



OVERSTRAND MUNISIPALITEIT
ERF 5473, 13 17DE LAAN, VOËLKLIP, HERMANUS:
AAANSOEK OM OPHEFFING VAN BEPERKENDE TITELWOORWAARDE,
HERSONERING, VERGUNNINGSGEBRUIK EN AFWYKING:
WRAP PROJECT OFFICE NAMENS DE BROEDER INVESTMENTS (PTY) LTD

Kragtens Artikel 47 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 word hiermee kennis gegee van die onderstaande aansoeke van toepassing op Erf 5473, Voëlklip, Hermanus naamlik:

Opheffing van Beperkende Titelwoorwaarde

Aansoek ingevolge Artikel 16(2)(f) ten einde die opheffing van Klousule D(c) van Titelakte T9341/2014 van toepassing op Erf 5473, Voëlklip, Hermanus ten einde kantore en 'n professionele praktyk te akkommodeer;

Hersonering:

Aansoek ingevolge Artikel 16(2)(a) ten einde verandering van gebruik (vir kantore);

Vergunningsgebruik:

Aansoek ingevolge Artikel 16(2)(o) ten einde die voorgetelde woonstel op grondvloer van 'n besigheids eindom; en

Afwyking:

Aansoek ingevolge Artikel 16(2)(b) om:

- Verslapping van westelike laterale boulyn vanaf 3m na 2,68m ten einde die voorgestelde kantore te akkommodeer; en
- Verslapping van suiderlike laterale boulyn vanaf 3m na 2,48m ten einde die voorgestelde woonstel te akkommodeer.

Besonderhede aangaande die voorstel lê ter insae gedurende weekdae tussen 08:00 and 16:30 by die Departement: Stadsbeplanning te Patersonstraat 16, Hermanus.

Enige kommentaar moet skriftelik ingedien word in terme van Artikels 51 en 52 van die bogenoemde Verordening aan die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 028-313 2093 / (e) alida@overstrand.gov.za) voor of op Vrydag, 19 Augustus 2022, stipuleer u naam, adres, kontak besonderhede, belang in die aansoek en redes vir kommentaar. Telefoniese navrae kan gerig word aan die **Stadsbeplanner, Mnr. P. Roux 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 ten einde hul kommentaar te formuleer.

Munisipale Bestuurder, Overstrand Munisipaliteit, Posbus 20, HERMANUS, 7200
Munisipale Kennisgewing Nr. 81/2022

OVERSTRAND MUNICIPALITY
ERF 5473, 13 17TH AVENUE, VOËLKLIP, HERMANUS:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION,
REZONING, CONSENT USE AND DEPARTURE:
WRAP PROJECT OFFICE ON BEHALF OF DE BROEDER INVESTMENTS (PTY) LTD

Notice is hereby given in terms of Section 47 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 of the applications mentioned below applicable to Erf 5473, Voëlklip, Hermanus namely:

Removal of Title Deed Restrictive Condition

Application in terms of Section 16(2)(f) in order to remove Clause D(c) of Title Deed T9341/2014 applicable to Erf 5473, Voëlklip, Hermanus to accommodate offices and a professional practice.

Rezoning:

Application in terms of Section 16(2)(a) for the change of use (for offices).

Consent Use:

Application in terms of Section 16(2)(o) for the proposed flat on the ground floor of a business premises.

Departure:

Application in terms of Section 16(2)(b) to:

- Relax the western building line from 3m to 2,68m to accommodate the proposed offices.
- Relax the southern building line from 3m to 2,48m to accommodate the proposed flat.

Detail regarding the proposal is available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning at 16 Paterson Street, Hermanus.

Any written comments must be submitted in accordance with the provisions of Sections 51 and 52 of the said By-law to the Municipality (16 Paterson Street, Hermanus / (f) 028-313 2093 / (e) alida@overstrand.gov.za) on or before Friday, 19 August 2022, quoting your name, address, contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the **Town Planner, Mr. P. Roux 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 comment.

Municipal Manager, Overstrand Municipality, P.O. Box 20, HERMANUS, 7200
Municipal Notice No. 81/2022

UMASIPALA WASE-OVERSTRAND
ISIZA 5473, 13 17TH AVENUE, VOËLKLIP, HERMANUS:
ISICELO SOKUSUSWA KWEZITHINTELO NGOKWEMIGAQO, UKUCANDWA
NGOKUTSHA, IMVUME YOKUSEBENZISA NOKUPHAMBUKA :
WRAP EGAMENI LIKA DE BROEDER INVESTMENTS (PTY) LTD

Esi saziso sikhutshwa ngokwemigathango yeSoloty 47 loMithethwana kaMasipala waseOverstrand woYilo lokuSetyenziswa koMhlaba wowama-2020 ngokwezicelo esifunyenweyo esicapazela Isiza 5473, EVoëlklip, Hermanus ezichazwe ngezantsi:

Ukususwa Kwezithintelo Ngokwemigaqo

Isicelo ngokwemigaqo yeCandelo 16(2)(f) ukuze kususwe iGatya D(c) leSivumelwano soBunini T9341/2014 elisebenza kwiSiza 5473, Voëlklip, Hermanus ukulungiselela ii-ofisi nemisebenzi yobungcali.

