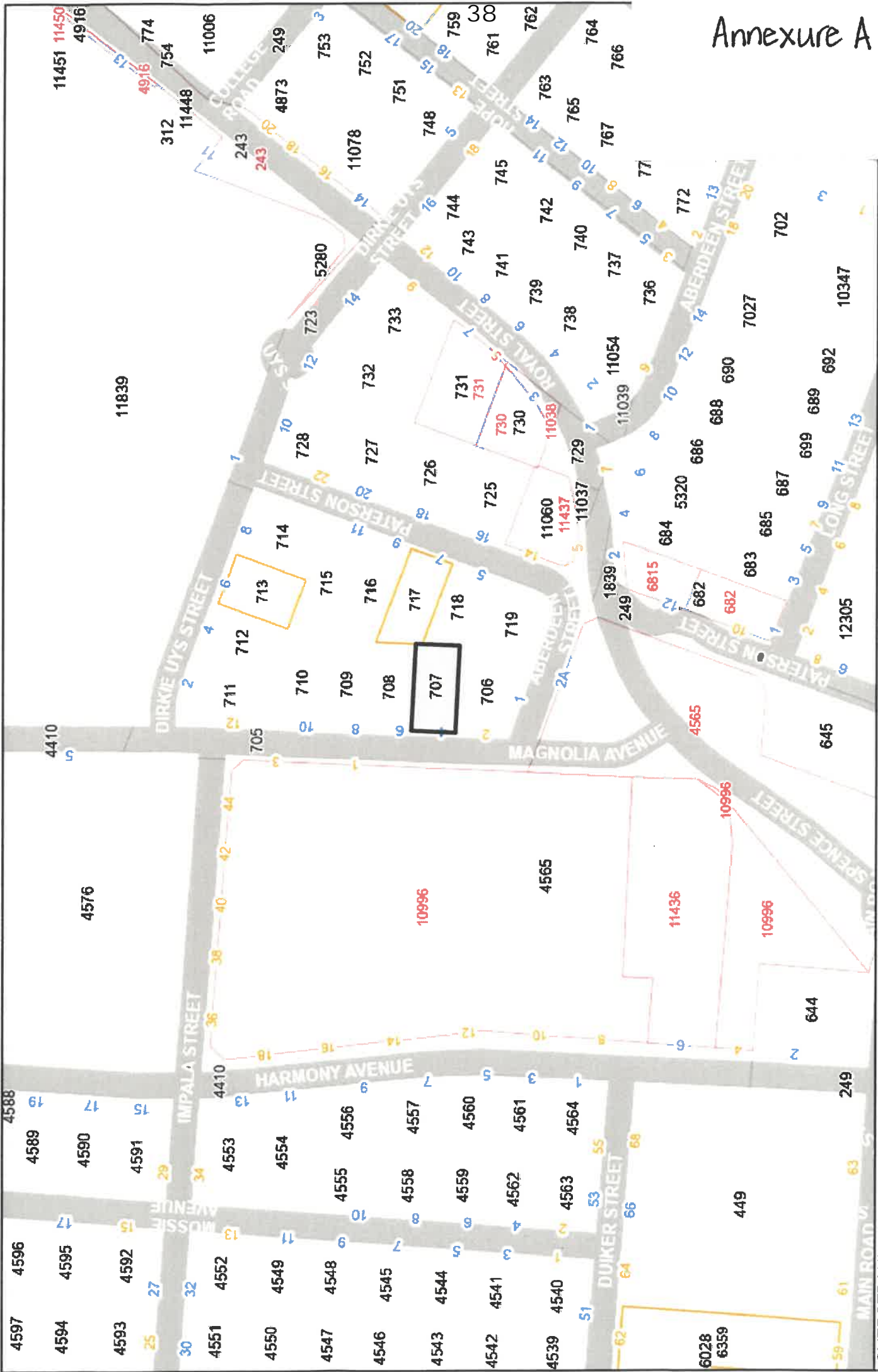
### 15. ANNEXURES

- Annexure A: Locality Plan
- Annexure B: Motivation Report
- Annexure C: Site Development Plan
- Annexure D: Objections received
- Annexure E: Applicant's response to objections received
- Annexure F: Services Report

**SIGNATURES****REGISTERED PLANNER**Name: **H VAN DER STOEP**SACPLAN registration number: **A/1708/2013**


Signature: \_\_\_\_\_

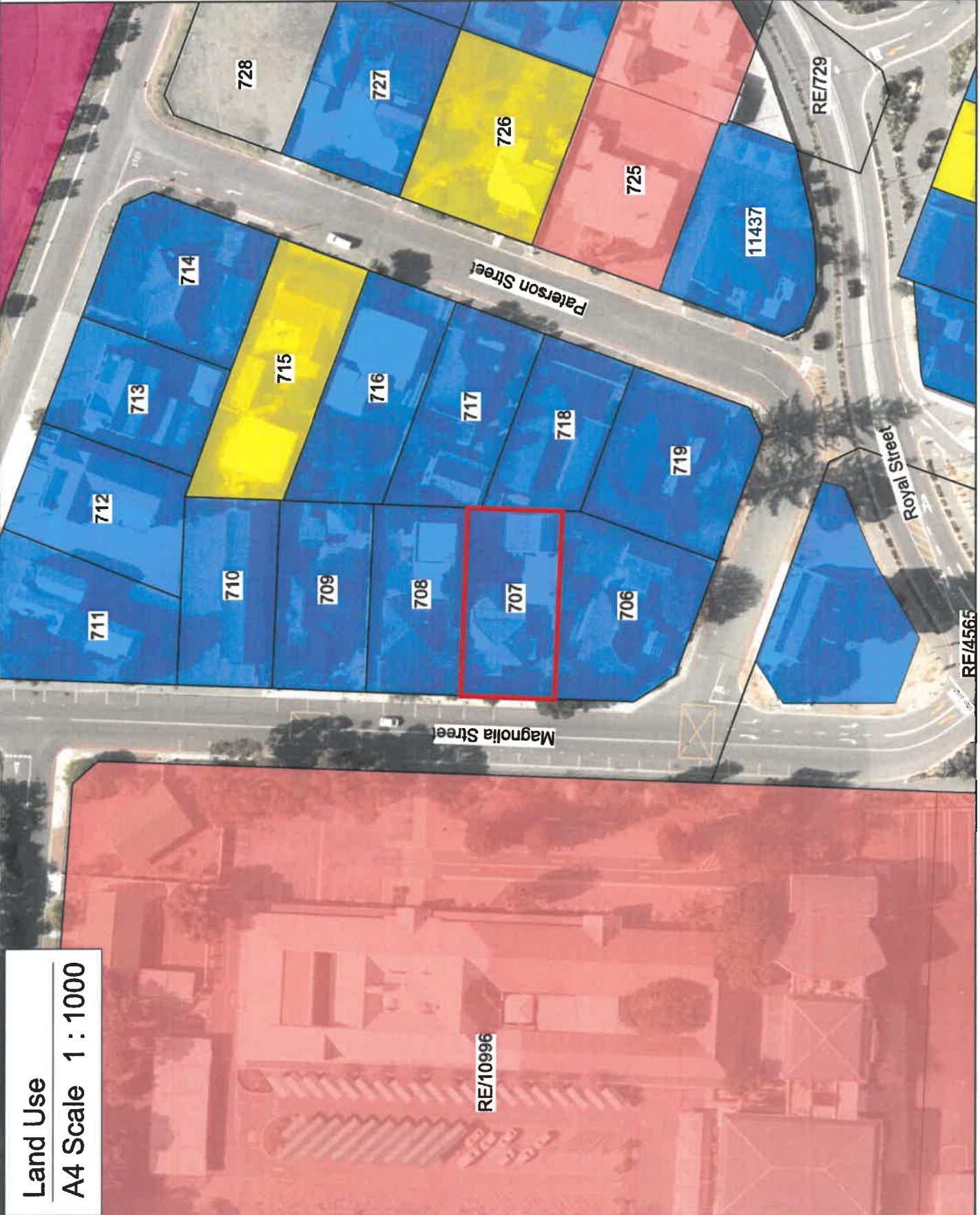
Date: \_\_\_\_\_



Locality Map

ERF 707, 4 MAGNOLIA AVENUE, NORTHCLIFF, HERMANUS

<b>PROJECT</b> Erf 707 Hermanus	<b>TITLE</b> Land Use Plan	<b>Application Area</b> <span style="display:inline-block; width:15px; height:15px; border:1px solid red; margin-right:5px;"></span> Application Area <span style="display:inline-block; width:15px; height:15px; background-color:yellow; margin-right:5px;"></span> Residential <span style="display:inline-block; width:15px; height:15px; background-color:blue; margin-right:5px;"></span> Business <span style="display:inline-block; width:15px; height:15px; background-color:purple; margin-right:5px;"></span> School <span style="display:inline-block; width:15px; height:15px; background-color:orange; margin-right:5px;"></span> Authority <span style="display:inline-block; width:15px; height:15px; background-color:grey; margin-right:5px;"></span> Vacant		<b>INCUMBENT:</b> INTERACTIVE TOWN & REGIONAL PLANNING UNLESS NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, WITH REGARD TO THE ACCURACY, COMPLETENESS, OR AVAILABILITY OF ANY INFORMATION OR DATA IS MADE. THE DATA REMAINS THE SOLE PROPERTY OF THE CLIENT AND MAY ONLY BE USED FOR APPROVAL OF THE CLIENT. <b>CLIENT:</b>
<b>DRAWN BY:</b> Author	<b>CHECKED BY:</b> Checker	<b>DATE:</b> 2006/1/10	<b>PROJECT NUMBER:</b> 001	
<b>SCALE (B/A):</b> As Indicated	<b>DRAWING NUMBER:</b> A/101	<b>Interactive Town &amp; Regional Planning</b> 4000 Westchase Parkway, Suite 1000 Houston, Texas 77056 Tel: (281) 485-1000 Fax: (281) 485-1001 Website: www.interactiveplanning.com		



**Land Use**  
**A4 Scale 1 : 1000**

1. Introduction	
<p><b>a. Brief</b></p> <p>Refer to Annexure B for the Power of Attorney.</p>	<p>Interactive Town and Regional Planning is appointed by the owner of the property Prinseveld Pty Ltd to prepare and submit an application for a consent use for a Place of Instruction on Erf 707, Hermanus as well as the amendment of conditions of approval in terms of the relevant legislation.</p>
<p><b>b. Background</b></p>	<p>As part of spatial planning provision should inter alia be made in an integrated and holistic manner for supporting community facilities on terms of the predominant land-uses of an area aligned with the dynamic nature of an urban environment and its needs.</p> <p>From the book "The Heart of our cities" written by Victor Greun, 1964 a city is described as <i>"The city is sum total of countless features and places, of nooks and crannies, of vast spaces and intimate spots, an admixture of the public and private domain, of rooms for work and rooms for living, of rooms for trade, where money and wares change hands, and rooms where music and drama lift the soul, of churches and night spots, of landmarks expressing the spirit of the community, and homes for the comfort of the individual."</i></p> <p>The application is for a medium scale pre-school / daycare centre. Children from the ages of 2 – 5 years are accommodated by the pre-school / daycare centre. The pre-school / daycare centre operates from 7:15 in the mornings to 16:00 in the afternoon on weekdays. Up to 20 children are proposed to be accommodated.</p> <p>The application area was previously used as a private school with students ranging from 10 to 17 years of age which included autistic student accommodation. We want to clarify that the previous private school and current pre-school / daycare centre are completely unrelated and has different owners, staff and children.</p> <p>An application was approved in 2005 to rezone the application area to Business Zone 3: Local Business to accommodate offices. The approval also prescribed parking provision. The 2005 approval reads as follows:</p> <p><i>"The Mayoral Committee has on 22 February 2005 resolved as follows:-</i></p> <ol style="list-style-type: none"> <li><i>1. that the application for removal of restrictive clauses B(a), B(b), B(c) and B(d) from title deed T45931/2002 be forwarded to the Provincial Administration: Western Cape with the recommendation that it be approved;</i></li> <li><i>2. that the application relating to erf 707, Hermanus for rezoning from General Residential Zone to Local Business Zone (offices), be approved, subject to the following conditions:</i> <ol style="list-style-type: none"> <li><i>(a) that the restrictive conditions be successfully removed, and</i></li> <li><i>(b) that 9 parking bays as prescribed by the Town Planning Scheme be provided to the satisfaction of the Manager: Town Planning and Economic Development."</i></li> </ol> </li> </ol>

<b>c. Development Objective &amp; Application Proposal</b>	<p>The development objective is to legalise the existing pre-school / day care centre, on the application area.</p> <p>Subsequently to realize the above development objective, the following applications need to be made:</p> <ul style="list-style-type: none"><li>• Consent Use for a Place of Instruction.</li><li>• Amendment of the Conditions 2 and 2(b) of the 2005 approval to read as follows:<ul style="list-style-type: none"><li>○ <i>“2. that the application relating to erf 707, Hermanus for rezoning from General Residential Zone to Local Business Zone (offices and place of instruction), be approved, subject to the following conditions:”</i></li><li>○ <i>“(b) that sufficient parking be provided in terms of the town planning scheme.”</i></li></ul></li><li>• The determination of an administrative penalty.</li></ul>
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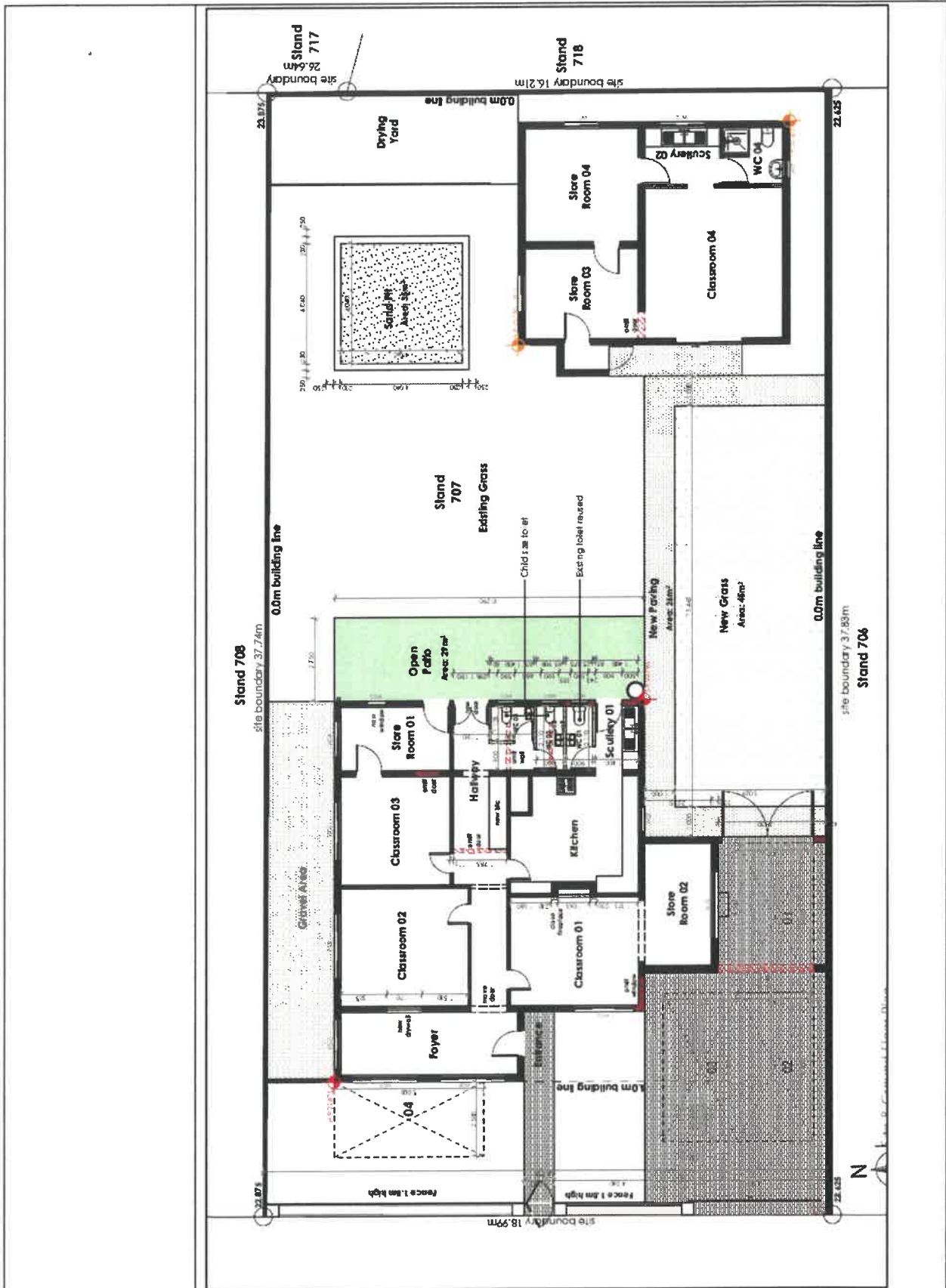


