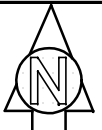


<p>OVERSTRAND MUNISIPALITEIT ERF 4586, 25 HARMONY LAAN, NORTHCLIFF, HERMANUS: AANSOEK OM OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDES, VERGUNNINGSGEBRUIK, AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: PLANACTIVE TOWN & REGIONAL PLANNERS NAMENS W & SK LOOTS</p>	<p>OVERSTRAND MUNICIPALITY ERF 4586, 25 HARMONY AVENUE, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE, DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLANACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF W & SK LOOTS</p>	<p>UMASIPALA WASE-OVERSTRAND ISIZA ESINGU-ERF 4586, 25 HARMONY AVENUE, HERMANUS, KUMMANDLA KAMASIPALA WASEE-OVERSTRAND: ISICELO SOKUSHENXISWA KWEEMEKO EZIYIMIQOBO KWITAYITILE ZOBUNINI, UKUVUMELA UKUSEBENZISA, UKWAHLULA NENGIKHELELO YOBHALISO LOMDLIWO NGABAKWAPLANACTIVE TOWN & REGIONAL PLANNERS EGAMENI LIKA-W & SK LOOTS</p>
<p>Kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die onderstaande aansoek van toepassing op Erf 4586, Northcliff, Hermanus naamlik:</p> <p>Opheffing van 'n Beperkende Titelaktevoorwaardes Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelaktevoorwaardes C.I 1 en 4. soos verval in Titelakte T7972/2018 van die eiendom om:</p> <ul style="list-style-type: none"> Om die hoof woning se gebruikverandering na gastehuis op die 4,5m straat boulyn te akkomodeer; Om die uitgebreide hoofwoning (gebruiksverandering van die goedgekeurde dubbel motorhuis en hoofwoning na gastehuis) te akkomodeer. <ol style="list-style-type: none"> Om 'n vierslaapkamer-gastehuis op die eiendom toe te laat; Om die oortreding van die voorgestelde gastehuis (gebruiksverandering van die goedgekeurde dubbel motorhuis en hoofwoning na gastehuis) oor die 4.72m titelakte straat boulyn (geposisioneer 4.352m van die Mossie Laan erf grens). <p>Vergunningsgebruik Aansoek ingevolge Artikel 16(2)(o) van die Verordening om 'n vier slaapkamer gastehuis op die eiendom te akkomodeer.</p> <p>Afwyking Aansoek ingevolge Artikel 16(2)(q) van die Verordening vir die bepaling om 'n tweede toegangspunt vanaf Mossieleaan om die parkeeruitleg vir die voorgestelde gastehuis te akkomodeer.</p> <p>Bepaling van Administratiewe Boete Aansoek ingevolge Artikel 16(2)(q) van die Verordening vir die bepaling van 'n administratiewe boete vir die onwettige aanbouings op die eiendom.</p> <p>Besonderhede aangaande die voorstel lê ter insae gedurende weksdae tussen 08:00 and 16:30 by die Departement: Stadsbeplanning te Patersonstraat 16, Hermanus.</p> <p>Enige kommentare moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) bereik voor of op Vrydag, 30 Augustus 2024, met u naam, adres en kontakbesonderhede, belang in die aansoek, en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die Senior Stadsbeplanner, Me. H Van Der Stoep by 028-3138900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word om hul kommentare te formuleer.</p> <p>Munisipale Bestuurder, Overstrand Munisipaliteit, Posbus 20, HERMANUS, 7200</p> <p>Munisipale Kennisgewing Nr. 102/2024</p>	<p>Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), of the following applications applicable to Erf 4586, Northcliff, Hermanus namely:</p> <p>Removal Of a Restrictive Title Deed Condition Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed condition C.I 1. and 4. of Title deed no. T7972/2018 of the property to:</p> <ul style="list-style-type: none"> Accommodate the main dwelling's approved change of use to guesthouse positioned on the 4,5m Harmony Avenue and Mossie Avenue Street building line; Accommodate the extended main dwelling (change of use of the approved double garage and main dwelling to guesthouse): <ol style="list-style-type: none"> To allow a four-bedroom guesthouse on the subject property; To address the encroachment of the proposed guesthouse (change of use from approved double garage to guesthouse) over the 4.72m title deed street building line (positioned 4.352m from the Mossie Avenue erf boundary). <p>Consent use Application in terms of Section 16(2)(o) of the By-Law for to accommodate a four-bedroom guesthouse on the property.