Ukucandwa Ngokutsha

Isicelo ngokwemigaqo yeCandelo 16(2)(a) sokutshintsha ukusetyenziswa (kwee-ofisi).

Imvume yokusebenzisa

Isicelo ngokweCandelo le-16(2)(o) leflethi ecetywayo kumgangatho ophantsi wendawo yoshishino.

Ukuphambuka

Isicelo ngokwemigaqo yeCandelo le-16 (2) (b) ku:

- Khuphisa umda wesakhiwo osentshona ukusuka kwisi-3m ukuya kwi-2,68m ukulungiselela ii-ofisi ezicetywayo.
- Khuphisa umda wesakhiwo osemazantsi ukusuka kwisi-3m ukuya kwi-2,48m ukulungiselela iflethi ecetywayo.

Inkcukacha mayela nesindululo siyafumaneka ukuze sihlolwe phakathi evekini ngamaxesha omsebenzi ukusuka kwintsimbi ye08:00 ukuya kweye16:30 kwiSebe: Izicwangciso Zedolophu kwanombolo 16 Paterson Street, eHermanus.

Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zamaCandelo 51 nelama-52 alo Mithetho uYilwayo yaye mazithunyelwe kuMasipala (16 Paterson Street, Hermanus / (f) 028 313 2093 / (e) alida@overstrand.gov.za) ngomhla okanye ngaphambi koLwesihlanu wama-19 EyeThupha 2022 unike igama lakho, idilesi neenkcukacha zonxibelelwano nawe, umdla wakho kwesi sicelo nezizalho zokunika izimvo. Xa ufuna ukubuzza into malunga nesi saziso ungatsalela umnxeba **Umcwangcisi Wedolophu uMnu. P Roux kule nombolo 028-313 8900**. Umasipala angala ukuzamkela izimvo ezifike emva komhla wokuzalwa.

Nabani na ngakwaziyo ukufunda okanye ukubhala makaye kwiSebe loYilo lweDolophu apho igosa likamasipala liya kumncedisa azibhale izimvo zakhe.

UMlawuli kaMasipala, Masipala waseOverstrand, P.O. Box 20, HERMANUS, 7200
Municipal Notice No. 81/2022



Locality Plan

Erf 5473 - Hermanus (Voëlklip)

 Subject property

Plan prepared by: Thian Jansen

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Unit B, Standard House,
Corner of Royal and Dirkie Uys
Street Hermanus, 7200