Figure 1: Site Plan

2. The Application					
a. Analysis: Title Deed	The conveyancer Amelia Galvin from Virtual Lawyers provided a conveyancer certificate confirming that no title deed conditions exists which restricts the development proposal.				
Refer to Annexure D for the Conveyancer Certificate.					
b. Analysis: Development Criteria:	Parameters	Existing Zoning:	Proposal:	Comments	
The development parameters for Erf 707 Hermanus as per the Overstrand Municipality Land use Scheme, 2020 are summarised as follows:	Zoning	Business Zone 3: Local Business	Business Zone 3: Local Business	Consistent	
	Primary Use	Shops, dwelling unit (above ground floor), flats (above ground floor), offices, restaurant, caretaker's accommodation and self-catering.	Offices	Consistent	
	Consent Uses	Bottle store, business premises, clinic, conference facility, dwelling unit (on ground floor, flats (on ground floor), town housing, tourist accommodation, hotel, institution, place of assembly, place of entertainment, place of instruction, place of worship, recreational facilities, residential building, sale of alcoholic beverages, service station, service trade and transmission apparatus.	Place of instruction	Application is for a consent use	
	Coverage	75%	29%	Consistent	
	Floor Factor	1.5	0.29	Consistent	
	Height	8.5m / 2 storeys	±5m / 1 storey	Consistent	
	Building lines	Street	0m	4m	Consistent
		Side	0m 3m where abutting another zone	1.4m south 2.3m north	Consistent
		Rear	0m 3m where abutting another zone	1m rear	Previously approved
	Parking	Crèche, day care centre: One bay per 10 children	Crèche, day care centre: Up to 20 children proposed, thus 2 bays are required and 4 provided	Consistent	
c. Definitions	"place of instruction" means a place for <u>education at pre-school</u> , school or post-school levels (including a <u>day care centre</u> , a <u>crèche</u> , a farm school, a nursery school, a primary school, a secondary school, a college, a lecture hall, a university, a research institute, an environmental research or other educational centre) and associated uses such as boarding hostels or a civic facility for the promotion of knowledge to the community such as a convent, a monastery, a public library, a public art gallery or museum or a place of instruction in sport or other physical discipline where the main objective is instruction (as opposed to participation by the public sector as competitors or spectators) but excludes a reformatory, industrial school, commercial conference facility, institution, health centre or in-house business training centre;				

<p><b>d. Application:</b> The application form is attached as <b>Annexure A.</b></p>	<p>Application is subsequently made in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:</p> <ul style="list-style-type: none"> <li>• <u>Consent Use</u> for a Place of Instruction in terms of Chapter IV, Section 16(2)(o).</li> <li>• <u>The amendment of conditions of approval</u>, Conditions 2 and 2(b) of the 2005, application number 4322 TP1-24/2004 approval in terms of Chapter IV, Section 16(h) to read as follows: <ul style="list-style-type: none"> <li>○ <i>“2. that the application relating to erf 707, Hermanus for rezoning from General Residential Zone to Local Business Zone (offices and place of instruction), be approved, subject to the following conditions:”</i></li> <li>○ <i>“(b) that sufficient parking be provided in terms of the town planning scheme.”</i></li> </ul> </li> <li>• <u>The determination of administrative penalty</u> in terms of Chapter IV, Section 16(q).</li> </ul>
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### 3. Contextual Site Information

a. Property Description

Property	Extent	Title Deed	Registered Owner
Erf 707 Hermanus	714m <sup>2</sup>	T45931/2002	Prinseveld Pty Ltd

Refer to Annexure E for the SG Diagrams, Annexure C for the Title Deed of Erf 707 Hermanus.

The following Surveyor General Plans reflect the application site:

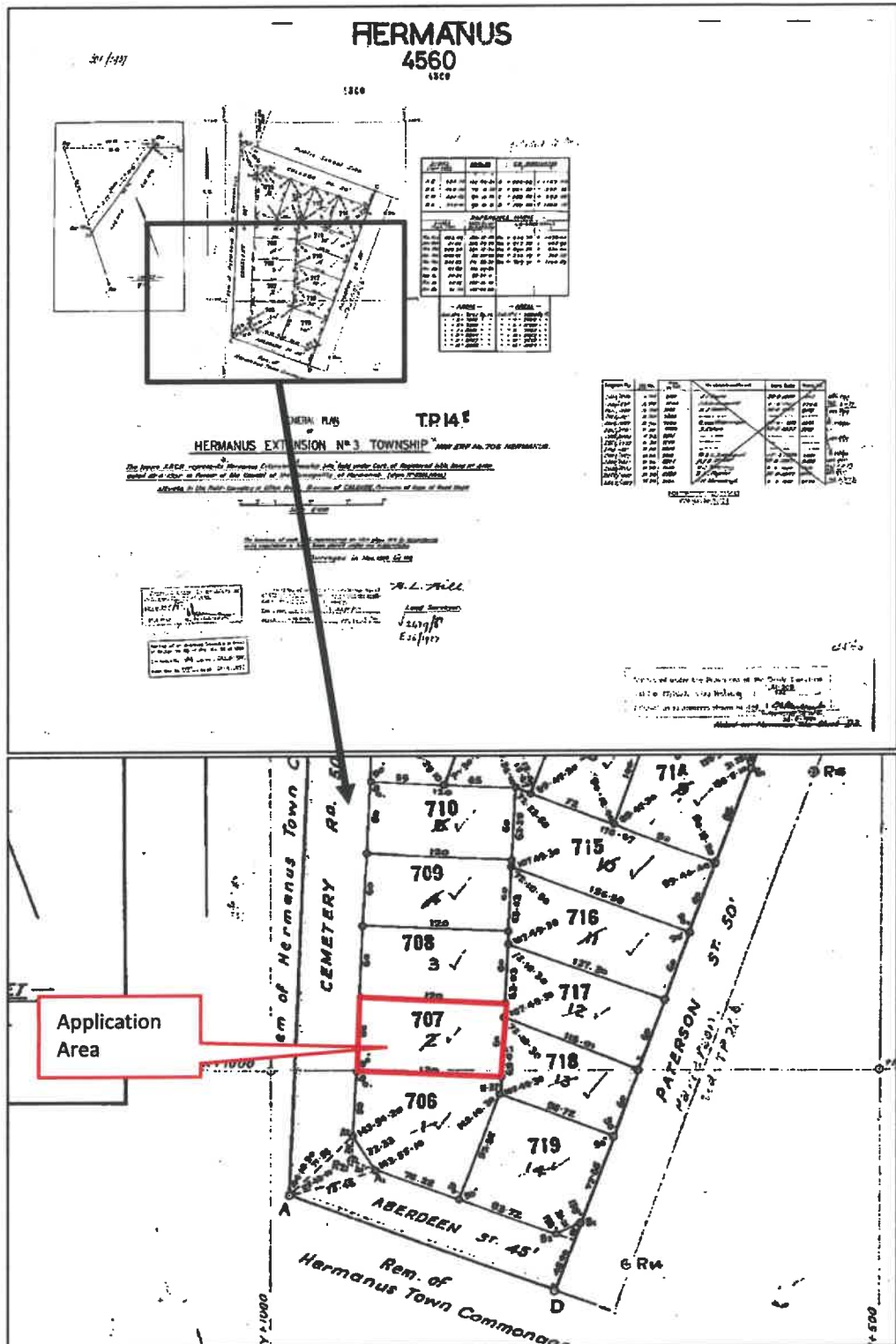


Figure 2: Extracts of the Surveyor General Plans of the application site

**b. Location:**

For the Locality Plans refer to Annexure F

**Regional Context:**

Within the regional context, the application area is located within Hermanus CBD, the main centre within the Overstrand municipal area.

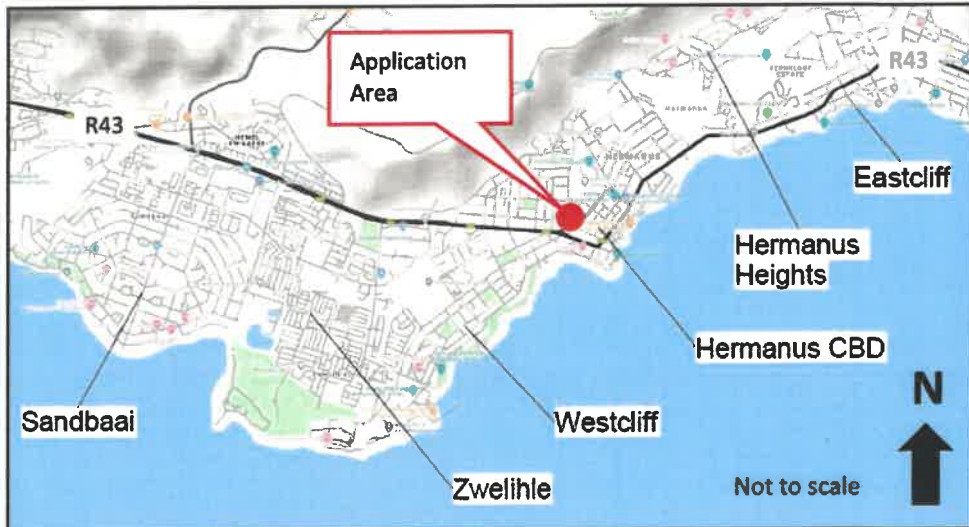


Figure 3: Locality Plan – Regional Context

**Local Context:**

Within the local context the application area consists of a business erf within the Hermanus CBD. The application area Erf 707 Hermanus is located at number 4 Magnolia Street.

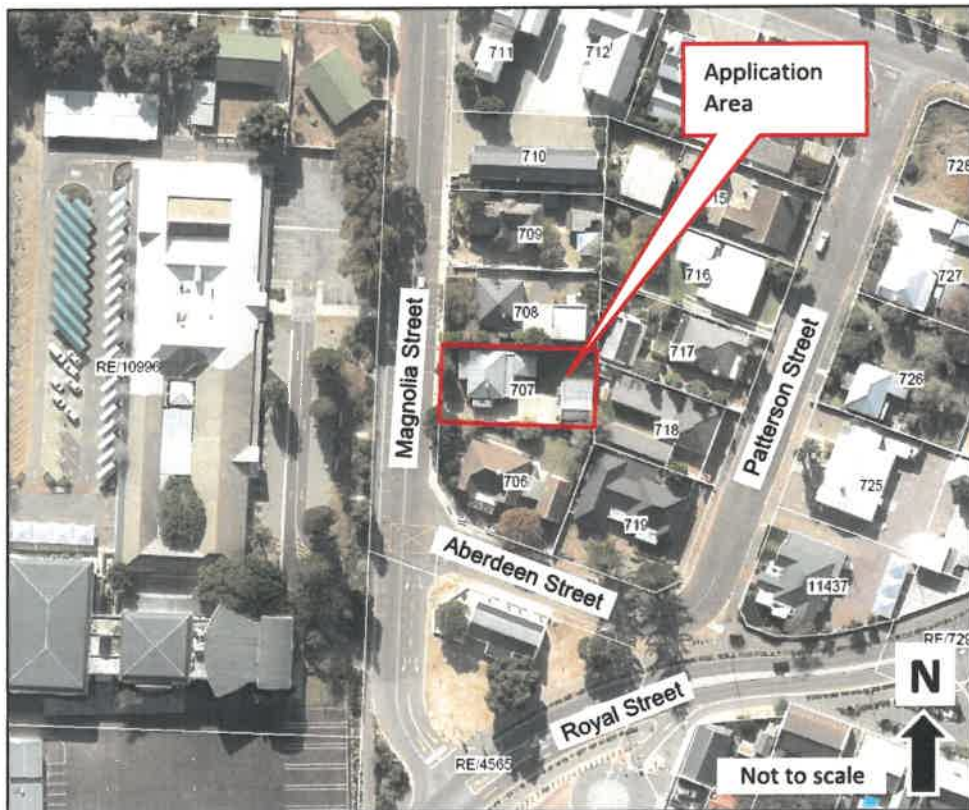


Figure 4: Locality Plan – Local Context

**c. Land Use:**

The application area is used for a place of instruction. The surrounding properties consist of business and municipal offices/authority. The Hermanus Primary School is 100m to the North. The area can be characterised as a mixed use area. The proposal for the building is for a place of instruction. The application proposal is **consistent** with the land-use of the area.

Refer to the Extract of Hermanus Zoning plan attached as Annexure G.

**Figure 5: Google Image illustrating the residential land-use activities of the application area and surrounding properties**

**d. Zoning:**

The application area, Erf 707, Hermanus is zoned Business Zone 3: Local Business. The surrounding erven are zoned Business Zone 3: Local Business, Authority Zone: Authority Usage and General Residential Zone 1. The proposal is for Business Zone 3: Local Business with a consent use. The application proposal is considered **consistent** with the zoning of the area.

Refer to the Extract of Hermanus Zoning plan attached as Annexure H.

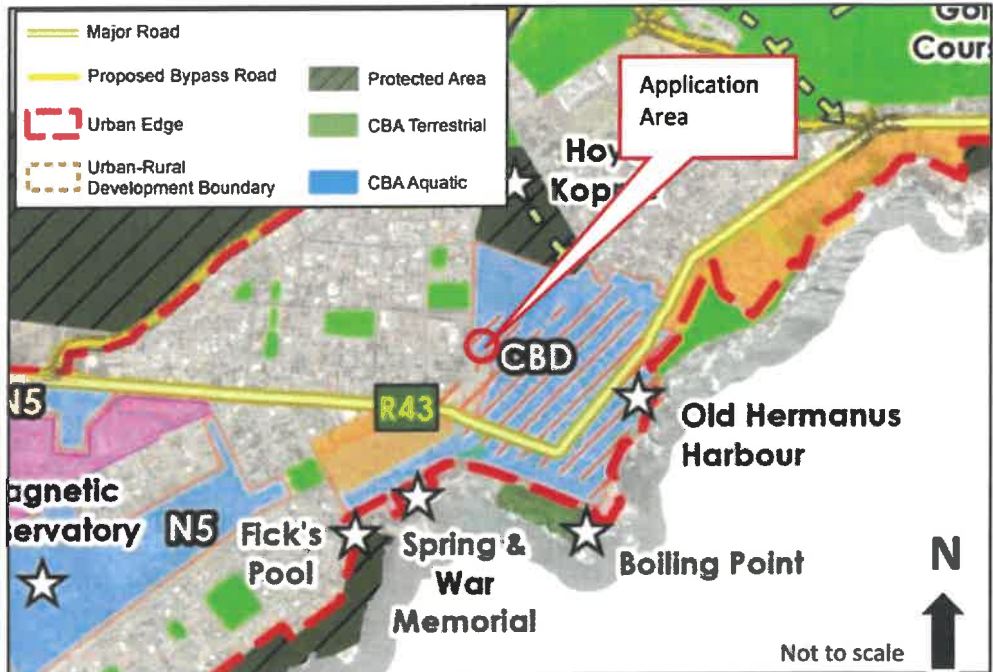
**Figure 6: Zoning Plan extract**

e. Laws and policies relevant to the consideration of the application and forward planning and land use documents

The following policy is applicable to the application area and the development proposal:

i. Overstrand Municipal Spatial Development Framework, 2020

The application area falls within the CBD as well as a heritage overlay area.








Management Approach	
Commercial / Community Nodes	
 <b>CBD</b> Central Business District	Business uses, commercial, retail and offices should be concentrated within the central business district and within the existing areas. High density residential uses should be promoted within the CBD area with supporting community facilities where appropriate.
Special Places	
 <ul style="list-style-type: none"> <li>New Hermanus Harbour</li> <li>Magnetic Observatory</li> <li>Fick's Pool</li> <li>Spring &amp; War Memorial</li> <li>Old Hermanus Harbour</li> <li>Hoy's Koppie</li> </ul>	<ul style="list-style-type: none"> <li>Preserve coastal walkway to Old Hermanus Harbour</li> <li>Public facility with regional significance</li> <li>Preserve and enhance public amenities.</li> <li>Preserve as part of the urban conservation and tourism area.</li> <li>Conserve and enhance the existing open space system.</li> </ul>
Industrial	
 <b>Industrial Development</b>	Industrial activities within the Greater Hermanus area should be restricted to service and clean light industry.
Heritage	
 <b>Heritage Areas / Overlay Zones</b>	Compile a Heritage Management Plan for the demarcated precincts with heritage informed development guidelines.
Open Space / Linkages	
 <b>Open Space Linkages</b>	Protect and enhance open space corridors and linkages between the mountain and urban environments.

Figure 7: Spatial Development Framework 2020 Spatial Proposals Plan

2.8 OUR FACILITIES

Hermanus

Facilities	Additional Required 2021	Additional Required 2026	Additional Required 2031	Total Required
Small crèche/ Childhood Dev.Centre	3	3	6	12

### 5.8.2 2050 Vision: Greater Hermanus

LO 4 (ii) Buildings that accommodate community activities, as well as education, health and entrepreneurial development and business and skills training, should be located at points of highest access in urban settlements.

The application is consistent with the Overstrand Municipal Spatial Development Framework, 2020.

#### ii. Overstrand Municipality Growth Management Strategy, 2010 and draft 2020

The application area is within an area earmarked for densification for more than 30 dwelling units per hectare and is within a proposed economic opportunity area.