</p> <p>Departure Application in terms of Section 16(2)(d) of the By-Law for to allow a second access point from Mossie Avenue to accommodate the parking layout for the proposed guesthouse.</p> <p>Determination of Administrative Penalty Application in terms of Section 16(2)(q) of the By-Law for the determination of an administrative penalty for the illegal additions on the property.</p> <p>Details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning at 16 Paterson Street, Hermanus.</p> <p>Any comments must be in writing to reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before Friday, 30 August 2024, quoting your name, address and contact details, interest in the application, and the reasons for comment. Telephonic enquiries can be made to the Senior Town Planner, Mrs. H Van Der Stoep at 028-313 8900. The Municipality may refuse to accept comment received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comments.</p> <p>Municipal Manager, Overstrand Municipality, P.O. Box 20, HERMANUS, 7200</p> <p>Municipal Notice No. 102/2024</p>	<p>Kunikezelwe inothi ngokwemiba yeSoloty lama47 nelama48 likaMasipala waseOverstrand ngokuHlomela UMthethwana Ongezicwangciso Zokusyetyenziswa woMhlaba ku2020 (UMthethwana), ngezi ziza zilandelayp ezisebenziseka kwisiza esingu-Erf 4586, Northcliff, Hermanus ebizava:</p> <p>Ukushenxiswa kweeMeko eziyimiqobo kwiTayitile yoBunini Isicelo sisebenziseka nemiba yeSoloty le16(2)(f) loMthethwana ongokushenxiswa kweemeko eziyimiqobo kwitayitile yobunini C.I 1. no 4. Yenombolo yeTayitile Yobunini engu nomb. T7972/2018 kwisiza:</p> <ul style="list-style-type: none"> Ukulungiselela indawo yokuhlala evumela utshintsho lokusebenzisa iindawo yokufikela iindwendwe emiswe kwimitha eziyi-4,5m Harmony Avenue neMossie Avenue Street emelene nomgca wesakhiwo; Ukulungiselela ukongezelela indawo yokuhlala (ukutshintsha ukusebenzisa ukuvumela igaraji engena iimoto ezimbini nobhaliso lwendawo yokufikela iindwendwe): <ol style="list-style-type: none"> Ukuvumela indlu yeendwendwe engamagumbi- amane kwisiza ekuthethwa ngaso; Ukulungisa ungenelelo lwendlu yokufikela iindwendwe ephakanyiswe kwesi sicelo (utshintsho lokusyetyenziswa kwisivumelwano sokukwakhela igaraji elungiselelwe ukungena iimoto ezimbini ekulendlu yokufikela iindwendwe) engaphaya kweemitha ezingama- 4.72m kwitayitile yobunini kumgca omelene wesakhiwo (omiselwe kwimitha ezingama-4.352m ukusuka kumda wesiza kwicala leMossie Avenue). <p>Isivumelwa ngokusebenzisa Isicelo sisebenziseka ngokwemiba yeSoloty le16(2)(o) loMthethwana ukulungiselela indlu yabahambi enamagumbi amane okulala kulo mhlaba.</p> <p>Ukwahlula Esi Sicelo sisebenziseka neSoloty leSoloty le16(2)(d) loMthethwana ukuvumela indawo yesibini yokunge nokufikelela ukusuka eMossie Avenue ukulungiselela indawo elibala lokupaka izithuthi kule ndlu yabahambi ekwesi siphakamiso.</p> <p>Inggikelelo yoMdlivo woBhaliso Isicelo sisebenziseka nemiba yeSoloty le16(2)(q) loMthethwana wengqikelelo yoMdlivo wobhaliso ngokongezelela indlu okungabhaliswanga.</p> <p>Iinkcukacha mayela nesi siphakamiso ziyafumaneka ukuze ziholwe kwiintsuku zaphakathi evekini ukusukela kwiintsimbini ye08:00 ukuya kweka16:30 kwiSebe: LeZicwangciso ngeDolophu kwa16 Paterson Street, Hermanus.</p> <p>Naziphi na izimvo mabhalwe zifike kwaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ngaphambi okanye ngoLwesihlanu, 30 EyeThupha 2024, uchaze igama lakho, idilesi neenkukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zakho zokuhlomla. Imibuzo ngefowuni ingathunyelwa kuMcwangcisi Omkhulu weDolophu, uNkskz. H Van Der Stoep kwa-028-313 8900. UMasipala angala ukwamkela izimvo ezifunyenwe emva komhla wokuvula. Nabani na ongakwazi ukufunda nokubhala angandwendwela iSebe LeziCwangciso ngeDolophu apho igosa likamasipala liza kumnceda ukuhlomla ngokusemthethweni.</p> <p>Umlawuli kaMasipala, Overstrand Municipality, P.O. Box 20, HERMANUS, 7200</p> <p>Inothi kaMasipala Nomb. 102/2024</p>