Project Office
Town Planning & Project Management

Inset



4159

4158

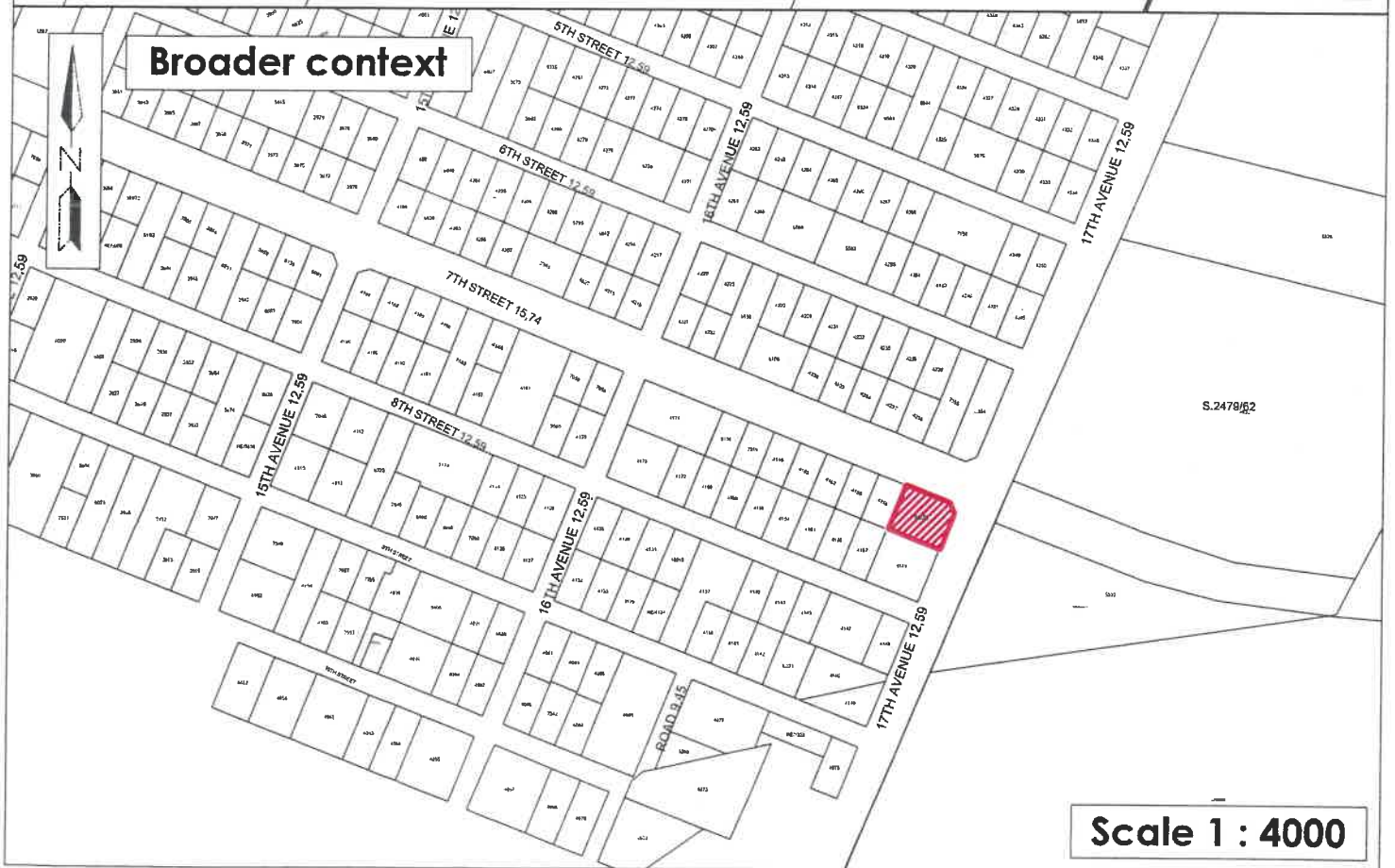
5473

4157

60

Scale 1 : 500

Broader context



Scale 1 : 4000



MOTIVATION

1. ABBREVIATIONS

OM	Overstrand Municipality
OMLUS	Overstrand Municipality Land Use Scheme, 2020
BY-LAW	Overstrand Municipality By-Law on Municipal Land Use Planning, 2015, as amended
PSDF	Western Cape Provincial Spatial Development Framework, 2014
LUPA	Western Cape Land Use Planning Act, 2014.
MSDF	Overstrand Spatial Development Framework, 2020
SR1	Residential Zone 1: Single Residential (SR1)

2. PROPERTY DETAILS

Consultant	WRAP Project Office
Erf Number	5473 Hermanus
Extent	832m ²
Zoning	Residential Zone 1: Single Residential (SR1)

3. BACKGROUND AND INTENT

Erf 5473 Hermanus, hereafter referred to as the subject property is owned by De Broeder Investments (Pty) Ltd hereafter referred to as the applicant. The applicant has a vision to rezone the subject property to allow the property to be used as offices (for example medical consulting rooms).

The subject property is located on the corner of 17th Avenue and 7th Street on the edge of Voëlklip (Refer **Plan 1 – Locality Plan**). The applicant bought the property in 2014 to be utilised as a dwelling house and to allow his mother to practice a home occupation on the subject property. As the years progressed, the home occupation was practised successfully and expanded, without them knowing, the expansion occurred past the allowable limit as a result of new policies and schemes that were implemented by the Overstrand Municipality.

The applicant's mother retired, and she ceased to practice her occupation from the property. With the history of the property being used as a physiotherapy practice, it is the intention of the applicant to sell the property zoned for offices purposes and in more particular for a professional practice. To ensure the property has an appropriate zoning, the applicant appointed WRAP Project Office to submit this application.

In addition to the rezoning application, an application for the removal of a restrictive title deed condition that prohibits the applicant from operating a place of business on the subject property, is also submitted.

There is also a flat on the subject property that is located on the ground floor which will require a consent use in terms of the OMLUS. (Refer **Annexure A – Power of Attorney**)



4. PROCEDURE TO ACHIEVE THE APPLICANT'S INTENT

The following is proposed:

4.1 Removal of a restrictive title deed condition in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

There is a title deed condition that prohibits the applicant to utilise his property to its full extent as described in Section 3 and the rationale for the removal of these conditions are discussed below:

Restrictive Title Deed Conditions
Condition III.D.(c) <i>"No canteen, hotel restaurant, shop, factory industry, or any place of business whatsoever shall be opened or conducted on the said property except with the consent of the Transferor Company."</i>

The rationale for the removal of the restrictive title deed condition is to enable the applicant to achieve the development intent highlighted in Section 3 and not be restricted in the future. The title deed condition is more restrictive than what is allowed in terms of the OMLUS.

The rationale for the removal of these restrictive title deed conditions will be discussed in detail in Section 7 of this report.

4.2 Rezoning of Erf 5473 Hermanus from Residential Zone 1: Single Residential (SR1) to Business Zone 3: Local Business (B3) in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The applicant has the vision to sell the property with a business zoning due to the history of the use of the building. The building has over the years been altered to accommodate physiotherapy practice and it would be illogical and costly to return the property into a dwelling house.

The proposal is to rezone the subject property to align with the intended use and ensure the rights are in place for the new owners. The proposal is to allow the new owners to operate offices from the subject property that will be aligned with the layout of the existing building.

Offices are defined in terms of the OMLUS as:

"property used for conducting an enterprise primarily concerned with administrative, clerical, financial or professional duties and includes medical consulting rooms"

The property will be able to accommodate the parking requirements refer Plan 4 – SDP. The total GLA calculated for the proposed business is 140,5 which requires 5,62 parking bays. The SDP illustrates the location of the consulting rooms/office that may be utilised for business purposes.



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No additional additions are proposed, and the proposal is to utilise the existing building for the proposed business premises.