In terms of the 2010 Growth Management Strategy, one pre-school facility can be justified in the location of the application site, Planning Unit 13. Presently no pre-school is located within this Planning Unit.

The application is consistent with the Overstrand Municipality Growth Management Strategy, 2010 and draft 2020.

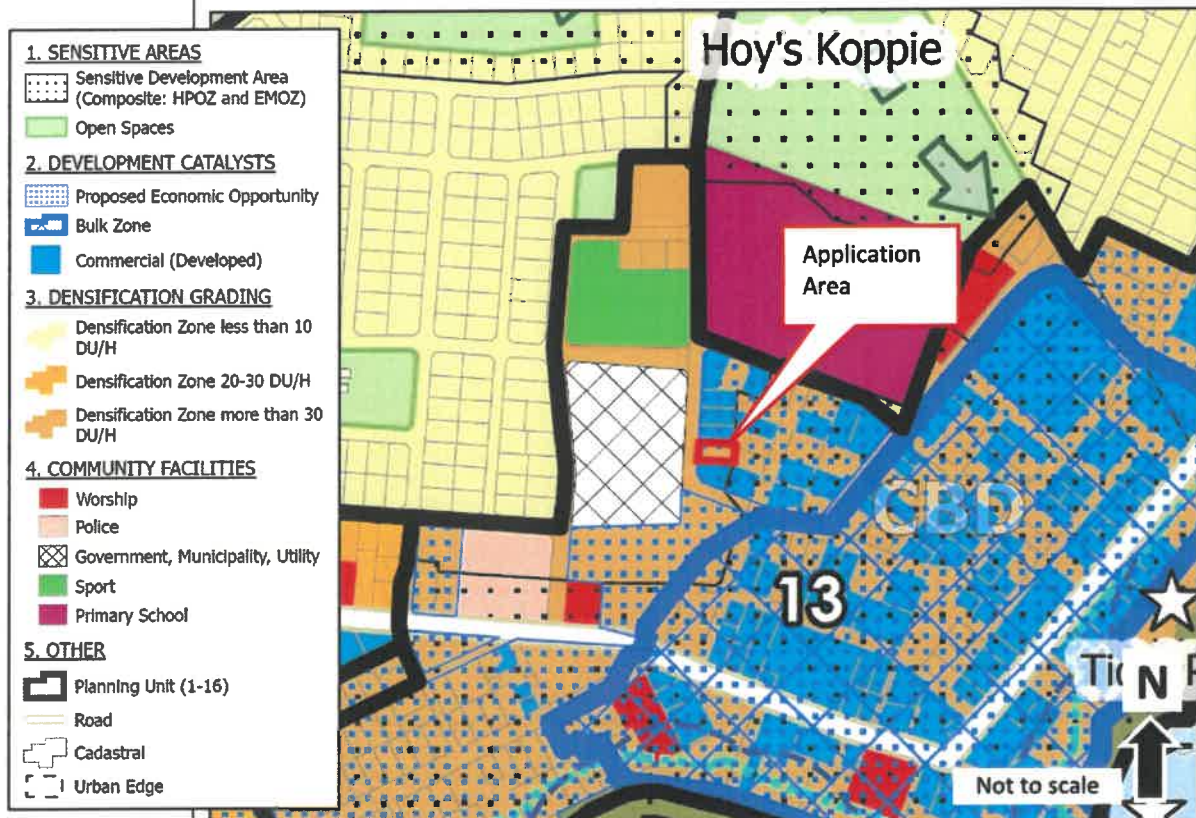


Figure 8: Extract from the Overstrand Municipality Growth Management Strategy, 2020 reflecting the envisaged land-uses for the area

#### iii. Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020

##### "90. Application for administrative penalty

- (1) A person who is in contravention of this By-Law, 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.

- (2) A person making an application contemplated in Subsection (1) must –
- (a) submit an application;
  - (b) pay the prescribed fee;
  - (c) provide the information contemplated in Subsections (3); and
  - (d) comply with the duties of an applicant in Section 84.
- (3) The applicant must, to the satisfaction of the Municipality, provide the following information such as-
- (a) the nature, duration, gravity and extent of the contravention;
  - (b) the conduct of the person (allegedly) involved in the contravention;
  - (c) a report by a quantity surveyor in matters of unauthorised building/construction;
  - (d) whether the unlawful conduct was stopped; and
  - (e) whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.”

**iv. DEVELOPMENT PARAMETERS: A Quick Reference for the Provision of Facilities within Settlements of the Western Cape guideline document**

The purpose of this guideline document is described as follows: *“The aim of this guideline is to provide relevant stakeholders with the various aspects that need to be taken into consideration when either putting together or assessing a development application in the Western Cape. The guideline sets out the various considerations which need to be taken into account when providing for a facility within a settlement. It considers locational requirements, general standards applicable to the facility, the required threshold population densities and accessibility concerns that need to be taken into consideration when planning for the provision of a facility.”*

Important and relevant to the application, it is noted in the said document that *“In line with the need to promote compact settlements and to reduce the need for motorised travel, where appropriate, multi-functionality of space must be promoted at both the facility and the land use scale. Generally, facilities should be placed on some form of activity node or corridor, depending on its place in the hierarchy of facilities. For example, a lower order facility – such as an Early Childhood Development Centre - will have a lower threshold and smaller range and therefore be placed at a fairly localised node or activity corridor with primarily localised access. Conversely, a higher order facility – such as a University - would have a higher threshold and large range and therefore be placed at a higher-order activity spine or corridor, with a high degree of access.”*

The following extract of this guideline document provides relevant criteria for a pre-primary school:

**PRE-PRIMARY SCHOOLS AND EARLY CHILDHOOD DEVELOPMENT CENTRES**



**DESCRIPTION**

A Pre-Primary School or Early Childhood Development Centre can be defined as a facility which provides for the care of, learning and support for babies and/or young children. This includes a day-care centre, crèche, nursery school and aftercare centre.



**LOCATIONAL CRITERIA**

**A Large-Scale ECD Centre** (25 children and more) should be located adjacent to public open spaces, schools, churches and other community facilities, on main access roads. In terms of the Policy, this clustering promotes sharing of parking, maximises access and confines the traffic impact to a defined area.

**A Medium-Scale ECD Centre** (10 - 24 children), on the other hand, can be located on or close to a local access road and should be incorporated into the local area without detrimentally affecting its character. The operator is required to reside on the premises and the residential appearance of the building is to be retained to a standard that does not detract from the residential character and streetscape of the surrounding area.

**A Small-Scale ECD Centre** (less than 10 children) can be located within a dwelling house on or close to a local access road and should be incorporated into the local area without detrimentally affecting its character. The operator is required to reside on the premises and the residential appearance of the building is to be retained to a standard that does not detract from the residential character and streetscape of the surrounding area.



#### SITE CRITERIA

Site size considerations are the following:

- The absolute minimum facility size (building footprint, not erf size) is to be 130m<sup>2</sup> in totality.
- At least 1.5m<sup>2</sup> of space should be available per child the facility serves.
- The building size of a large-scale ECD Centre should be at least 300m<sup>2</sup> to 500m<sup>2</sup>.
- The general rule of thumb to determine facility size is to provide 0,15m<sup>2</sup> per person of the residential population being served (e.g. if the residential population is 6000 people, then the ideal facility size would be 900 m<sup>2</sup>).
- One third (33.33%) of the total area of the building to be used for circulation, administration and ancillary uses.



#### ACCESSIBILITY, DISTANCE AND SITE SPACING CRITERIA

Ideally, an ECD within a maximum of **750 metres** or **15 minute** walk time of its users.



#### POPULATION THRESHOLD CRITERIA

The following sets out the number of people / dwelling units that will justify the need for ECD:

- **2400 people (600 dwelling units)** for low income areas.
- **3600 people (900 dwelling units)** for high income areas, where a demand has been warranted.

**Cautionary note:** The provision of an ECD is highly dependent on the community profile. As a general rule of thumb, 40% of the children the age group (1 – 5) should be provided for.



#### OTHER CRITERIA FOR CONSIDERATION

- All facilities must comply with National Health and Safety regulations.
- In lower income communities: preferably within walking distance and on the route taken by older children walking to school.
- Noise factor to be taken into account when clustering facilities.
- A drop off area must be provided for parents, taxi's and busses, particularly in residential areas.
- All sites must be of acceptable proportion and gradient.
- Parking must be provided in larger ECD centres for at least the minimum staff contingent.

4. Motivation	
<p><b>Motivation for the application:</b></p> <p>Refer to Annexure I for the Building Plan</p>	<p><b>a. Introduction and Background</b></p> <p>The purpose of this application is to acquire the required land-use rights to legally operate a <u>small-scale</u> pre-school / daycare centre aimed at children whose parents predominantly work in the central areas of Hermanus.</p> <p>An application for the subject property was approved in 2005 to rezone the application area to Business Zone 3: Local Business to accommodate offices. The approval also prescribed parking provision. The 2005 approval reads as follows:</p> <p><i>“The Mayoral Committee has on 22 February 2005 resolved as follows:-</i></p> <ol style="list-style-type: none"> <li>1. <i>that the application for removal of restrictive clauses B(a), B(b), B(c) and B(d) from title deed T45931/2002 be forwarded to the Provincial Administration: Western Cape with the recommendation that it be approved;</i></li> <li>2. <i>that the application relating to erf 707, Hermanus for rezoning from General Residential Zone to Local Business Zone (offices), be approved, subject to the following conditions:</i> <ol style="list-style-type: none"> <li>(a) <i>that the restrictive conditions be successfully removed, and</i></li> <li>(b) <i>that 9 parking bays as prescribed by the Town Planning Scheme be provided to the satisfaction of the Manager: Town Planning and Economic Development.”</i></li> </ol> </li> </ol> <p>Children thrive in a structured and orderly environment and subsequently the pre-school / daycare centre has a well-structured program and routines which is continuously actively managed.</p> <p>The children has full time supervision. Sufficient staff is proposed to ensure that children can receive sufficient personal attention.</p> <p>The application area presently accommodates a pre-school / day care centre for children between the ages of 2 – 5 years. It is envisage to restrict the number of children to 20 and to be accommodated within 4 classrooms with a teacher for each class. The school is proposed to operate from 7:15 in the mornings to 16:00 in the afternoon on weekdays only.</p> <p>According to the general day programme, the indoor activities consist of 70% of the time and outside activities 30% of the time of which the most of the outside time is programmed for between 14h00 and 16h00. The programme due to the age differences, provision is also made that not more than 2 classes (i.e. maximum 10 children) will be outside at a time.</p> <p>Presently the Overstrand Municipality does not have a specific spatial policy for the accommodation and location of places of instruction (i.e. pre-schools / day care centres), however a Western Cape guideline the “DEVELOPMENT PARAMETERS: A Quick Reference for the Provision of Facilities within Settlements of the Western Cape” and will be used as format for the motivation of the subject application.</p> <p>In summary the following three overarching aspects are considered as the main points of consideration for assessing applications for pre-schools / day care centres:</p> <ol style="list-style-type: none"> <li>a. The <u>scale</u> of the facility,</li> <li>b. The <u>desirability</u> of the facility in terms of the appropriateness of its location, and</li> <li>c. The <u>impact</u> on the surrounding area.</li> </ol> <p><b>b. The proposal</b></p> <p>The proposal is for a <u>medium scale</u> pre-school / day care centre of not accommodating more than 20 children.</p> <p>The application objective is to legalise the existing pre-school / day care centre.</p> <p>In order to legalise the existing pre-school / day care centre, application is for the following will be applicable:</p> <ul style="list-style-type: none"> <li>• A consent Use for a Place of Instruction and the</li> </ul>

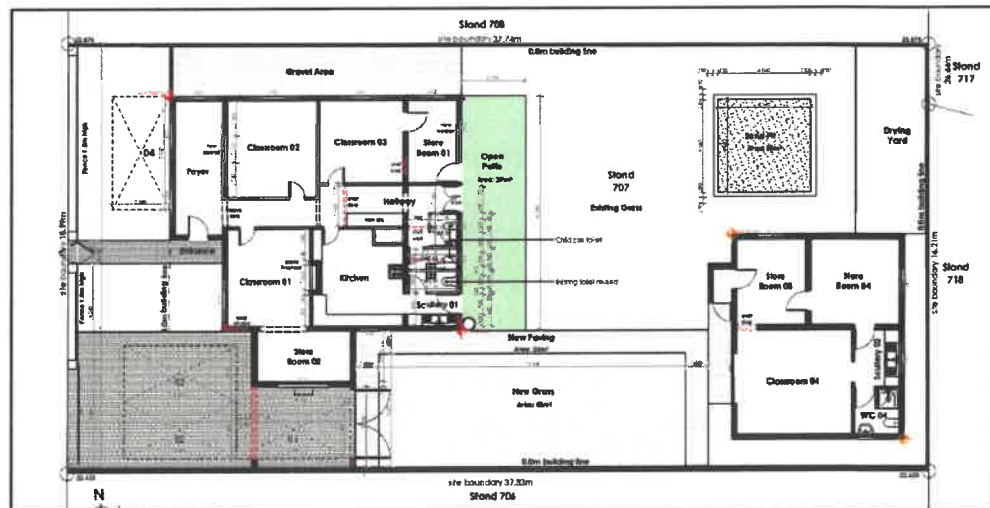
- An amendment of the Conditions 2 and 2(b) of the 2005 approval to read as follows:
  - “2. that the application relating to erf 707, Hermanus for rezoning from General Residential Zone to Local Business Zone (offices and place of instruction), be approved, subject to the following conditions:”
  - “(b) that sufficient parking be provided in terms of the town planning scheme.”

**c. The Motivation**

**i. Overarching Principles**

The motivation is dealt with under the main headings of the scale, desirability and impact of the facility.

The following sketch illustrate the composition and planned layout of the facility:



**Figure 9: Site Plan**

**a. The Scale of the pre-school / day care centre**

The scale of such a facility is one of the main informing factor for the placement of such facilities. Medium scale facilities of this nature can be accommodated within local areas.

However, this small scale facility is located within a business area adjacent and opposite offices, a laundry and a welfare facility with a collector road directly abutting and in the vicinity of the subject erf. The Hermanus Primary School is also located less than 150m from the application site. These uses generate substantial activity, movement and noise during office hours.

Given the scale of the facility and taking into consideration that less than 3 hours per day the maximum of 10 children under control of teachers will be outside the surrounding uses, the impact will be low.

**b. The desirability of the facility in terms of the appropriateness of its location**

The desirability of a pre-school / day care centre is one of the vital components of a normal urban holistic environment.

As previously mentioned in the report, in terms of the Overstrand Municipal Growth Management Strategy, 2010 a pre-school is encouraged within the specific planning unit (Planning Unit 13) in which the subject application site is located.

The need for such facility is self-evident for parents of young children working in the business area and surrounding areas of Hermanus and also making use of public transport via the taxi rank.

The premises is also located in close proximity ( $\pm 150m$ ) of the Hermanus Primary School and located on a collector route.

The location of the application site adheres to the principle of ensuring a well-distributed network of facility as a means of maximising accessibility. The following map illustrate the location and subsequently the function of such facility within a general area:

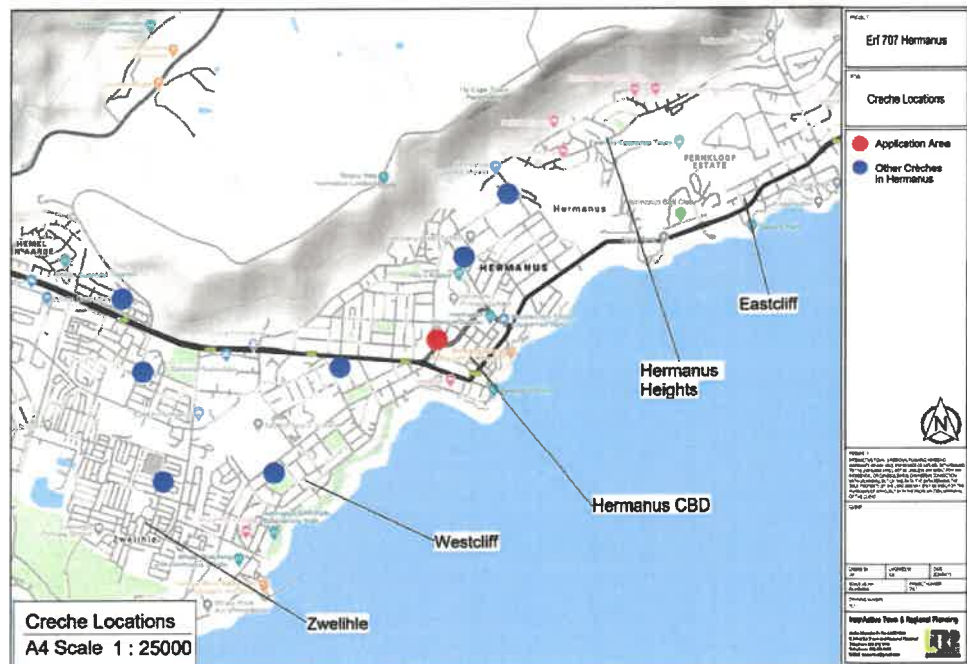


Figure 10: Crèche Locations

The need of such facility within the business area is subsequently justifies from many perspectives including the municipalities own spatial policy.