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

ERF 4586 HERMANUS

DIVISION: CALEDON

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

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

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

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

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

2. APPLICATION DETAILS

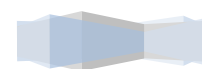
Application is made in terms of:

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

3. NEED AND DESIRABILITY

3.1 PROPERTY DESCRIPTION

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



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

3.2 ZONING

Erf 4586 Hermanus has the following land use rights:

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

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

3.3 LAND USE

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

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



3.4 PROPOSAL

The following is proposed:

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



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

3.4.1 Rectification of contravention

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- **Whether the unlawful conduct was stopped**

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

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

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

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

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

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

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

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

- **Summary**

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

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

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

3.4.2 Consent use and departure

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

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

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

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

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

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

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

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

Refer to the extract from the site plan below:

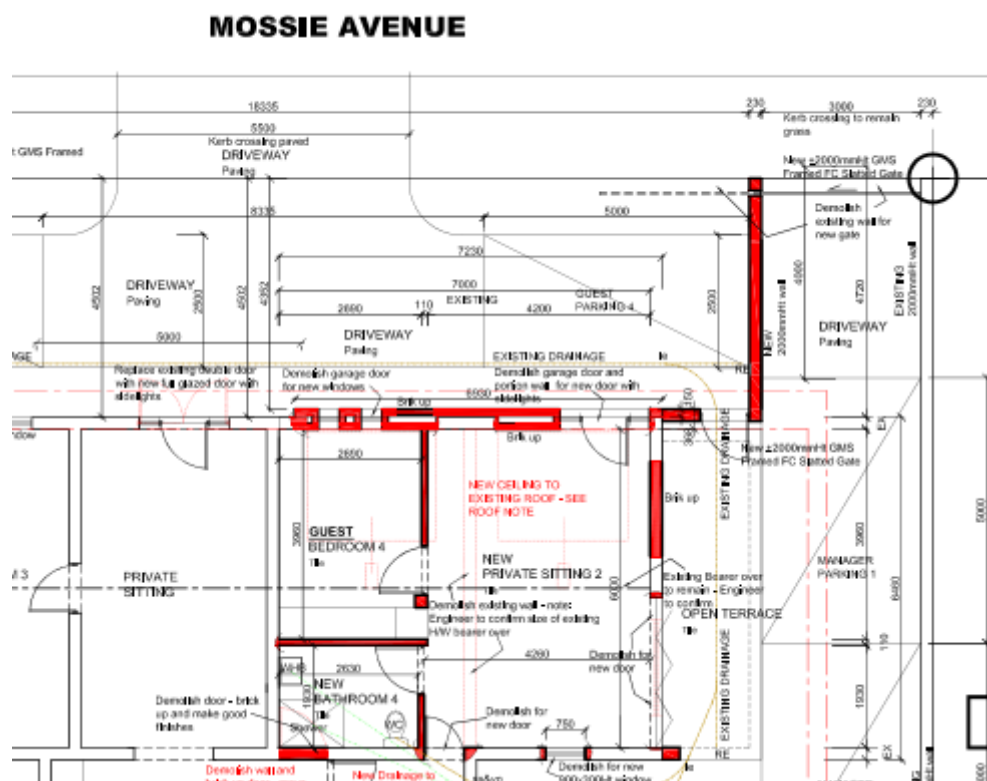
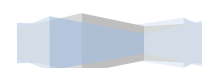


Image 1: Position of the As Built unlawful structure / proposed guest bedroom no. 4, new private sitting room no. 2, new bathroom no. 4 and open terrace as indicated on the site plan

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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



3.4.3 Removal of restrictive title deed conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

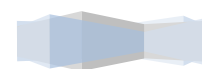
- ***The social benefit of the restrictive conditions remaining in place in its existing form***

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

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

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

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



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

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

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

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

3.5 THE POTENTIAL OF THE PROPERTY

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

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

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

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

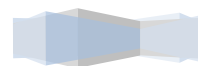
The subject property has the potential and allows for the deviations being applied for since all land use scheme regulations' development parameters are met.

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

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

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

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



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

3.6 ECONOMIC IMPACT

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

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

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

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

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

3.7 SOCIAL IMPACT

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

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

3.8 COMPATIBILITY WITH SURROUNDING LAND USES

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

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

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

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

3.9 IMPACT ON EXTERNAL ENGINEERING SERVICES

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

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

3.10 IMPACT ON SAFETY, HEALTH AND WELLBEING OF SURROUNDING COMMUNITY

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

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

3.11 IMPACT ON HERITAGE

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

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

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

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

3.12 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

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

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



3.13 TRAFFIC IMPACT, PARKING AND ACCESS

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

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

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

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

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



3.14 **FORWARD PLANNING AND LAND USE DOCUMENTS**

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

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

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

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

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

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



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

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

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

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

3.15 **PLANNING PRINCIPLES**

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

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

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

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

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

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

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

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

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

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

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

4. RECOMMENDATION

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

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

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

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