4.3 Consent Use to allow a flat (on the ground floor) in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The subject property currently has a flat on the premises, which the applicant wants to retain when the property is rezoned to Business Zone 3. This requires a consent use to be approved as it is located on the ground floor.

The proposed zoning (B3) allows for a flat (on the ground floor) with consent from the OM. A flat is defined as: 'a unit containing one or more inter-leading rooms with adequate sanitary facilities and a kitchen, used for the accommodation and housing of a single family, and may be included in or separate from the main building on the property'. This additional use will add value to the subject property as it will retain a residential character to the area.

4.4 Permanent Departure from the western building line from 3m to 2,68m in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

Permanent Departure from the southern building line from 3m to 2,48m in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The subject property is currently zoned as Single Residential Zone 1. The current side building line is 2m and the street building line is 4m as determined by the OMLUS.

The proposed zoning of Business Zone 3's development parameters are as follows:
"The side building line is 0 m, provided that where any Business Zone 3 abuts another zone, the side building line is 3,0m."

With the subject property abutting two SR1 properties on the southern and western boundaries, 3m building lines will be required. The existing building was developed in line with the SR1 building lines. Due to the proposal to rezone, the existing building will be encroaching on both side building lines. See Figure 1 and 2 that illustrates the building line encroachments:



MOTIVATION

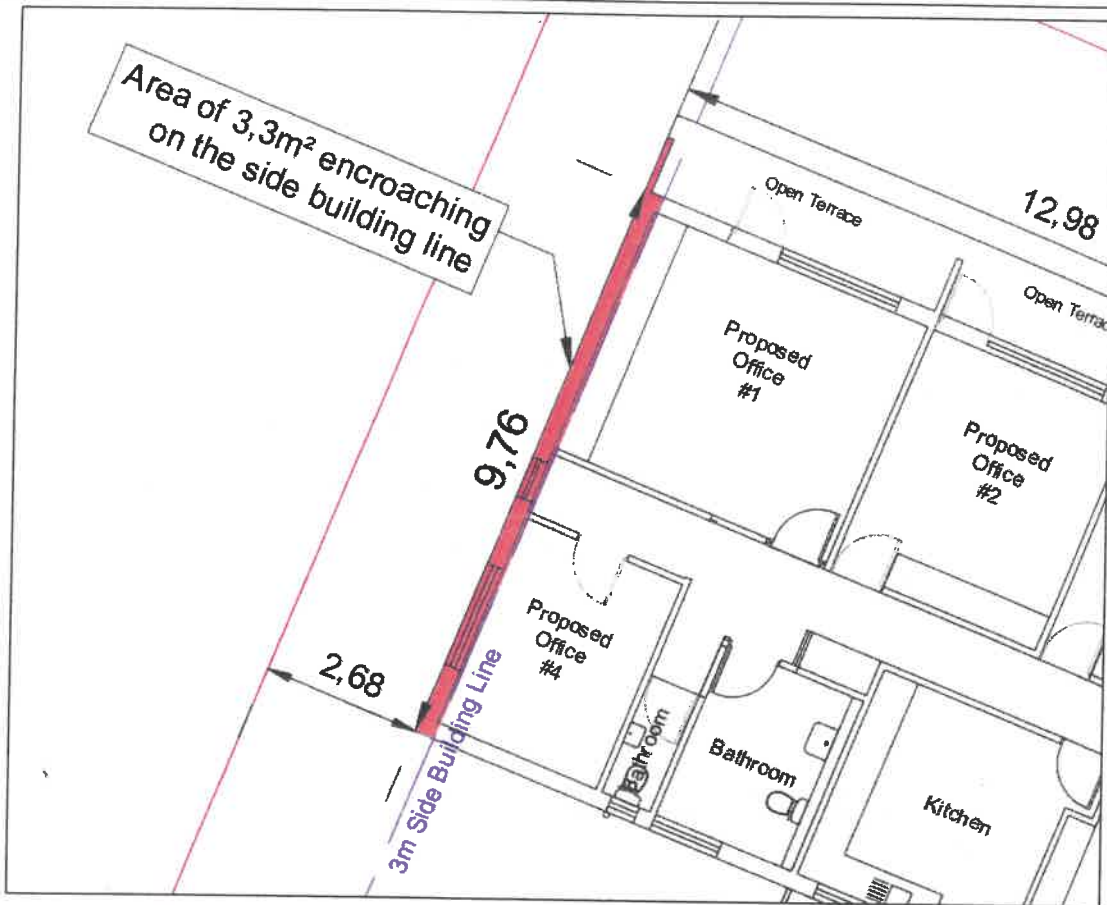


Figure 1: Proposed western boundary encroachment.