**c. The impact on the surrounding area.**

When considering this point of motivation consideration should be taken from the previous two motivational points of scale and desirability.

In a central business area a large facility of more than 24 children in terms of other town planning schemes and the draft Provincial guideline document “DEVELOPMENT PARAMETERS: A Quick Reference for the Provision of Facilities within Settlements of the Western Cape” is supported.

**ii. Motivation in terms of the Provincial Development Guideline Parameters**

The following part of the motivation involves the specific points of development parameters for pre-primary schools and early childhood development centres.

**a. Locational Criteria**

The location for the pre-school / daycare centre was chosen to be close and within walking distance to the primary school as well as the Hermanus central business area in order to be convenient for working parents. It is also often that parents with a child in pre-school has another child or children in the nearby primary school which is convenient to drop of the children close to each other.

In terms of the locational criteria Provincial guideline document “DEVELOPMENT PARAMETERS: A Quick Reference for the Provision of Facilities within Settlements of the Western Cape, a medium-Scale pre-school can be located close to a local access road and should be incorporated into the local area without detrimentally affecting its character. The operator is required to reside on the premises and the residential appearance is to be retained to a standard that does not detract from the residential character and streetscape of the surrounding area.

In this scenario this medium-scale school (i.e maximum 20 children) is not in a residential area but within a the transitional area from residential to businesses, however it is located on a access road. The general appearances of the directly abutting properties are still residential of nature as is evident from the following photograph:



**Figure 11: Photograph from the road**

The premises is in close proximity of the Hermanus Primary school and municipal offices on a main access road with substantial street parking in compliance with the requirements of a large-scale pre-school.

Subsequently it is considered that the medium-scale pre-school complying with the requirements of a large-scale pre-school is consistent with this criteria of location.

**b. Site Criteria**

The following site criteria in terms of the Provincial guideline document "DEVELOPMENT PARAMETERS: A Quick Reference for the Provision of Facilities within Settlements of the Western Cape is applicable:

- The absolute minimum facility size (building footprint, not erf size) is to be 130m<sup>2</sup> in totality.
- At least 1.5m<sup>2</sup> of space should be available per child the facility serves.
- The building size of a large-scale ECD Centre should be at least 300m<sup>2</sup> to 500m<sup>2</sup>.
- The general rule of thumb to determine facility size is to provide 0,15m<sup>2</sup> per person of the residential population being served (e.g. if the residential population is 6000 people, then the ideal facility size would be 900 m<sup>2</sup>).
- One third (33.33%) of the total area of the building to be used for circulation, administration and ancillary uses.

First of all, the footprint of the building of 205m<sup>2</sup> exceeds the minimum total size for a pre-school.

The proposed 20 children will require 30m<sup>2</sup> and subsequently exceed this requirement.

The building size of the building as previously mentioned is 205m<sup>2</sup> which is not compliant with a large pre-school, however, a large pre-school is not proposed but a medium scale school and is therefore considered sufficient.

Based on the size of the planning unit in terms of Overstrand Municipal Growth Management Strategy, 2010 the estimated population of the planning unit is 660 people thus a facility of almost 100m<sup>2</sup> would be required. Given that people bringing their children from all over Hermanus bring their children to the Hermanus Primary School, it is estimated that the existing school of 205m<sup>2</sup> will be consistent with the size of the building.

The area for circulation, administration and ancillary uses is calculated at 285m<sup>2</sup> which is also consistent with the said guidelines.

### c. Accessibility, Distance and Site Spacing Criteria

The application site enjoys exceptionally good access. The mentioned guidelines advise that ideally, a pre-school facility to be within a maximum of 750 metres or 15 minute walk time of its users.

In the following sketch a circle of 750m radius around the application site is shown. No other pre-school is located within this radius and accessibility is augmented by the general taxi rank located within this 750m radius.

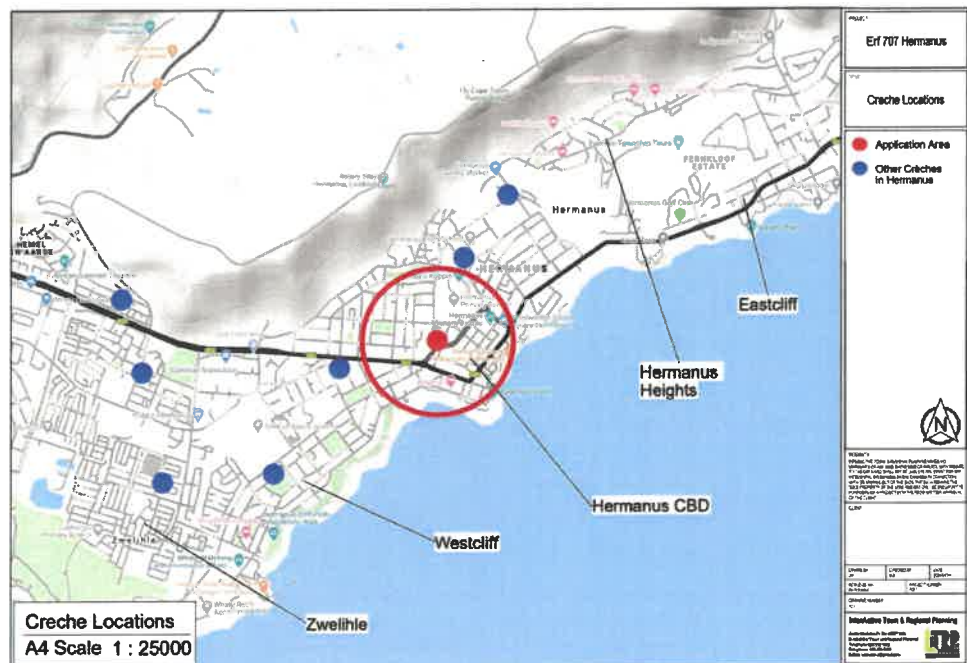


Figure 12: Crèche locations

Based on the above the application site can be considered fully consistent with the point of access criteria.

### d. Population threshold criteria

In terms of provincial guidelines for development parameters of facilities the following criteria is set for population threshold:

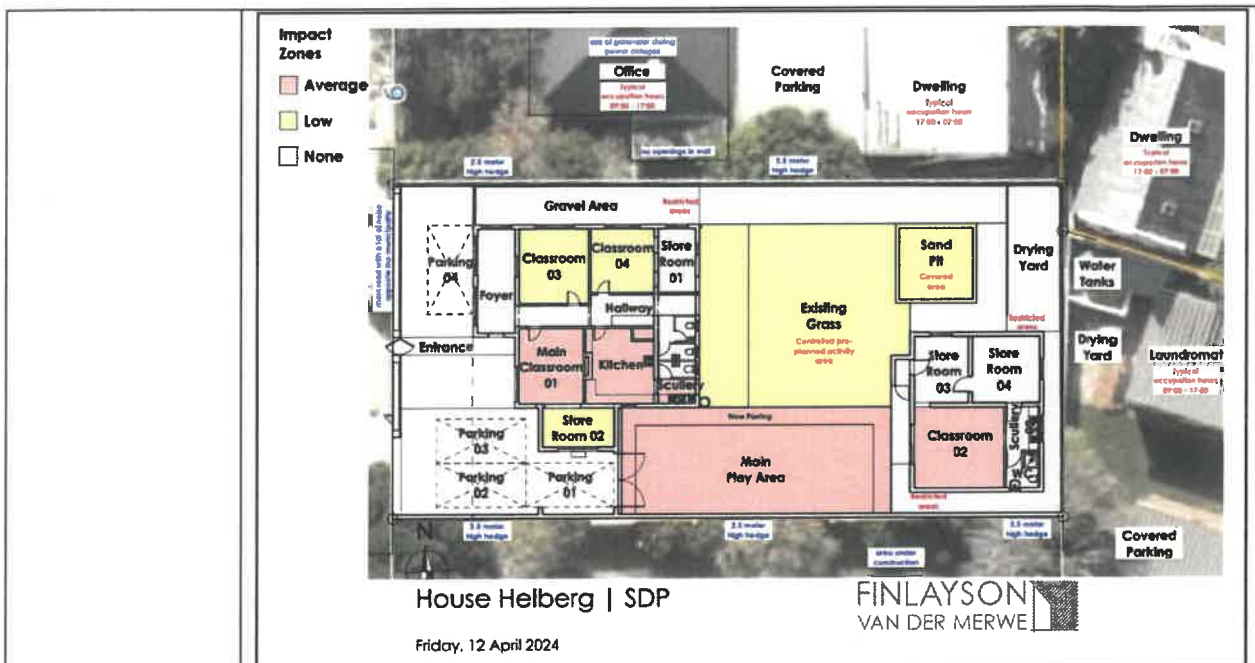
*"The following sets out the number of people / dwelling units that will justify the need for ECD:*

- 2400 people (600 dwelling units) for low income areas.
  - 3600 people (900 dwelling units) for high income areas, where a demand has been warranted.
- Cautionary note: The provision of an ECD is highly dependent on the community profile. As a general rule of thumb, 40% of the children the age group (1 – 5) should be provided for."*

The pre-school / day care facility on the application site being located within the Hermanus business area can be considered as a middle income area given that the direct adjacent residential areas are middle/high-income areas whilst the children from the outside area being catered for are from lower, middle and higher income groups.

The measurement for this pre-school / day care centre cannot be clearly be determined by a specific radius, given that the fact that it is located within the Hermanus business area close to the general and central taxi rank and the Hermanus primary school from where parents travel from surrounding areas outside the direct threshold and catchment area. However, based on the Overstrand Municipality Growth Management Strategy, 2010, the number of dwelling units within the planning unit in which the application site is located amounts to almost 300 dwelling units.

	<p>It can be assumed that the daily inflow of people from the outer areas to the Hermanus central and especially the primary school area of almost 1 100 children will account and contribute to the threshold figures and the need and justification for such pre-school / day care centre in addition to the existing dwelling units within the threshold area.</p> <p><b>e. <u>Other criteria</u></b></p> <p>The following guideline other criteria is provided for the assessment and justification of a pre-school from a provincial perspective:</p> <ul style="list-style-type: none"> <li>• All facilities must comply with National Health and Safety regulations.</li> <li>• In lower income communities: preferably within walking distance and on the route taken by older children walking to school.</li> <li>• Noise factor to be taken into account when clustering facilities.</li> <li>• A drop off area must be provided for parents, taxi's and busses, particularly in residential areas.</li> <li>• All sites must be of acceptable proportion and gradient.</li> <li>• Parking must be provided in larger ECD centres for at least the minimum staff contingent.</li> </ul> <p>In terms of National Health and Safety regulations, the existing pre-school is fully compliant and was already subjected to a number of inspections.</p> <p>Although the pre-school / day care centre provides for all income groups, the pre-school / day care centre is on the same route from the taxi rank where the lower income communities walk to the school. Respectively, the application site is only 120m from the taxi rank and the Hermanus Primary School is 150m further from the application site, meaning that both facilities are within easy walking distance for the lower income communities.</p> <p>The noise factor is taken into account given the location of the application site being adjacent to existing but also possible future office working environments.</p> <p>Furthermore the consideration must be taken that unamplified human voice is not considered a disturbing noise in terms of the Western Cape Noise Control Regulations, 2013.</p> <p>Nevertheless in respect and consideration of the location in relation to the existing and future working areas the following specific noise mitigation measures are proposed to mitigate potential noise.</p> <ul style="list-style-type: none"> <li>• Windows will be kept closed, especially on the northern side which faces offices.</li> <li>• A 2,5m hedge is located between the pre-school / day care centre and the adjacent office,</li> <li>• A restricted area is provided between the pre-school / day care centre and the adjacent office with the main play area furthest away from the adjacent existing offices,</li> <li>• Break times and the playing of children outside will be limited to specific times and children will always be under supervision.</li> <li>• No generators are or will be used.</li> <li>• The application area is on a busy road which generates significant ambient noise, thus mitigating the potential additional impact of the pre-school / day care centre.</li> </ul> <p>Cognisance must also be taken of the layout of the building as shown in the following sketch illustrating the noise mitigation measures:</p>
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**Figure 13: Site Development Plan**

The surrounding area is a mixed-use area with significant ambient noise, thus being compatible with the nature of the proposal.

In terms of the Spatial Development Framework, 2020, community facilities should also be located at points of highest access in urban settlements which this pre-school / day centre complies with.

In terms of a drop-off area guideline, provision is made for a drop-off area and the number of parking is consistent with the Overstrand Municipal Land Use Scheme, 2020. In addition to this street parking is also available within the adjacent street.

Aligned with the provincial parameter guidelines, the application site is fully compliant in terms of the erf's proportion and gradient. The gradient is flat and the proportions of the property is rectangular with ample movement areas, and dedicated areas for the different functions of such pre-school / day care centre, inter alia making provision for safe vehicular area, play areas and also restricted movement areas.

Lastly, in terms of the Provincial guideline document "DEVELOPMENT PARAMETERS: A Quick Reference for the Provision of Facilities within Settlements of the Western Cape, relating to parking where it is required that "Parking must be provided in larger ECD centres for at least the minimum staff contingent" even as the pre-school / day care centre is not a large scale school, provision is made for staff parking, and is fully consistent in terms of the Overstrand zoning scheme, 2020.

#### **d. Determination of an administrative penalty**

Application includes the determination of an administrative penalty for the existing land use.

- **The nature, duration, gravity and extent of the contravention:**  
The application area was used for a crèche with less than 5 children since February 2024.
- **The conduct of the person (allegedly) involved in the contravention:**  
The owner is fully willing to cooperate and go through the necessary processes to legalise the existing crèche and allow for the proposed pre-school / day care centre.
- **Report by a quantity surveyor in matters of unauthorised building/construction:**  
There has been no construction as the transgression was one of land use.

	<ul style="list-style-type: none"> <li>• <u>Whether the unlawful conduct was stopped; and</u> The crèche is still operational as this application is to legalise the existing use. The crèche also provides employment as well as care for children which is considered to be undesirable if stopped.</li> <li>• <u>Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.</u> To our knowledge, the owners have not previously contravened any planning law.</li> </ul>
	<p><b>e. Desirability</b></p> <p>The application proposal is considered <b>desirable</b> for the following reasons:</p> <ul style="list-style-type: none"> <li>• The pre-school / daycare centre provides for an important need in the community which is to have a suitable place for younger children to go while parents are working.</li> <li>• The pre-school / daycare centre is well located in the sense that is close to the primary school and withing the Hermanus CBD and has easy access to the transport network.</li> <li>• The location of the pre-school / daycare centre is within an area with significant ambient noise, especially from the road, thus reducing potential additional noise impact.</li> <li>• Potential noise impacts are mitigated, supervised and managed.</li> <li>• The application area is within a mixed use area and thus compatible with the character of the area.</li> <li>• The application proposal is consistent with the relevant policy documents and Western Cape provincial development parameter guidelines.</li> </ul> <p>As motivated above, the proposal is considered desirable and is compatible with the character of the surrounding area.</p> <p><b>f. Planning Principles</b></p> <p>In terms of Chapter VI of the Spatial Planning and Land Use Management Act, 2013 the following Planning Principles have been applied to the application site:</p> <p>1) <b>Spatial Justice</b> which refers to the need for redressing the past apartheid spatial development imbalances and aims for equity in the provision of access opportunities, facilities, services and land.</p> <p><b>Possible results of the development</b> The pre-school / daycare centre will be equitably available for children. The application proposal is <b>consistent</b> with the principle of <b>spatial justice</b>.</p> <p>2) <b>Spatial Sustainability</b> which refers to the fact that a spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.</p> <p><b>Possible results of the development</b> The proposal is for a use of an existing developed property within the urban edge and will therefore not impact on valuable agricultural land, environmentally sensitive and biodiversity rich areas, or scenic and cultural landscapes. The application proposal is consistent with the principle of <b>spatial sustainability</b>.</p>

	<p>3) <b>Efficiency</b> which refers to the manner in which settlements themselves are designed to function in such a way that there will be a minimum need to travel long distances to access services, facilities and opportunities.</p> <p><b>Possible results of the development</b> The pre-school / daycare centre is well located in terms of distances to travel since it is in close proximity to the primary school and within the Hermanus CBD, where parents typically work.</p> <p>The application proposal is <b>consistent</b> with the <b>efficiency principle</b>.</p> <p>4) <b>Spatial Resilience</b> which, in the context of land use planning, refers to spatial plans, policies and land use management systems which should enable communities to be able to resist, absorb and accommodate any economic and environmental shocks which might occur in a timely and efficient manner.</p> <p><b>Possible results of the development</b> The proposal is for a use of an existing property and will not impact on spatial resilience.</p> <p>The application proposal is <b>consistent</b> with the principle of <b>spatial resilience</b>.</p> <p>5) <b>Good Administration</b> which, in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure that a joint planning approach is pursued.</p> <p><b>Possible results of the development</b> Consultive practices are being followed in this application as it is done in consultation with the Planning Department of the Municipality who will also advertise the application in such a manner as to enable the Government and the general public to participate in the eventual decision-making process.</p> <p>The application proposal is <b>consistent</b> with the principle of <b>good administration</b>.</p>
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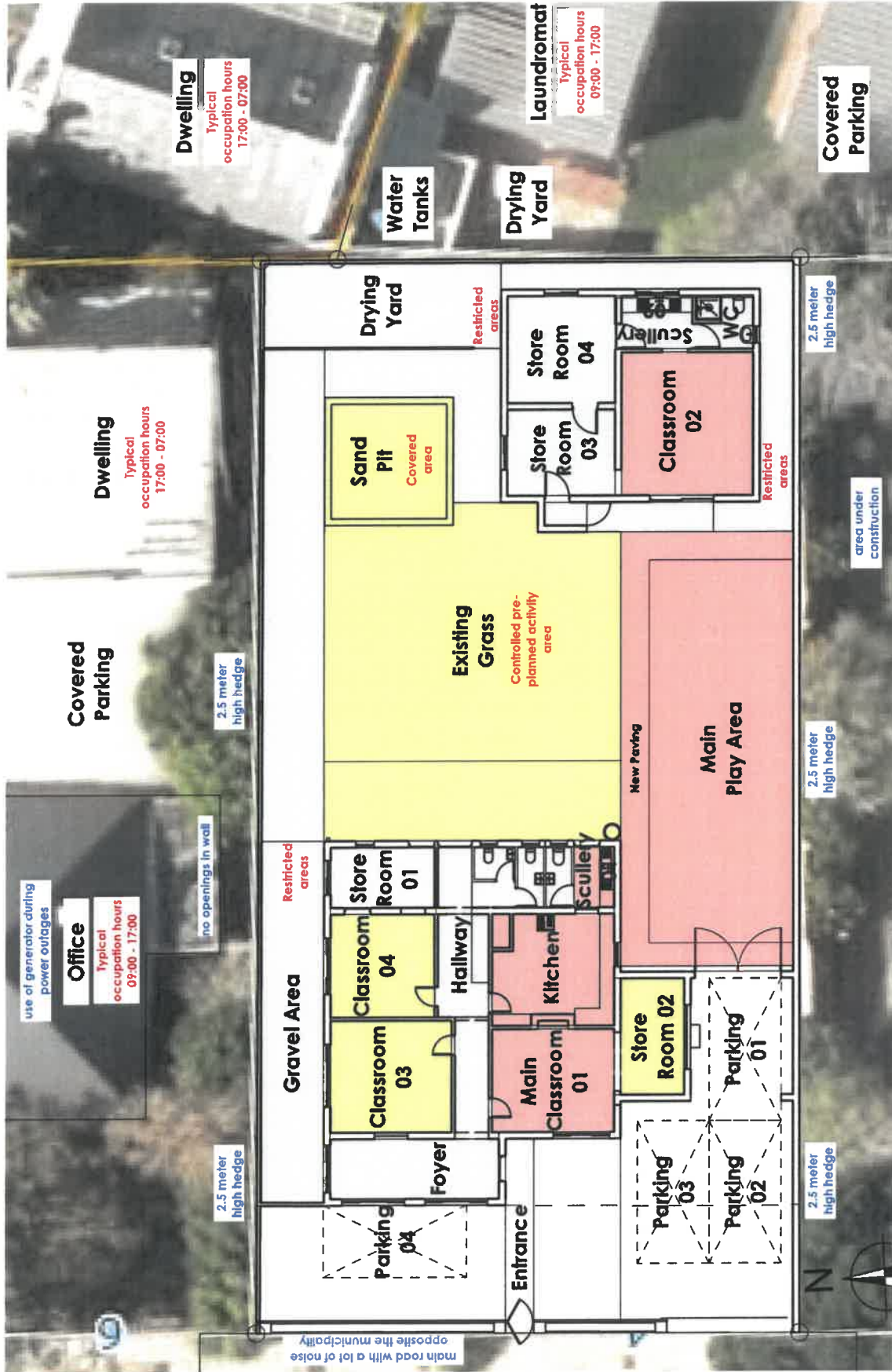
## 5. Conclusion

The application as motivated in this report is regarded **desirable** within its local context and well-integrated within the existing community land-use activities.

It is therefore recommended that the application **be approved** for the following:

- Consent Use for a Place of Instruction in terms of Chapter IV, Section 16(2)(o).
- The amendment of conditions of approval, Conditions 2 and 2(b) of the 2005, application number 4322 TP1-24/2004 approval in terms of Chapter IV, Section 16(h) to read as follows:
  - *"2. that the application relating to erf 707, Hermanus for rezoning from General Residential Zone to Local Business Zone (offices and place of instruction), be approved, subject to the following conditions:"*
  - *"(b) that sufficient parking be provided in terms of the town planning scheme."*
- The determination of administrative penalty in terms of Chapter IV, Section 16(q).





FINLAYSON  
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CADASTRAL / TOPOGRAPHICAL / ENGINEERING / SECTIONAL TITLE SURVEYS  
 PROFESSIONAL LAND SURVEYORS | PLS N° 1069

25 July 2024

TP-A Theart  
(H Olivier)

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

**FOR ATTENTION: MRS HANNEEN VAN DER STOEP**

**EMAIL: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)**

Sir

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
26 JUL 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

FILE NO. Erf 707-HNC
SCAN NO.
COLLABORATOR NO. 2089730

**OBJECTION TO PROPOSED LAND USE APPLICATION (CASE ID. 4647/2024) FOR ERF 707 HERMANUS: PROPOSED CONSENT USE, AMENDMENT OF THE CONDITIONS OF AN EXISTING APPROVAL AND THE DETERMINATION OF AN ADMINISTRATIVE PENALTY**

- Interactive Town Planners on behalf of Prinseveld CC

Reference is made to the application and the notice dated 24 June 2024 that was received as part of the public participation process.

I am the director of Van Dyk Land Surveyors and Associates Inc. and I conduct a professional Land Survey practice from my office situated at Erf 708 Hermanus, address being 6 Magnolia Avenue, Hermanus. The office space is leased by my company.

As the tenant of the premises at Erf 708 Hermanus the consent use application submitted for the pre-school / daycare centre on the adjacent erf, being Erf 707 Hermanus will affect the professional operation of my office activities adversely.

The owner of erf 707 Hermanus, Prinseveld CC, is currently renting the property at 4 Magnolia Avenue, Hermanus to Kleuterkampus as a pre-school / daycare centre. The school has been in operation illegally since January 2024.

**I strongly object to the application for consent use and the amendment of the condition of approval to make provision for a place of instruction as per the following reasons set out:**

## 1. Noise factor

The application documentation indicates that 20 children will be accommodated at the pre-school / daycare centre. It is well known that it is not economically viable to operate a fully fledged pre-school / daycare centre with rent and other expenditure as well as salaries for teachers and supporting staff with only 20 children, and sooner than later it is anticipated that the number will increase drastically. It can be argued that the application at hand is for 20 children, but economically it is not realistic to operate a school with only 20 children, also given the fact that the school is targeting children from low-income groups that can walk from the taxi-rank area.

The pre-school / daycare centre is currently operational with less than the targeted 20 children and the noise factor emanating from the children's play area has already caused a disturbance in the operation of my office activities. My office windows must be closed during telephone conversations and client meetings. It is mentioned in the motivational report that unamplified human voice is not considered a disturbing noise in terms of the Western Cape Noise Control Regulations, 2013. Well, I can attest to the disturbing noise emanating from toddlers shrieking, crying and yelling in the sand pit situated virtually on the boundary between Erven 707 and 708 Hermanus. There is also the noise of several toddlers riding plastic scooters.

It should also be noted that the Site Development Plan (SDP) is incorrect and incomplete. The As Built position of the sand pit with awning differs from what has been indicated on the SDP. The position of the various other playground equipment has also not been indicated on the SDP. The motivational report mentions that there is a restricted area provided between the pre-school / daycare centre and the offices, but that statement is incorrect. There is a sand pit with an awning and colorful painted tyres placed right next to the boundary wall in close proximity to the office space most adversely affected by the noise.

The motivational report indicates that the pre-school / daycare centre will keep its windows closed as part of noise mitigation measures. I think that would be impractical and not beneficial for a class full of children not to have fresh air, especially in summer.

It is also mentioned that the 2.5m hedge would be a noise mitigating factor. *There are no hedges situated on Erf 707 Hermanus (pre-school / daycare centre).*

There is only portion of a hedge situated on the boundary portion of Erf 708 Hermanus closest to the street and a single line of trees (no hedge) situated next to the wall of the playground area and they are approximately 1.5m high (they were trimmed in 2023 as part of garden maintenance).

The drone from the traffic in Magnolia Avenue is not a disturbing factor to the office activities as the sound is absorbed by the trees in the front section of Erf 708 Hermanus. The disturbance is caused by the noise emanating from the play area situated at the back of Erf 707 Hermanus in the enclosed play area on the boundary between Erven 707 and 708 Hermanus. The noise has the most impact on the workers occupying the various offices situated at the back of the front building situated on Erf 708 Hermanus.

**The potential noise impact is not mitigated, supervised and managed as per the motivation report.**

The pre-school / daycare centre has been operational since January 2024 and so far with the limited number of children the pre-school / daycare centre has caused a disturbance already to my office activities.

## 2. Parking

The layout of the parking bays on the SDP is not feasible. Only parking bays 1 and 2 can be used, as the appropriate angle of access and exit to parking bays 3 and 4 would result in the demolition of a portion of the historical street boundary wall. Insufficient parking is provided as there can only be 2 suitable parking bays on site and there is no provision for parking bays on site to stop when parents are dropping off children or for parents to park when collecting the children at 12h15 and 16h00 respectively.

It cannot be expected of the Overstrand Municipality to provide parking bays in the street reserve of Magnolia Avenue for a private business entity. These parking bays are allocated for the use of rate payers visiting the Overstrand Municipal Building to conduct their business.

## 3. Points of consideration

The main aspects for the consideration of the application according to the motivation is:

### ➤ Scale of the facility

The application documentation indicates that 20 children will be accommodated at the pre-school / daycare centre. It is well known that it is not economically viable to operate a fully fledged pre-school / daycare centre with rent and other expenditure as well as salaries for teachers and supporting staff with only 20 children, and sooner than later it is anticipated that the number will increase drastically. It can be argued that the application at hand is for 20 children, but economically it is not realistic to operate a school with only 20 children, also given the fact that the school is targeting children from low-income communities that can walk from the taxi-rank area.

It is anticipated that the scale of the facility will soon expand with the increased number of children that will be attending the pre-school / daycare centre to make it economically viable. Thus, more parking bays would be required than are now anticipated to make provision for the growth in numbers. The impact of the facility is therefore not considered as low.

### ➤ Desirability of the facility in terms of the location

The pre-school / daycare centre is not in a desired location as the area where the illegal pre-school / daycare centre is situated is earmarked for business purposes – offices. The dominant land use in the area is office use as the area has attracted high-end users like PSG and investment companies. The operation of the pre-school / daycare centre will be detrimental to the area and will be out of character.

### ➤ Impact on the surrounding area

The motivational report does not give any details on the economic impact of the pre-school / daycare centre on its immediate surrounding area, as it only refers to the Provincial guideline provisions that does not take in consideration the negative impact it will have on the businesses situated adjacent to the illegal pre-school / daycare centre.

The pre-school / daycare centre will have a negative impact on the area as it will be out of place, will cause a noise disturbance and does not comply with Overstrand Municipal Scheme Regulations with reference to parking facilities.

## 4. General

The motivational report indicates that there are no other pre-schools situated in the immediate area, this statement is incorrect as the following pre-school facilities are in close proximity –Babbel en Krabbel, Kleuter Zone, Hermanus Country Kids and Trudy's Day Care Centre.

The pre-school / daycare centre is not located in a mixed-use area, it is situated in a predominantly office use area and is thus not compatible with the area.

It should be noted that the pre-school / day care does not adhere to the time frames for outdoor activities as set out in their activity program and as mentioned in the motivational report. The kids are outside making a noise at all hours.

**I strongly object to the application for consent use and the amendment of the condition of approval to make provision for a place of instruction.**

Yours faithfully



L.A. van DYK

**Loretta Gillion**

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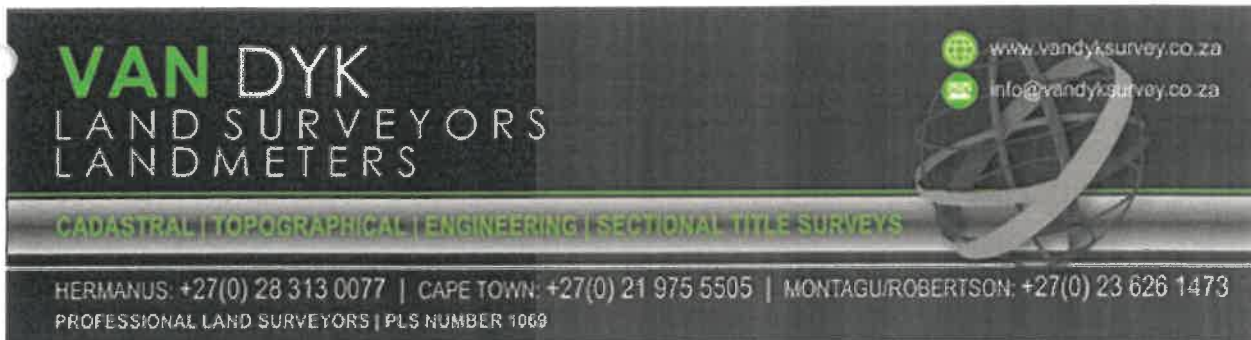
**From:** Van Dyk Land Surveyors <admin@vandyksurvey.co.za> on behalf of info@vandyksurvey.co.za  
**Sent:** Friday, 26 July 2024 09:28  
**To:** Loretta Gillion  
**Subject:** VAN DYK LAND SURVEYORS - OBJECTION - ERF 707 HERMANUS\_  
**Attachments:** VAN DYK LAND SURVEYORS - OBJECTION - ERF 707 HERMANUS\_.pdf

Good morning

Attached, please find the objection for the consent use on Erf 707 Hermanus.

Kind regards.

**Vickus van Dyk**





TOWN & REGIONAL PLANNERS  
STADS-EN STREEKSBEPLANNERS

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Your reference: 707 HNC

25 July 2024

The Municipal Manager  
PO Box 20  
HERMANUS  
7200

For attention: Mrs. Hanneen van der Stoep

Sir,

**OBJECTION: ERF 707 HERMANUS: PROPOSED CONSENT USE, AMENDMENT OF  
CONDITIONS OF APPROVAL AND THE DETERMINATION OF AN ADMINISTRATIVE  
PENALTY**

We refer to your notice dated 24 June 2024 regarding the proposed pre-primary school and daycare centre adjacent to Erf 707 Hermanus. As tenants of offices adjacent to this property, we wish to formally object to this proposal for the following reasons:

An application was previously approved for the removal of restrictive Title Deed conditions and a rezoning from Residential Zone 1 to Business Zone 3: Local Business. This rezoning was specifically intended for office use, despite the area being part of the Hermanus CBD earmarked for office use. As a result, various professionals established their businesses in this area, including attorneys, financial institutions, land surveyors, town planners, environmental consultants, and other professions that primarily require office-related environments where noise can significantly impact productivity.

The applicant fails to accurately describe the current use of properties in this area, broadly referring to "business use," which can misleadingly suggest shop-related activities. In reality, the area is predominantly used for professional offices.

The following inconsistencies listed by the applicant are also not factually correct:

A place of instruction is not consistent with the approved use of the subject erf, which is designated for offices. The repeated reference to the area being within the CBD and primarily utilized for business purposes is misleading. The use of erven east of Royal Street within the CBD greatly differs from the erven west of Royal Street. The erven to the east have a mixed-use nature, comprising primarily shops and offices, while the area west of Royal Street is predominantly used for professional offices.

The proposed pre-primary school and daycare are inconsistent and incompatible with the existing professional office uses. We have lodged several complaints regarding the noise generated when the pre-primary school and daycare were operating illegally. Even though they are not currently operating at full capacity, the use is already a nuisance.

The zoning of the erven may be consistent, but the actual use of the majority of surrounding erven is ignored by the applicant. Although the application states that educational facilities should be located in areas of highest access, this does not justify the pre-primary school and daycare if the actual use of the surrounding erven is disregarded.

The application inconsistently describes the ECD facility, initially referring to it as a small-scale pre-primary school and daycare but later as a medium-scale pre-school. According to the application, a small-scale facility accommodates fewer than 10 children, while a medium-scale facility accommodates 10 to 25 children. Although the application states that a maximum of 20 children will be accommodated, the actual total number of children remains unclear due to the following concerns:

The applicant mentions that the pre-primary school and daycare will be accessible to all income groups. Given that the facility will be capped at 20 children, with 4 classrooms provided and 4 teachers employed, along with the need to pay rent and supply stationery, the viability of the pre-primary school and daycare is questionable. Consequently, we expect that more children will have to be accommodated for the facility to be viable, further detrimenting the surrounding professional office uses.