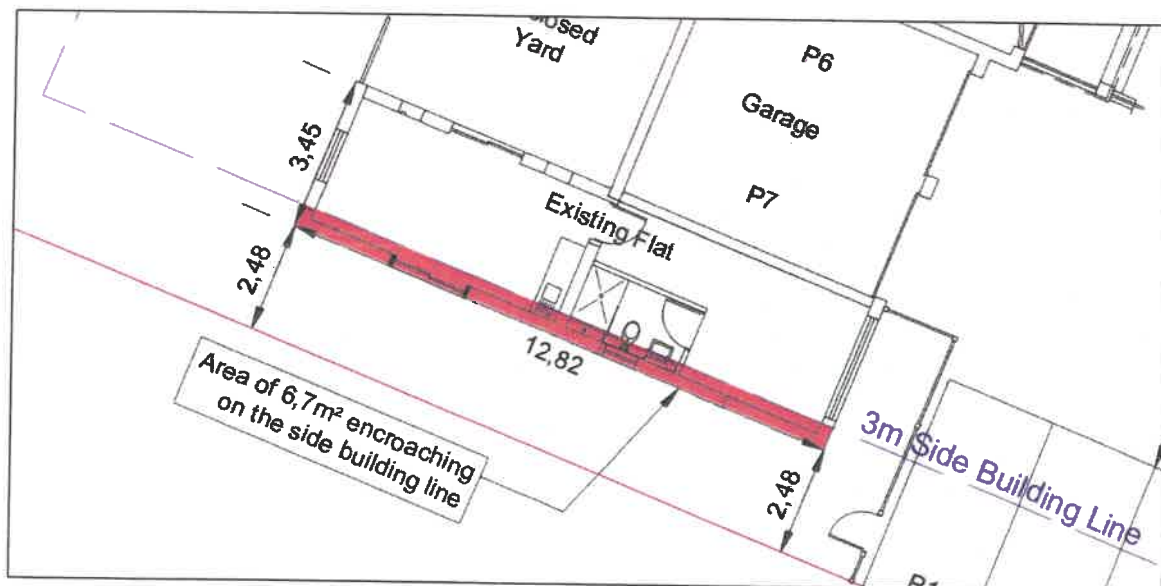


Figure 2: Proposed southern boundary encroachment.



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The figures above illustrate the small-scale encroachments that are proposed. The proposed encroachments are only 6,7m² and 3,3m².

The applicant would like to ensure the building line is appropriately relaxed in terms of what is required by the Overstrand Municipality.

5. APPLICATION

Considering the above, application is made for the following:

- 5.1 Removal of a restrictive title deed condition** in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.2 Rezoning** of Erf 5473 Hermanus from Residential Zone 1: Single Residential (SR1) to Business Zone 3: Local Business (B3) in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.3 Consent Use** to allow a flat (on the ground floor) in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.4 Permanent Departure** from the western building line from 3m to 2,68m in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and
- 5.5 Permanent Departure** from the southern building line from 3m to 2,48m in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

6. LAND USE ENVIRONMENT

The properties surrounding the subject property are predominantly zoned Residential Zone 1: Single Residential. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan).

7. TITLE DEED

Title deed T9341/2014 (refer **Annexure B**) was perused and there is a restrictive condition that was inserted into the original title deed and transferred into the current title deed. This title deed condition prohibits that the applicant's intent with the subject property can be realised.

Title deed restriction

Condition III.D.(c) "No canteen, hotel restaurant, shop, factory industry, or any place of business whatsoever shall be opened or conducted on the said property except with the consent of the Transferor Company."



MOTIVATION

Motivation

The rationale for the proposed removal

The subject property was used for the operation of a professional office over the past few years. The applicant has the vision to allow a business enterprise to continue operating on the subject property. The proposal to rezone is being restricted by the condition mentioned above and therefore requires removal.

Title deed condition background

The restrictive title deed condition was originally intended to protect the residential character of the Voëlklip area, but the intention of the land owner is to create a unique professional office space within in a continually diversifying area.

Status quo

The area currently allows for "Small individual localized business enterprises" as stated by the OMSDF and the proposal is to have a small professional office space. The title deed condition restricts what is proposed by the OMSDF and the changes that have been experienced over the past few years. The applicant has a vision and plans to expand beyond these conditions.

The current and future development of the property is being restricted by the above-mentioned title deed condition. The condition made sense when Voëlklip was only a residential area, but times have however changed and Voëlklip has businesses scattered around the neighbourhood. With the current restriction the applicant is not able to utilise his property to its full extent.

In terms of the requirements of LUPA, the following information is addressed in terms of Section 39(5)(a-f):

LUPA, Section 39(5) (a-f)	
<i>(a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;</i>	No person or entity will be affected financially by the removal of the restrictive title deed condition.
<i>(b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;</i>	No person is directly benefitting from this condition as the condition is only restricting the applicant.
<i>(c) the personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended;</i>	The applicant will be gaining from the removal of the restrictive condition as it will allow him to utilise his property to its full extent.
<i>(d) the social benefit of the restrictive condition remaining in place in its existing form;</i>	This restrictive condition does not have a social benefit.



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(e) the social benefit of the removal, suspension or amendment of the restrictive condition; and	
(f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.	There is no specific beneficiary of the condition, and no person or entity will be affected if these are removed.