Pre-primary schools and daycare centres are vital components of a holistic environment, but their location should be compatible with surrounding land uses and not negatively impact them.

Planning Unit 13, referred to by the applicant, does not propose a pre-primary school and daycare among offices but rather the need for a primary school within this area, where a primary school already exists. It is also mentioned that accessibility is of great importance, and the subject erf is in close proximity to the Taxi Rank and major routes to the primary and high school. This need is justified from many perspectives, including the municipality's own spatial policy. However, the existing land uses surrounding Erf 707 Hermanus are disregarded. Accessibility does not validate the proposed change in use to a pre-primary school and daycare on a property rezoned specifically for office use.

It is also stated that in a CBD area, large facilities accommodating more than 25 children are supported according to other Town Planning Schemes and Draft Provincial guidelines. However, the area west of Royal Street is predominantly used for office purposes, not shops. The proposed pre-primary school and daycare are incompatible with the existing intended land use of the area.

Additionally, it is stated that a medium-scale pre-school can be located close to local access roads and should be incorporated into a local area without detrimentally affecting its character. It is required that the operator resides on the property and that the residential appearance should be retained to a standard that does not detract from the residential character and streetscape. This statement is irrelevant because Erf 707 Hermanus is located in an area characterized by office use, not residential use. The subject erf is also not located within a residential area and does not have Residential Zone 1 zoning. Erf 707 Hermanus is ideally suited to be used as offices, not a pre-primary school and daycare.

The mitigating measures proposed will not be effective. Being located adjacent to Erf 707 Hermanus, the limited number of children currently at the school already has a disruptive impact on our business and productivity. It is unreasonable to expect that all classroom windows on the northern side remain closed, as this would be detrimental to the children within the classrooms. The 2.5m hedge will also not effectively mitigate the noise generated by the pre-primary school and daycare due to the proximity of the classrooms and play areas to our office. The areas are not restricted to be farther away from our office. A sandpit and balancing tyres have been constructed right next to the common boundary between us and the subject erf. The area depicted as existing grass also accommodates a jungle gym. Please refer to the photographs below:



Even if the classes are split during play times and are supervised, noise will inevitably be generated during outside play. It is unrealistic to expect children to be quiet when they play outside. Children naturally make noise when they play, and forcing them to be quiet would prevent them from fully enjoying their playtime. The noise generated by children playing is significantly more noticeable than the noise from passing vehicles on Magnolia Street.

Furthermore, it's important to clarify that while the property has not operated as a pre-primary school and daycare since February 2024, it had served in this capacity for an extended period beforehand. The temporary cessation in early 2024 coincided with internal renovations that included substantial improvements. Specifically, two jungle gyms were installed, and a canopy for the sandpit was erected during this renovation phase. Therefore, the statement made in the application suggesting no construction took place does not accurately reflect the alterations that were carried out on the property.

Although ownership of the school has changed, it's crucial to note that the application is submitted on behalf of the current property owner, who has leased the premises to both the former and current operators of the pre-primary school and daycare. This continuity in rental agreements underscores the ongoing use of the property for educational purposes, despite changes in ownership.

The drop-off of children on Magnolia Street is impractical due to its high traffic volume, serving as a crucial access route to the Municipal Building, Primary School, and neighboring offices. This constant flow of traffic poses safety concerns for young children during drop-off and pick-up times.

Furthermore, being situated across from the Municipality makes the pre-primary school vulnerable to disruptions from political demonstrations that we are experiencing. These events can significantly impact the safety and accessibility of the school, potentially rendering it inaccessible for periods of time. This unpredictability poses a considerable challenge for maintaining a stable and secure learning environment for the children.

The onsite parking proposed in the site development plan is insufficient and fails to meet regulatory standards. One of the primary shortcomings is the lack of maneuvering space, which necessitates the use of tandem parking arrangements. This arrangement not only complicates parking for users but also poses safety concerns and reduces the overall efficiency of the parking area.

Moreover, the inadequate parking layout negatively impacts pedestrian access from the street front gate to the existing garden area in the foyer. The constrained parking situation could potentially obstruct pathways, making it inconvenient and less safe for pedestrians, including children and parents accessing the pre-primary school and daycare facility. Please refer to the photograph below showing the position of proposed Parking Bay No.4.



Addressing these parking deficiencies is essential to ensure safe and efficient access for all users and to comply with municipal regulations governing parking and pedestrian pathways.

### **Conclusion:**

In conclusion, the proposed pre-primary school and daycare on Erf 707 Hermanus are fundamentally incompatible with the existing and intended land use of the area, which is predominantly office-oriented. This proposal fails to consider the essential aspects of compatibility, spatial sustainability, and efficiency, which are critical for maintaining the professional nature of the surroundings.

- The noise generated by children during playtime, despite any supervision or splitting of classes, would disrupt the productivity and working environment of the surrounding offices. This is further exacerbated by the misleading statements in the application regarding the construction activities that have already taken place on the property.
- Spatial sustainability is also compromised by the proposed development. The current zoning and approved use of Erf 707 are aligned with the professional office character of the area. Introducing a pre-primary school and daycare in this context undermines the strategic planning that has guided the development of this office precinct.
- Efficiency concerns are highlighted by the inadequate onsite parking, which lacks sufficient manoeuvring space and forces tandem parking. This not only complicates parking logistics but also negatively impacts pedestrian access from the street front gate to the foyer, where a garden is currently established.
- Furthermore, the drop-off of children on Magnolia Street is impractical and unsafe due to its heavy use as an access road to the Municipal Building, Primary School, and surrounding offices. The proximity to the Municipality also exposes the area to potential disruptions from political demonstrations, making the pre-primary school and daycare both inaccessible and potentially unsafe at times.
- The cumulative impact of these factors on the surrounding professional environment is significant and detrimental. The proposed pre-primary school and daycare center do not align

with the established spatial planning policies, and their approval would set a concerning precedent for future developments.

Given these substantial concerns regarding compatibility, spatial sustainability, efficiency, and the overall impact on the surrounding area, we strongly urge the rejection of this application. Maintaining the professional office environment of Erf 707 Hermanus and its vicinity is crucial for the continued productivity and well-being of the businesses operating here. Introducing a pre-primary school and daycare center would undermine these efforts and negatively impact the area's functionality, safety, and planned land use.

Yours sincerely,



**John Mc Lachlan**

25 JUL 2024

AJ Fourie

13/25

**From:** planactive@maxitec.co.za  
**Sent:** Thursday, 25 July 2024 08:55  
**To:** AJ Fourie  
**Cc:** Loretta Gillion; Hanneen van der Stoep  
**Subject:** OBJECTIONS: Erf 707, 4 Magnolia Street, Northcliff, Hermanus - PUBLIC PARTICIPATION - You are regarded as a potentially affected property owner.  
**Attachments:** 707 Hermanus Objection.pdf

Good morning AJ, your notice below refers.

Enclosed please find a copy of our objection against the proposed pre-primary school and daycare centre on Erf 707 Hermanus for your attention.

Kind regards

John Mc Lachlan  
 Tsch.Pl n B/8250/2014  
 MSAPI Nr.10908



Town & Regional Planners  
 Stads en Streekbeplanners



Tel: 028 313 1673  
 Fax: 028 312 1351  
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FILE NO.	Erf 707 - HNC
SCAN NO.	
COLLABORATOR NO.	2088842



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**From:** AJ Fourie <[aifourie@overstrand.gov.za](mailto:aifourie@overstrand.gov.za)>  
**Sent:** Monday, June 24, 2024 3:55 PM  
**To:** Loretta Gillion <[loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)>

**Subject:** Erf 707, 4 Magnolia Street, Northcliff, Hermanus - PUBLIC PARTICIPATION - You are regarded as a potentially affected property owner.

To whom it may concern

**ERF 707, 4 MAGNOLIA STREET, NORTHCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE, AMENDMENT OF AMENDMENT OF CONDITIONS IN RESPECT OF AN EXISTING APPROVAL & DETERMINATION OF AN ADMINISTRATIVE PENALTY: INTERACTIVEACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF PRINSEVELD CC**

**You are regarded as a potentially affected property owner.**

Attached please find a self-explanatory notice/advert for your attention.

Sections 47 & 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, directly to Loretta Gillion ([loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) on or before **26 July 2024**.

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>.

**Regards**

**AJ Fourie**

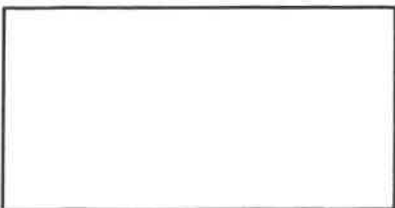
**Town and Spatial Planning Department**

**Overstrand Municipality**

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OVERSTRAND <del>MUNISIPALITEIT</del>
REKORDBEHEER
25 JUL 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

15/25

6 Magnolia Avenue  
HERMANUS  
7200  
24 July 2024

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

TP-A Theart  
(Hollivier)

FILE NO. Erf 707-HNC
SCAN NO.
COLLABORATOR NO. 2089183

FOR ATTENTION: MRS HANNEEN VAN DER STOEP  
EMAIL: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

Sir

**OBJECTION TO PROPOSED LAND USE APPLICATION (CASE ID. 4647/2024) FOR ERF 707 HERMANUS: PROPOSED CONSENT USE, AMENDMENT OF THE CONDITIONS OF AN EXISTING APPROVAL AND THE DETERMINATION OF AN ADMINISTRATIVE PENALTY**

- Interactive Town Planners on behalf of Prinseveld CC

Reference is made to the above land use management (LUM) application and the notice dated 24 June 2024 that I received as part of the public participation process for the LUM application.

The owners of erf 707 Hermanus, Prinseveld CC, is currently renting the property at 4 Magnolia Avenue, Hermanus to Kleuterkampus as a pre-school / daycare centre.

The school has been illegally operational since January 2024 after renovations were done to the interior of the building and the erection of playground equipment in 2023, prior to the opening of the school in January 2024.

This correspondence serves as a formal objection to the said proposals. The objections will be set out and motivated succinctly.

I am the owner of erf 708 Hermanus (6 Magnolia Avenue), situated directly adjacent to erf 707 Hermanus (4 Magnolia Avenue). See Map 1 below:



Figure 1: Locality plan – situation of Erf 708 in respect of Erf 707 Hermanus

TP  
25 JUL 2024

Herewith my main concerns and objection to legalize the existing pre-school / daycare centre by means of a belated consent use application as well as the amendment of the conditions of an existing approval:

**1. The school has been illegally operational since January 2024 showing a complete disrespect of the Overstrand Municipal Scheme regulations**

The zoning of Erf 707 Hermanus is Business Zone 3 (Local Business) with the land use as set out below:

**7.2 BUSINESS ZONE 3: LOCAL BUSINESS (B3)**

**Use of the property**

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

- a) **Primary uses** are: shops, dwelling unit (above ground floor) in accordance with 6.3.2, flats (above ground floor), offices, restaurant, caretaker's accommodation and self-catering.

**Only after approval** has been obtained for a consent use can the property be utilised for a place of instruction (existing pre-school / daycare centre).

It should also be noted that the same current owner, Prinseveld CC had obtained an approval for the rezoning from General Residential to Business Zone 3 (Local Business) to accommodate offices in 2005.

**2. The use of Erf 707 Hermanus as a pre-school / daycare centre is incompatible with the land use of the properties in the immediate vicinity of erf 707 Hermanus.**

The motivational report states that the area where Erf 707 Hermanus is situated is a transitional area from residential to businesses. I disagree with this statement. There are 23 properties situated in the block between Royal, Magnolia, Aberdeen and Dirkie Uys Streets, of which only 3 of the 23 properties are still being used for residential purposes. It would be prudent to describe the area where Erf 707 Hermanus is situated more correctly as an area where predominantly businesses are situated that are being used for office purposes and the placement of the existing, illegal pre-school / daycare centre is out of character. Although the photograph (Figure 11) enclosed in the motivational report describes that the general appearance of the buildings situated on Magnolia Avenue might appear residential, that most of them have been used for office purposes, respectively, for more than 30 years.

It is therefore evident that the use of Erf 707 Hermanus is out of character with the area, and it is inconsistent and incompatible with the land use of the surrounding properties.

**3. Safety concerns - placement of the existing pre-school / daycare centre that is not in the interest of the children and parents**

The motivational report indicates that it is a criterion that a pre-school / daycare centre should be on a local access road, in this instance being Magnolia Avenue. **The motivational report describes Magnolia Avenue as busy.**

The existing pre-school / daycare centre is situated directly opposite the Overstrand Municipal building in Magnolia Avenue which in itself generates a substantial amount of traffic. The **lack of demarcated parking bays for the drop off and collection of the children is a safety hazard.** It has been observed that children are dropped off on the opposite side of Magnolia Avenue (not in front of the school) and that the children must cross Magnolia Avenue to get access to the school entrance gate.

It also has been noted that children that are being dropped off in front of the school exit the vehicle on the side of oncoming traffic. Thus, the lack of an adequate and safe drop off area situated on Erf 707 Hermanus is a serious concern for safety of the children.

Another point of **great concern is the fact that there are regular protest marches** held in Hermanus and the end destination of these marches is usually the Overstrand Municipal building situated in Magnolia Avenue, the same street where the existing, illegal pre-school / daycare centre is situated right opposite the Municipal Building.

When protest marches are being held in Magnolia Street, the street is cordoned and closed off completely from the corners of Aberdeen Street to Dirkie Uys Street for all incoming and outgoing traffic, should Magnolia Avenue be closed off for traffic how would the parents collect their children safely?

On numerous occasions my tenants at 6 Magnolia Avenue (adjacent to the existing pre-school / daycare centre) were forced to exit the office via the premises of 7 Patterson Street on foot leaving their vehicles behind, as there is a throughfare between the 2 properties. Erf 707 Hermanus (existing pre-school / daycare centre) does not have this escape route.

It cannot be argued that this would be exceptional occurrences, **it is a reality** as my tenants have gone through the scenario as mentioned above on numerous occasions. The gathering of a noisy, chanting crowd of protestors is intimidating for adults, how much more intimidating would it be for small children that do not have a comprehension for the context of the marches with the associated placards, megaphones with dancing and chanting of the protestors.

Should children of the ages 2 -5 years be exposed to the riot police officials with their heavy weaponry, as well as the noise, chanting and milling participants of a protest march? On occasion there has been riots in Magnolia Avenue as well as the burning of tyres diagonally over the street of where the existing pre-school / daycare centre is situated.

Refer below to the photographic evidence of the crowd gathered in Magnolia Avenue between the Municipal office and no 4 and 6 Magnolia Avenue, taken from the office situated at 6 Magnolia Avenue.

In an instance such as depicted below there would be no access to Erf 707 Hermanus to collect the children at 12h30 as these marchers only left the area late in the afternoon.



*Figure 2 : Crowd of protestors in Magnolia Avenue*

**From the above it is evident that the placement of the existing pre-school / daycare centre on Erf 707 Hermanus is not in the best or safe interest of the children aged 2 – 5, nor that of their parents that would have to face a stressful situation in the knowledge that their children might be exposed to this kind of scenario and that they would have no direct access to collect their children.**

#### **4. Parking**

According to the Site Development Plan provision is made for the **onsite parking** of 4 vehicles as there is currently 4 teachers employed at the school. No provision is made for parking for any other existing employees at the school.

It should be noted that parking bays 3 and 4 are not accessible. Access to parking bay 4 must cross the pedestrian walkway where the children are supposed to access the school building, Access to parking bay 4 is also via a built fence line / gate. A section of the street boundary wall to widen the entrance / exit cannot be demolished to make way for access to parking bay 4 and 3 as it has historical value. Parking bay 3 can not get access or exit when a vehicle is parked in parking bay 2.



*Figure 3 – Current parking situation*

The school has illegally been in operation for 6 months now and the parking is not utilised as it is depicted on the Site Development Plan, according to the use of the site currently there is provision made for only 1 vehicle on site, being parking bay 2 (behind closed gates - side, front and back) for the owner of the school. This is an As Built gated situation.

Only parking bays 1 and 2 are accessible.

**The parking layout on the Site Development Plan is not feasible.**

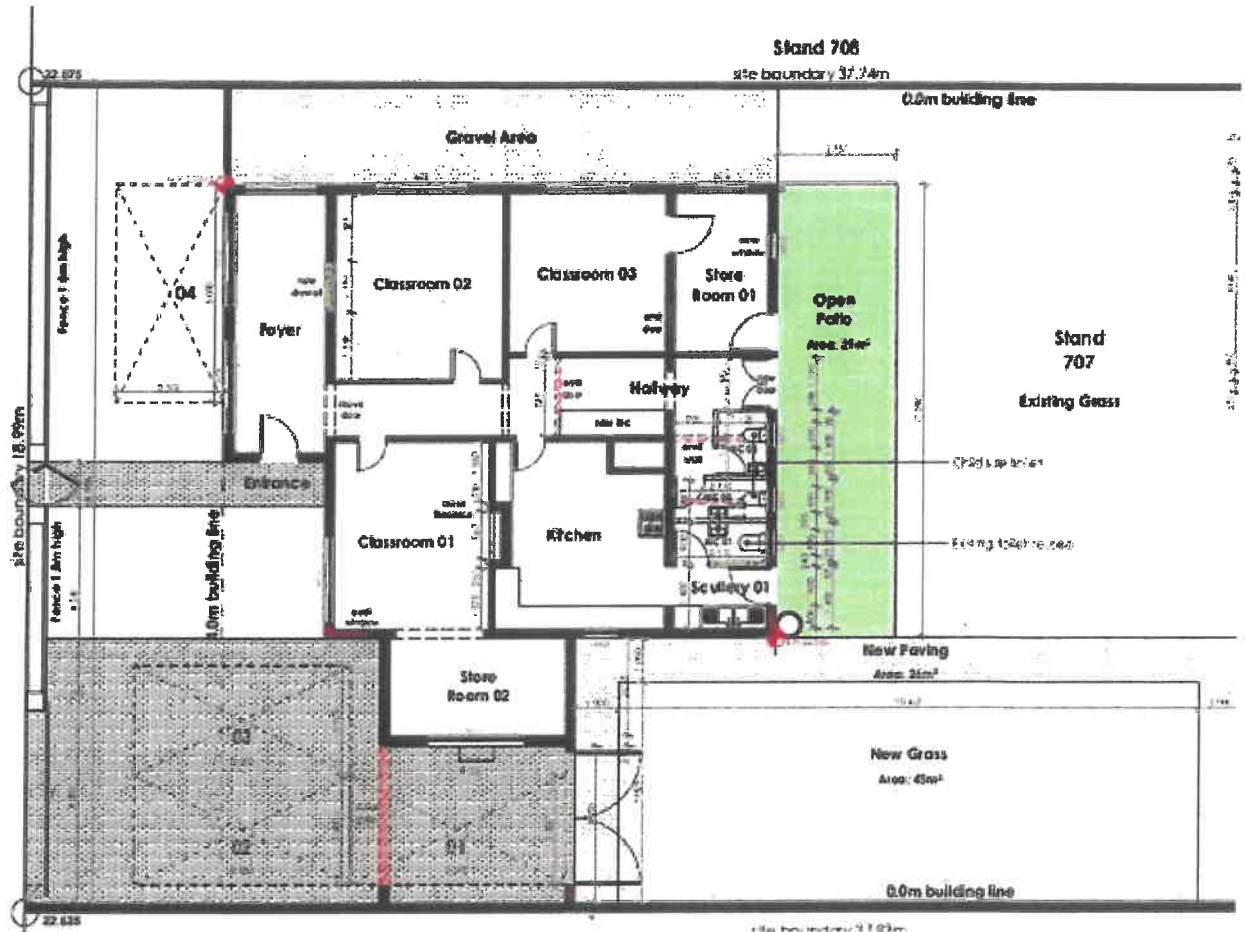


Figure 4: Parking layout – Bays 1 – 4

The motivation further indicates on page 19 as follows:

In terms of a drop-off area guideline, provision is made for a drop-off area and the number of parking is consistent with the Overstrand Municipal Land Use Scheme, 2020. In addition to this street parking is also available within the adjacent street.

No drop off area is indicated on the Site Development Plan. The children are being dropped off in Magnolia Avenue as described previously, and in some instances must traverse Magnolia Avenue to access the pedestrian gate.

There is only one street parking bay situated directly in front of Erf 707 Hermanus. There is a red, no parking line demarcated from the gate of Erf 707 Hermanus to the corner of Aberdeen Street. As depicted in Figure 5.



Figure 5: No parking red line from gate of Erf 707 Hermanus to corner of Aberdeen Street

The parking bays that are mentioned in the motivation to be used for the drop off of the children of the pre-school / daycare centre is thus situated on the opposite side of Magnolia Avenue.

Two of the teachers as well as at least two of the other personnel of the pre-school / daycare centre will therefore also use the public parking bays situated in Magnolia Avenue.

In addition to the shortfall of at least 4 parking bays on site (2 teachers and at least 2 other personnel), parking bays must also be provided for  $\pm 10 - 15$  cars of parents that will collect their children at 12h15 and again  $\pm 10 - 15$  cars of parents that will collect their children at 16h00.

These parking bays that are situated in Magnolia Avenue are used by Overstrand residents visiting the library and conduct business at the Overstrand Municipality. When Municipal Tenders are submitted in the tender boxes situated at the municipal building's Magnolia Avenue entrance, the parking bays in Magnolia Avenue are fully occupied.

**It is not reasonable to expect the municipality to furnish parking bays to the pre-school / daycare centre that is not in the interest of the public or will inconvenience ratepayers.**

To conclude, we hereby request that the Overstrand Municipality gives consideration to:

- The school has been in operation illegally since January 2024,
- The impact on the character of the area that is at large being used for business purposes,
- The use of Erf 707 Hermanus as a pre-school / daycare centre is intrusive and incompatible with the ambience of the business area,
- The impact the proposal will have on the business property values of the area,
- The safety concerns and accessibility of the school site during protest marches,
- The placement of the existing pre-school / daycare centre on Erf 707 Hermanus is not in the best or safe interest of the children aged 2 – 5 years,
- The impact the shortage of parking bays at the pre-school / daycare centre will have on ratepayer activity at the Overstrand Municipal building,
- The impact the proposal will have on the traffic of the area given that Magnolia Avenue is a busy street.

**I strongly object to the applications for the consent use and the amendment of the condition of approval to make provision for a place of instruction as per the reasons set out above.**

Yours faithfully



Pauline Spronk

**Loretta Gillion**

---

**From:** Pauline <sa@maxitec.co.za> on behalf of info@spronk.co.za  
**Sent:** Thursday, 25 July 2024 14:08  
**To:** Loretta Gillion  
**Subject:** ERF 707 HERMANUS OBJECTION - P SPRONK  
**Attachments:** ERF 707 HERMANUS OBJECTION - P SPRONK .pdf

Good afternoon

Attached, please find the objection for the LUM application in respect of Erf 707 Hermanus.

Kind regards.

Pauline Spronk

TP - A Theart  
(H Olivier)

24/25

Loretta Gillion

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
25 JUL 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

**From:** Pauline <sa@maxitec.co.za>  
**Sent:** Thursday, 25 July 2024 15:14  
**To:** Loretta Gillion  
**Subject:** FW: BESWAAR ERF 707 HERMANUS

Goeie middag

Namens die eienaar, Office Park Trust, van een van die deeltitel eenhede van die Office Park Deeltitel skema op Erf 717 Hermanus maak ek namens die trust **ten sterkte beswaar** teen die voorgestelde vergunnings gebruik van die bestaande bedryf van 'n voorskool en dagversorging op Erf 707 Hermanus.

Die geboue op Erf 717 Hermanus word aangewend vir die verhuur van kantoor ruimte vir professionele gebruik.

Die plasing van die skool naasliggende aan Erf 717 Hermanus het 'n nadelige invloed op die werksaamhede van die huurders as gevolg van die geraas komponent van die kinders vanaf die speelareas wat direk langs aan die grensmuur gebou is.

Die skool wat reeds onwettig in bedryf is pas nie in by die omgewing en karakters van die area waar oorheersende kantoorgebruik voorkom nie.

Groete.

P.Spronk  
 7 Paterson Straat  
 Tel - 028 3130077  
 Trustee - Office Park Trust

FILE NO. Erf 707 - HNC
SCAN NO.
COLLABORATOR NO.
2089171

**Loretta Gillion**

**From:** Louise Coetzee <louise@officepark.co.za>  
**Sent:** Thursday, 25 July 2024 15:31  
**To:** Loretta Gillion  
**Subject:** FW: BESWAAR ERF 707 HERMANUS

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
25 JUL 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP - A Theart  
(H Olivier)

Goeie middag

Namens die eienaar, Roseparkadmin (Pty) Ltd, van een van die deeltitel eenhede van die Office Park Deeltitel skema op Erf 717 Hermanus maak ek ten sterkte beswaar teen die voorgestelde vergunnings gebruik vir die bedryf van 'n voorskool en dagversorging op Erf 707 Hermanus.

Die skool wat reeds onwettig in bedryf is pas nie in by die omgewing waar oorheersende kantoorgebruik voorkom nie.

Die skool het reeds 'n nadelige invloed op een van my huurders wat direk geaffekteer word deur die geraas wat gehoor word vanaf die sandspeel area direk naasliggende aan die grensmuur. Daar is 'n afdak gebou oor die sandspeel area wat die geraas direk kanaliseer na die deel van die gebou op grondvloer direk agter die sandspeel area.

Die skool pas nie in by die kantoorgebruik karakter van die omgewing nie.

Groete.

Mev Louise Coetzee  
 7 Patterson Straat  
 Tel - 082 787 7196  
 Direkteur - Roseparkadmin (Pty) Ltd

FILE NO. Erf 707-HWC
SCAN NO.
COLLABORATOR NO. 2089153

**InterActive Town & Regional Planning**

PO Box 980  
Overstrand  
7200

Reference: Erf 707 Hermanus

Date: 30 September 2024



**ERF 707 HERMANUS: CONSENT USE – RESPONSE TO OBJECTIONS**

With reference to your request dated 2 August 2024 please find our response to the objections for the application for a consent use.

Kind Regards

**Andre Wiehahn** Pr Pln A/927/1996  
B Art et Sc (Town and Regional Planning)

FILE NO.	Erf 707-HNC
SCAN NO.	
COLLABORATOR NO.	2130706

Annexure E 1/14

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
30 SEP 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP - A Theart  
(Holliver)

TP  
30 SEP 2024

## 1. Introduction

### a. Background

An application was submitted on 25 April 2024 for a Consent-Use application to operate a day care centre on Erf 707 Northcliff Hermanus including an application for the amendment of the conditions of an existing approval and the determination of an administrative penalty. Objections were received from the owners and tenants the adjacent properties Erven 717 and 708 Hermanus.

### b. Application objective

The application is for a pre-school / daycare centre to accommodate a maximum of 20 children between the ages of 2 – 5 years operating from 7:15 in the mornings to 16:00 in the afternoon on weekdays creating a facility for children of parents primarily working or staying in close vicinity of the small scale day care centre.

In addition to the above, the application objective is to legalise the existing operational daycare centre.

### c. Objections

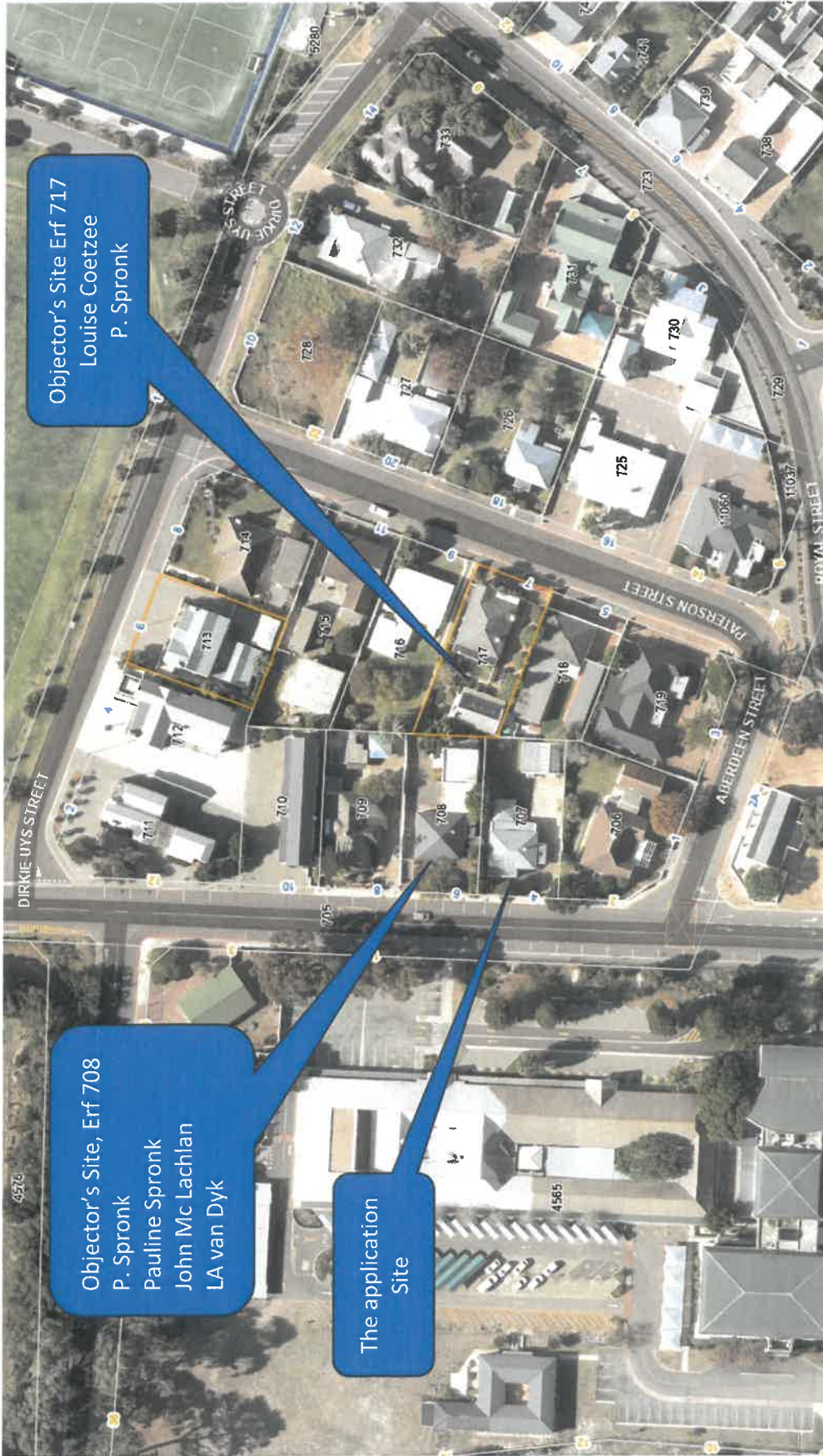
#### i. The objections

Five objections were received from related occupants of erven 708 and 717 Hermanus. The objectors are:

- Louise Coetzee, 7 Patterson Street
- P. Spronk, 7 Patterson Street
- Pauline Spronk, owner of Erf 708 Hermanus, 6 Magnolia Street and employee of Plan Active Town & Regional Planners
- John Mc Lachlan on behalf of Plan Active Town & Regional Planners
- L.A. van Dyk for Van Dyk Land Surveyors & Associates Inc Registration Number 2012/163131/21 Office administration: Pauline Spronk

It is evident from the above that all the above objectors are in some or another way related and is likely that these objections were orchestrated.

The location of the adjacent owners are shown on the plan here-below:



The main objection to the application is about noise.

It should be acknowledged that cities / towns are places where people come together to enjoy the benefits of living and working in close proximity to others. Through the arrangement of activities, built form and open space, urban development must ensure that these benefits are accessible to all and generate further opportunities for social and economic development. Sustainable development can only result when there is a goal to improve the environmental, social and economic situation. Whether driven by the public or private sector, the objective should always be to create a better city or town for all to benefit from. This application proposal serves as an element toward contributing to creating a better town for the public good.

ii. Background to the objectors

All the objectors operate from neighbouring offices on Erven 708 and 717 Hermanus including the owner and employee of Plan Active Town and Regional Planners, a surveyor operating from the same property, then also the same person as the owner of Plan Active Town and Regional Planners, P Spronk as a trustee of the office park trust and Mrs Louise Coetzee one of the sectional title owners of the Office Park complex.

It is evident that reasons provided are not applicable to their own interest, but can be seen as efforts to enhance their reasons of objections.

The objectors in general ignored the the provincial guidelines and their comments are considered mainly subjective unjustified personal opinions.

The objectors do not acknowledge the need of pre-school children being close to the their parents during business hours and the they also ignore the fact that the primary school is within 200m from the application site.

d. Methodology followed in the response to the objections

The response to the objections are dealt with by summarizing the points of objection where to each of the analysed points are responded to.

**2. Summary of objections**

In the following paragraph a summary of the objections is provided as most of the objections have the same content. In addition to the summary a response to the objection summary is provided:

Point of objection	Response
<p><b>Illegal Use:</b>                      The school is operated illegally since January 2024.                      The school showed complete disrespect of the Overstrand Municipal Scheme regulations being Business 3: Local Business for the use of shops, dwelling unit (above ground floor) in accordance with 6.3.2., flats (above ground floor) offices, restaurant, caretaker's accommodation and self-catering. Only after approval a consent use can be utilised for a place of instruction.</p>	<p>It is clearly stated in the application that "The purpose of the application is to acquire the required land-use rights to legally operate a small-scale pre-school / daycare centre aimed at children whose parents predominantly work in the central areas of Hermanus."                      The application for the pre-school / daycare centre is in contradiction with the objector's derogatory statement of "The school shows complete disrespect of the Overstrand Municipality" actually proves respect for the law and the Overstrand Municipality.</p>
	<p>Given the function of the pre-school / daycare centre, the immediate termination of the school from a humanity perspective would cause serious disruption to the parents and children already accommodated at the school.                      The objectors create the impression of complete incompatibility, but ignores the complimenting effect and function of a pre-school / day care centre within this area of employment of Hermanus and surround.                      Furthermore the objectors also ignores the fact that their business operation is also lacks compliancy with the Overstrand Municipality Zoning Scheme criteria.</p>

The operators from the school undertook to comply with the reasonable conditions of the application.