8. ZONING

The following zoning parameters were assessed in conjunction with the SR1 & B3 OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (a) of the OM By-Law:

Residential Zone 1: Single Residential		
Land Use Restrictions		
	Development Parameters	Current Use
Primary uses	Crèche, Dwelling House, Guest Rooms, Home Occupation, Second Dwelling Unit and Self-Catering.	Dwelling house and home occupation.
Consent uses	Day Care Centre, Green House, Guest House, House Shop, Institution, Place of Instruction, Place of Worship, Residential Building and Intensive Horticulture.	Not applicable



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PROPOSED ZONING - BUSINESS ZONE 3: LOCAL BUSINESS (B3)			
Land Use Restrictions			
	Parameters	Proposal	Comply/ deviate
Primary use	Shops, Dwelling Unit (above ground floor) in accordance with 6.3.2, Flats (above ground floor), Offices , Restaurant, Caretaker's Accommodation and Self-Catering.	Offices	Applied for and motivated
Consent use that may be applied for	Bottle Store, Business Premises, Clinic, Conference Facility, Dwelling Unit (on ground floor) in accordance with 6.3.2, Flats (On Ground Floor) , Town Housing in accordance with 6.3.2, 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 (subject to the provisions of chapter 16.10)	Flat (on ground floor)	Applied for and motivated
Development parameters			
Coverage	The maximum coverage for all buildings on the land unit is 75% .	31,10%	Comply
Floor Factor	The maximum floor factor is 1.5 .	0.31	Comply



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Height	<ul style="list-style-type: none"> i. The maximum height of a building, measured from the base level to the top of the structure, is 8,5 m. ii. The maximum number of storeys is 2. 	<ul style="list-style-type: none"> i. The building is not higher than 8.5m. ii. 1 Storey 	Comply
Setback	<ul style="list-style-type: none"> i. The Municipality may require that all buildings and structures on the property are set back at least 6,5 m from the centre line of the street. ii. Where special circumstances exist, the Municipality may require a greater setback. 		Comply
Building Lines	<ul style="list-style-type: none"> i. The street building line is 0 m, provided that a 5,0 m building line applies where fuel pumps are erected; ii. The side building line is 0 m, provided that where any Business Zone 3 abuts another zone, the side building line is 3,0m; iii. The rear building line is 3,0 m, provided that where any Business Zone 3 abuts another zone, the rear building line is 3,0m; and <p>Provided that the Municipality may require more restrictive building lines in the interests of public health or safety or the environment or in order to enforce any applicable law or right.</p>	<ul style="list-style-type: none"> i. No fuel pumps are proposed ii. Applied for a 2,48m side building line (Southern building line). Applied for a 2,68m side building line (Western building line). iii. & iv. – N/A 	Applied for and motivated.
Window and door placement	<ul style="list-style-type: none"> i. Where a 0 m building line applies and where a wall of a building is erected 1,0 m or less from the side or rear building line, no door or window shall be permitted in the wall concerned. 	N/A	Comply

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	ii. Any portion of the building which contains a door or window onto a side or rear boundary shall be at least 1,5 m away from such boundary.		
Parking and access	According to section 17.1 of the OMLUS: Office Four bays per 100m ² GLA Flats 1,5 for a one-bedroom flat	Parking requirements: Office: GLA - 140,5m ² 5,62 Parking bays required. Flat: 1,5 Parking bays are required. <u>7 Parking Bays are provided</u>	Comply
Loading Bays	The minimum off-street loading must be provided to the satisfaction of the Engineering Department.	To be determined	



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9. SERVICES

The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is herewith illustrated.

Electricity

The existing buildings are connected to the electricity network in the Voëlklip area.

Water

The existing building is connected to the reliable water network provided by the OM in the Voëlklip area.

Sewage

The existing building is connected to sewage network provided by the OM in the Sandbaai area.

Solid Waste

The owners will collect and dispose of solid waste at an OM waste treating facility.

Access and egress

Vehicular access and egress to the subject property is gained from 17th Avenue and the approval and implementation of this application will not alter this.

10. NEED AND DESIRABILITY

The need and desirability of the approval and implementation of this proposal in accordance with Section 66 (1) (c) of the OM By-Law can be illustrated as follow:

Need and desirability

The need for the development arose from the applicant's vision to increase the value of the subject by aligning the zoning with the existing building's functionality. Creating a space where job opportunities are created.

The desirability is more often a personal feeling of the applicant that may in the future benefit others, such as creating a property where businesses may operate, and jobs may be created. This in turn will impact on economic activity of the Hermanus area.

To achieve their desire, the applicant appointed WRAP Project Office to submit this application, to ensure the application is in line with the relevant policies and legislation. The physiotherapy practice has been in operation for years and has not felt out of character for the area and, opportunities to create jobs in the area should not be discouraged.

Impact on views, sunlight and character of the area

No physical changes to the subject property are proposed and no new construction will take place. The current building as indicated above in Section 8 proves that the subject site complies with the proposed zoning's development parameters. The buildings are not impeding on the views, sunlight and character of the surrounding area.



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There have never been complaints from surrounding property with regard to views, sunlight and character of the area.

Economic impact

The proposed establishment that will be operated on the subject property will have a positive impact on the economy as it creates a space where employment opportunities are created. The alignment of the zoning and the function of the existing building will stimulate further economic growth to occur within the surrounding area and ensure that Voëlkliip makes further economic contributions to the greater Hermanus area.

Opportunity cost

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or foregoing of valued land use rights of interested and affected parties when an application is approved. The development will not affect the property values of surrounding properties.

Impact on heritage

The subject property is not listed in the OM Heritage Register. None of the provisions in the National Heritage Resources Act, 1999 are triggered by this proposal.

Environmental impact

The subject property is not located within an environmentally important area.