As background to the above it should be noted that Erf 707 Hermanus was originally zoned Residential Zone 1: Single Residential (SR1), which permitted the operation of a creche with less than 5 children as a primary right. The current operators indicated that upon review, it was discovered that the rezoning was already approved but not updated at that stage by the Overstrand Municipality, leaving only the Consent Use Application outstanding.

It should also be noted that the creche has received the necessary health certificate and approval from the Overberg District Municipality for a capacity of 50 learners but has limited this to 20 in respect and consideration of the neighbourhood.

**Noise Factor:**

The school has a detrimental impact on the tenants as a result of the noise originating from the sand play area canalised from the canopy built over the sand play area and also from the play areas directly built adjacent to the boundary wall.

The pre-school/daycare centre is currently operational with less than the targeted 20 children and the noise factor emanating from the children's play area has already caused a disturbance in the operation of my office activities. My office windows must be closed during telephone conversations and client meetings.

In terms of the Western Cape Noise Control Regulations, 2013 the objector attest to the disturbing noise emanating from toddlers shrieking, crying and yelling in the sand pit situated virtually on the boundary between Erven 707 and 708 Hermanus. There is also noise of several toddlers riding plastic scooters.

The objector also mentions that the traffic in Magnolia Avenue is not a disturbing factor to the office activities as the sound is absorbed by the trees in the front section of Erf 708 Hermanus. The disturbance is caused by the noise emanating from the play area situated at the back of Erf 707 Hermanus in the enclosed play area on the boundary between Erven 707 and 708 Hermanus.

It is mentioned that "the potential noise impact is not mitigated, supervised and managed as per the motivation report."

As mentioned in the opening paragraphs of the report, it is clear that noise is the main objection to the application.

The objections are considered to be taken out of context and exaggerated by the objectors. The impression exists that there might be a personal non-related dispute between the owners.

The operators has in response to the objections in writing confirmed that "The creche limits outdoor play to just **one hour per day**, aligning with Hermanus Primary School's outdoor play schedule."

"Once playtime is over, all activities occur indoors, ensuring that noise is limited. Additionally, the creche is closed on public and school holidays, which further reduces any potential disturbance."

The operators responded further by stating that "Furthermore, 90% of the creche's learners are part-time, which further reduces noise and activity levels."

The objectors strongly worded statement that "the potential noise impact is not mitigated, supervised and managed as per the motivation report." is confusing as it refers to a **potential use** (present tense) that is "not mitigated, supervised and managed as per the motivation report."

Based on an independent sample, it was confirmed that the employees of the nearby PSG building were not even aware of noise originating from the pre-school / daycare centre in strong contrast of the objectors objection providing it as if it is a fact. Sound from the primary school however is evident at the said offices, but mostly only during playtimes.

**Desirability and Compatibility of the Application Site**

The school does not fit in the environment and character being used predominantly for office use.

Land-use Planning unit 13, referred to by the applicant, does not proposed a pre-primary school and daycare among offices but rather the need for a primary school within the area, where a primary school already exists.

The pre-school / daycare centre is not in a desired location as the area is earmarked for business purposes- offices. The dominant land-use in the area is office use as the area has attracted high-end users like PSG and investment companies. It is stated that the operation of a the pre-school / daycare centre will be detrimental to the area and will be out of character.

It is mentioned that accessibility is of great importance, and that the subject erf is in close proximity to the taxi rank and major routes to the primary and high school. This need is justified from many perspectives, including the municipality's own spatial policy. However, the surrounding land-uses surrounding Erf 707 Hermanus are disregarded. Accessibility does not validate the proposed change in use to a pre-primary school and daycare on a property rezoned specifically for office use.

The objectors incorrectly claim that the area is a predominantly office-based area; it actually has a diverse range of zoning and uses, including:

- Residential
- Business (1 and 2)
- Authority
- Public and private open spaces
- Community zoning

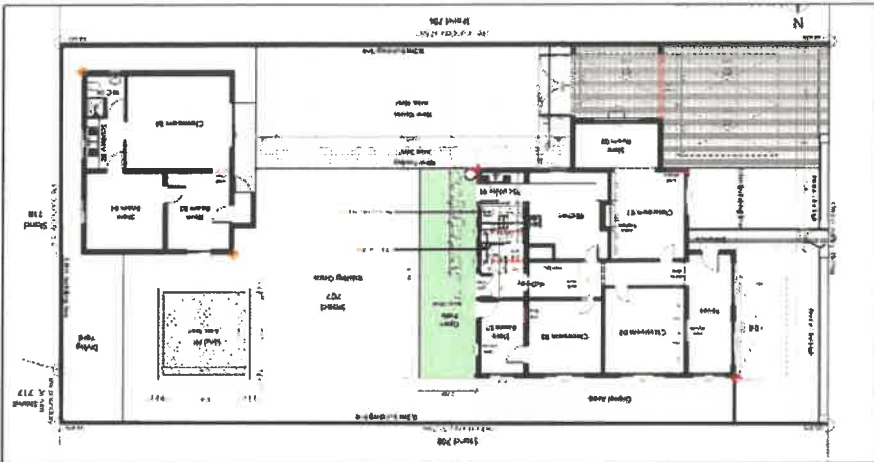
Local businesses include medical practices, a laundromat, a public library, bookshops, the Hospice Shop, local government offices, and a bowling club. This variety of land-uses clearly demonstrates that the area is not an exclusively office use area.

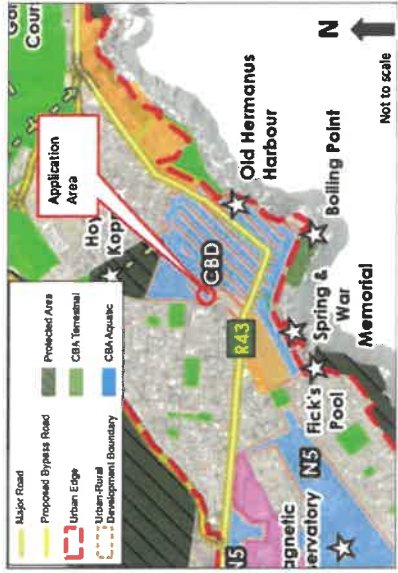
The objectors do not give acknowledgement to the function and secondary influences and impact of the existing primary school in its present location. It is often found that a pre-school or daycare centre in within close proximity of a primary school.

The fact that the primary school and the pre-school are part of the Hermanus CBD and abutting the employment area is considered complimentary to the variety of land-uses within the development node of the application area.

From an urban design point of view it is placed that towns are made up of a multitude of components often with conflicting requirements and demands therefore to create successful and well performing urban environments, the impact or people required consideration and therefore it is essential to understand the performance of the whole and not the optimisation of individual parts. Urban design seeks to provide a holistic understanding of city-making and takes balanced approach to the requirements of the individual urban and

	<p>landscape components while prioritising the performance of the urban environment as a whole (Taken from the City of Cape Town’s Designing Quality Places: Urban Design Policy- August 2024.)</p> <p>It is evident that the objectors fail to acknowledge the view of a balanced approach and a holistic understanding of city-making to enhance the performance of an area and subsequently disregarding progressive latest urban planning trends.</p>
<p><b>Safety Concerns:</b></p> <p>The objectors claim that the placement of existing pre-school / daycare centre that is not in the interest of the children and parents being on a busy local access road. They claim that the lack of demarcated parking bays for drop-off and collection of children a safety hazard is to the children and even more if the children have to cross Magnolia Avenue to get access to the school entrance.</p> <p>An extended objections supported with photographs were raised about the safety impact of the pre-school and daycare centre claiming that regular protests are held in Hermanus with the end destination at the Overstrand Municipality building.</p>	<p>The point of objection raised by the objector’s has no direct relevance or impact on the objector’s property. This point of objection is rather seen as a point simply used by the objector to denigrate the application to favour their views and objections.</p> <p>Safety is obvious without doubt a non-negotiable matter to the operators of the pre-school / daycare centre.</p> <p>The location of schools are encouraged along collectors roads as through traffic within residential areas are not ideal. Together with this, the objectors ignore the fact that pre-school children are accompanied by their parents. - this is normal. Furthermore the likelihood is that the parents would park on the premises where provision will be made once approved.</p> <p>In terms of the protest actions, the objectors appear to create the impression that protest take place almost daily, which is not the true.</p> <p>The area is generally safe, which is evident by the number of children safely walking to the Hermanus Primary, Hermanus High School. If the area was not a safe area, it is also likely that the objector would have provided more security measures on their property or relocated to a safer area.</p>

	<p>Subsequent to the above, the points of objections are not considered valid points of objection, or relevant to the objectors land-uses and is subsequently requested to be rejected by the deciding authority.</p>
<p><b>Parking:</b>          It is claimed that the proposed parking is not compliant, feasible or accessible as per the Overstrand Municipal Scheme Regulations.          A section of the street boundary wall to widen the entrance / exit cannot be demolished to make way for access to parking bay 4 and 3 as it has historical value.          The parking is not utilized as depicted on the SDP, currently provision is made for only 1 vehicle on site.          Parking must be provided for 10-15 cars of parents to collect children at 12h15 and again 10-15 that will collect them at 16h00.          Parking bays situated in Magnolia Avenue are used by Overstrand residents visiting the library and conduct business at the Overstrand Municipality.          When Municipal tenders are submitted in the tender boxes situated at the municipal building's Magnolia Avenue entrance, the parking bays in Magnolia Avenue are fully occupied.          It is not reasonable to expect the municipality to furnish parking bays to the pre-school that is not in the interest of the public or will inconvenience ratepayers.</p>	<p>The parking proposed for the pre-school / daycare centre is in contradiction with the objector's opinion, fully compliant with the Overstrand Municipal Scheme Regulations.</p> <p>The Overstrand Municipal Planning By-Law, 2020 requires for a creche or daycare centre "one bay per 10 children plus a stop-and-drop facility where a daycare centre makes provision for more than 30 children or determined by the Municipality"</p> <p>The proposed pre-school / daycare centre is proposed for 20 children meaning that 2 parking bays are required. The parking layout proposal was discussed with the relevant municipal engineer which supported the current proposed layout making provision for 2 staff parking and two parent parking.</p> 

	<p>The claim that 10 to 15 parking bays need to be provided is completely incorrect from the objectors. It appears that the objectors try to put the application in a bad light. The statement is completely unfounded.</p> <p>As mentioned in our application, the creche has fixed hours for drop-off and pick-up, with parents arriving from 7 a.m., well before the business day begins at 8 a.m. The creche closes at 4 p.m., avoiding conflict with the 5 p.m. business closing times and peak traffic hours.</p> <p>It should also be acknowledged that drop-off and pick-up times are quick and prompt (approximately 2 minutes), and there are no significant impact on surrounding areas or public parking.</p> <p>In the light of the above the point of objection should be ignored.</p>
<p><b>Inconsistencies</b></p> <p>A place of instruction is not consistent with the approved use of the subject erf, which is designated for office</p> <p>The repeated reference to the area being within the CBD and primarily utilized for business purposes is misleading</p> <p>The applicant inconsistently described the ECD facility, initially referring to it as a small-scale pre-school and daycare but later as a medium-scale school.</p> <p>The pre-school be accessible to all income groups and capped to 20 children- questions the viability- expect more children to be accommodated to make it feasible and subsequently being detrimental to the surrounding professional office uses.</p> <p>Pre-primary schools and daycare centres are vital components of a holistic environment, but their location should be compatible with surrounding land-uses and not negatively impact them.</p>	<p>It is acknowledged that the current zoning does not allow for a pre-school, hence the reason for the application.</p> <p>It is not clear why the objectors find it misleading stating that the premises is within the CBD, as it is within the Hermanus Central Business Area as defined in terms of the Overstrand Municipal Spatial Development Framework, 2020 and shown in the extract, even being on the edge of the CBD, it is still within the CBD. Even though, different types of businesses are found and accordingly interpreted by the local authority, no reason is foreseen for the terminology to be misleading.</p>  <p>The map shows the CBD area with various zones: Major Road (yellow), Proposed Bypass Road (orange), Protected Area (green), Urban Edge (light green), Urban-Rural Development Boundary (dotted line), CBA Terminal (dark green), and CBA Aquatic (blue). Landmarks include Old Hermanus Harbour, Boiling Point, Spring &amp; War Memorial, Flick's Pool, and the N5 highway. A red box highlights the 'Application Area' near the Harbour. A north arrow and 'Not to scale' note are also present.</p>

It is stated that the Site Development Plan (SDP) is incorrect and incomplete. They claim the sand pit with awning differs from what has been indicated on the SDP and that the position of various other playground equipment has also not been indicated on the SDP.

The one objector claims that the motivational report mentions that there are restricted area provided between the pre-school / day care centre and the offices, but the statement is incorrect. There is a sand pit with an awning and colourful painted tyres placed right next to the boundary wall in close proximity to the office space most adversely affected by the noise.

The objector also claims that the motivational report indicates that the pre-school / daycare centre will keep its windows closed as part of the noise mitigation measures, but considers it to be impractical and not beneficial for a class full of children not to have fresh air, especially in summer.

He further claims with regards to inconsistencies that the motivational report mentions that a 2,5m hedge would be a noise mitigating factor, but states that there are no hedges situated on erf 707 Hermanus.

The objector claims that the statement in the motivational report that there are no other pre-schools situated in the immediate area to be incorrect.

The use is considered, especially on the proposed scale and within close proximity of the primary school to be complimenting the area by providing a facility where pre-school can be accommodated within close proximity of the areas where parents work.

The objection made that the location of such a facility should be compatible with the surrounding land-uses and not negatively impact them is supported, however as mentioned in the motivational report it is considered compatible, complimenting and supporting. It is considered that the objectors are subjectively opposed to the application.

The resistance of the objectors against the pre-school / daycare centre appears rather to be a matter of intolerance and over-sensitivity as the description of the noise appears to be exaggerated.

The mitigation measures can be implemented and it would be a good idea to negotiate measures.

It is important to understand that a town is a complex functional system of mutual linked urban components such as residential, commercial, industrial, public services, educational, recreational and transport land-uses. For the optimal and harmonious functioning of these different land-uses it is most important that the different characteristics in terms of erf sizes, residential units and types, land values, building values, floor area, building design, land ownership and socio-economic population characteristics are taken into account when urban areas are planned and applications being made. This contributes to particular land-use patterns, population and morphological structures. These components should be orderly sited to obtain the most balanced and efficient utilization, functioning and development of land. Land is a scarce resource, therefore it is

<p><b>Economic feasibility:</b> It is stated that "it is not economically viable to operate a fully-fledged pre-school / day care centre with rent and other expenditures as well as salaries for teachers and supporting staff with only 20 children, and sooner than later it is anticipated that the number will increase drastically.</p>	<p>imperative that every portion of land be utilized effectively and optimally and contributing and complimenting each other.</p> <p>The point of objection is considered as another attempt of derogate the application.</p> <p>The feasibility of the business is of no concern of the objectors and the statement of the objectors that the number of children is unfounded assumption without any base.</p> <p>Therefore this point of objection should be ignored.</p>
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### 3. Conclusion:

It needs to be understood that a town, like Hermanus consists of functional systems of mutual linked urban components such as residential, commercial, industrial, public services, educational, recreational and transport land-uses. For the optimal and harmonious functioning of these different land-uses it is important that the different characteristics are taken into account when applications are considered. These components should be orderly sited to obtain the most balanced and efficient utilization, functioning and development of land. In addition to this it should also be taken into consideration that towns are dynamic and changes all the time in terms of needs, desirability due to technological evolution, however the principle of mutual linked urban components towards a functioning town remains.

Given the above, the objectors mutual primary objection is about noise, but is clearly exaggerated. They also do not acknowledge or promote the latest urban planning trends towards holistic city-making following a balanced approach towards urban areas but merely object for the purposes of their own one-dimensional office use. They used several other points of objections / reasons which has no impact on their property to resist this application for a pre-school / daycare centre

Thus, by not accommodating diverse land-uses, results to an unbalanced and incomplete town.

In the light of the above it is requested that this consent use application for the pre-school / day care centre be approved.

Kind Regards



Andre Wiehahn Pr Pln A/927/1996  
B Art et Sc (Town and Regional Planning)  
Tel: 082 466-0490

**COMMENTS FROM THE PROJECT MANAGEMENT DIVISION FOR:  
APPLICATION FOR CONSENT USE, AMENDMENT OF CONDITIONS IN  
RESPECT OF AN EXISTING APPROVAL & DETERMINATION OF AN  
ADMINISTRATIVE PENALTY: ERF 707, NORTHCLIFF (4647/2024)**

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 Principal Technologist: 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**

22/05/2025  
DATE