11. POLICIES AND REGULATIONS

11.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

The subject property is located within the 'Protected Area Buffer' EMOZ. The purpose thereof is to protect the integrity of National, Provincial and Municipal Nature Reserves from negative external pressures/impacts while reducing pressure on core areas and to assist in preserving their value to the eco-cultural tourism economy of the Overstrand through alignment of appropriate land use and regulation.

To ensure compliance with the guidelines set out in the EMOZ the application was evaluated in terms of the provisions of Schedule A & B of the Environmental Management Overlay Zone 2020:

SCHEDULE A PROHIBITED ACTIVITIES IN OVERSTRAND ENVIRONMENTAL MANAGEMENT OVERLAY ZONES		
Prohibited Activity	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Agricultural practices within this EMOZ which may cause water logging and siltation.	X	N/A



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Planting or harbouring of declared emerging weeds on properties within and adjacent to this EMOZ.	X	N/A
Development or agriculture on slopes steeper than 1:4.	X	N/A
Establishment of Informal settlements or Temporary Relocation Areas.	X	N/A
No land user within this EMOZ may utilise the vegetation in a vlei, marsh or within the flood area of watercourse in a manner that may cause the deterioration or damage to the natural agricultural resources.	X	N/A
Placement of religious symbols or memorabilia.	X	N/A
Harvesting /collection of kelp / seaweed in municipal designated "no-take" zones.	X	N/A
Harvesting, collection, moving, loading drying of kelp /seaweed, with a valid Seaweed Harvesting Permit or an exemption in terms of Section 81 or the MLRRA issued by the DAFF.	X	N/A
Stockpiling, drying, processing or loading of marine resources beyond areas designated, demarcated and signposted by the Municipal Council for such purposes.	X	N/A
Modification of the littoral active zone / functional dune systems in absence of approved management plans.	X	N/A
Feeding, disturbing / pursuit of fauna.	X	N/A
Disturbance, modification or destruction of the environment or species within special management areas designated, demarcated and signposted by the Municipal Council from time to time.	X	N/A
Defacing/damaging / removing of any notice, sign, barrier building or other infrastructure.	X	N/A
Playing or tampering with any rope, float, buoy, vessel, shelter or similar life - saving device.		N/A
Staying overnight.	X	The entire subject property is located within the zone. There is a flat on the subject property.
The discharging of domestic effluent / grey water into all natural systems.	X	N/A
Tampering with security / surveillance infrastructure.	X	N/A



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Defacing of rocky outcrops and placement of memorial plaques, religious symbols or structures on natural features.	X	N/A
Graffiti, vandalism or damaging of municipal infrastructure.	X	N/A
Littering	X	N/A
Disposal of cigarette butts, ash or other hazardous materials in any place or manner other than a receptacle designated for such items	X	N/A
Dog walking / exercising of dogs in non- designated zones.	X	N/A

SCHEDULE B		
ACTIVITIES ONLY PERMITTED WITH COUNCIL CONSENT IN OVERSTRAND ENVIRONMENTAL OVERLAY ZONES		
A) Activities Only Permitted With Council Consent	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Permission for the utilization of access routes to permitted kelp / seaweed harvesting sites.		N/A
Removal or destruction of vegetation which is protected and/or of conservation concern.	X	N/A
Dune maintenance on private land as per approved dune maintenance management plans.		N/A
Excavation and destruction or removal of substrate (soil, substrate, rock, shellgrit, dune sediment, mineral deposits).	X	N/A
Discharging of pool backwashing or untreated grey water or the channelling of storm water into open spaces without the necessary approval from the Municipality.	X	This is noted and will not occur on the subject property.
B) Permit Upon Approval By Delegated Authority and / Receipt of Tariff	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Installation of conservancy tanks or biological treatment plants within 50 metres from the edge of a watercourse / wetland.	X	N/A
Access from private properties to open spaces, including the removal of vegetation and the establishment of paths, structures and infrastructure.	X	N/A



MOTIVATION

Commercial filming.	X	N/A
Construction or placement of any temporary object, building, shelter, path or structure.	X	N/A
Use of engine or motor driven vehicles, remotely piloted aircraft or any other means of transport or other conveyances beyond designated, demarcated and signposted areas.	X	N/A
Launching of vessels at registered launch sites.		N/A
C) Council Authorisation Pending Consent Use Application / Lease Agreement / Applicable Tariffs as applicable	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Buildings / Structures associated with: Taking of water, storing of water, impeding or diverting flow, stream flow reduction, altering the bed, banks, course characteristics, outflow structures or discharge pipes.	X	N/A
Application for the designation of industrial sites and activities associated with the seaweed harvesting, collection, drying, transport and processing fishery.	X	N/A
Encroachment of private buildings, structures, infrastructure, access routes.	X	The entire proposed development is within the zone.
Commercial Harvesting/collection and removal of any natural resource.	X	N/A
Construction or placement of any permanent object, building, shelter, pathway or structure.	X	The entire proposed development is within the zone.

11.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The subject property is not located within the Heritage Protection Overlay Zone.

11.3 Spatial Planning Policies

The consistency and inconsistency of this proposal with the applicable spatial development policies will herewith be illustrated. The spatial policies which are pertinent to the submitted proposal are the following:

PSDF

The PSDF is a product of a provincial inter-departmental and inter-governmental collaboration under the guidance of the inter-departmental steering committee in collaboration with the private sector, academia, and non-governmental organisations.



MOTIVATION

This broad participatory process has created a shared spatial vision that is intended to inform spatial development patterns in urban and rural areas in the province.

Throughout the PSDF economic development is a widespread term used and focussed on. Economic development is an aspect that is important to ensure the Provincial economy has a large impact on the National economy.

The continual growth of the Provincial economy means that economic activity should be stimulated in other spheres of the government. This application to provide for the business uses are in line with the proposal to add economic value to the Voëlklip area which in turn will have a positive impact on the Overstrand Municipality.

The application then relates to the development of economic activity which is in line with the PSDF.

MSDF

The MSDF's purpose is to ensure compliance with national, provincial and municipal legislation policies and principles. The SDF aims to provide sufficient guidance regarding what constitutes appropriate spatial development land uses and direction within the urban edge. The SDF was drafted after considering input from other state departments and the public and provides a shared spatial vision which the development proposal should ideally attempt to synchronise with.

To ensure compliance with the principles and objectives set out by the PSDF and the National Development Plan the MSDF was synthesised through the influence of these policies and frameworks.

Ensuring economic development take place in the OM would ensure sustainable growth of the municipal area.

The area where the subject property is located, falls in a unique category where businesses are not promoted to be clustered, but rather be spread out across Voëlklip.

The MSDF states the following in terms of commercial activities in Voëlklip:

"Small individual localized business enterprises could be considered consistent with the status quo (ie. a limited scale on public transport routes where services infrastructure is available)."

The subject property is located within a unique position on the edge of Voëlklip, on the R43 and across the previous De Mond caravan park, where the proposed business zoning will not be intrusive or create a disturbance as it will only be offices (medical practice). The offices proposed are intended to be used by professionals that will aid in creating jobs and having a positive economic impact on the surrounding area.



12. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains 5 uncompromisable planning principles by which each development application must be guided. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

Spatial justice

Spatial justice refers to planning proposals which do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal for a business premises would encourage economic growth that in turn could employ less fortunate and not add to the perpetuate apartheid spatial development imbalances.

Spatial sustainability

Spatial sustainability refers to planning proposals which result in communities that are viable. This proposal is intended to increase the economic power of the Voëlklip area in the OM. This will aid that the Voëlklip area is staying in contact with the ever-changing greater Hermanus area.

Efficiency

This proposal is intended to maximise the usage of the subject property, which is proposed as the new zoning would unlock more options of economic development.

Spatial resilience

This proposal is not in conflict with any spatial planning policies or other OM regulations which is a hallmark of resilience.

Good administration

The OM has a credible track record of good administration regarding the method of public participation which accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications.



13. EVALUATION

The rationale for the removal of the restrictive title deed condition and the rezoning is a method to obtain the additional land use required for the applicant to be able to sell the subject property with a zoning that will match the existing building's functionality as being utilised as offices, previously utilised as a physiotherapy practice.

The proposal for the rezoning, consent use and departures are in harmony with all relevant spatial planning policies which illustrates that the applicants had due consideration for relevant spatial planning policies.

The title deed also is not restricting the proposal and the history of the use of the property should be considered. Since 2014, there has been no complaints or objections against the use of the property as professional practice from any of the surrounding property owners.

14. RECOMMENDATION

Based on the abovementioned motivation, it is recommended that the following be approved:

- 14.1 Removal of a restrictive title deed condition** III.D.(c) in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 14.2 Rezoning** of Erf 5473 Hermanus from Residential Zone 1: Single Residential (SR1) to Business Zone 3: Local Business (B3) in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 14.3 Consent Use** to allow a flat (on the ground floor) in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 14.4 Permanent Departure** from the western building line from 3m to 2,68m in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and
- 14.5 Permanent Departure** from the southern building line from 3m to 2,48m in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

Site Development Plan
Erf 5473 - Hermanus (Voëlkip)

Coverage

Existing - 278m² / 31,10%

GLA

Proposed Business - 140,5m²

Parking

Proposed Business - 5,6 Parking Bays

Dwelling Unit - 1,5 Parking Bays

7 Parking Bays Provided

Plan prepared by: Thion Jansen

All distances are approximate
and subject to a survey

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Unit B, Standard House, Corner of Royal and Dirkie Lys
Street Hermanus, 7200



Project Office
Team Planning & Project Management

0m Street Building Line

Access and Egress

Scale 1 : 125

0m Street Building Line

4573

12,98

7,13

Open Terrace

Open Terrace

Open Terrace

Open Terrace

Proposed Office #1

Proposed Office #2

Proposed Office #3

Store

Reception and Waiting Area

Kitchen

Proposed Office #5

Proposed Office #4

Bathroom

Proposed Office #5

Reception and Waiting Area

Enclosed Yard

3m Side Building Line

2,68

9,76

Area of 3,3m² encroaching on the side building line

4158

P4
2,5

5

7,5

3m Side Building Line

P1
P2
P3

2,48

Existing Flat

12,82

2,48

3,45

Area of 6,7m² encroaching on the side building line

6141

