

**4.4**

**ERF 146, NO. 2 AND ERF 631, NO. 2A MARK STREET, GANSBAAI: APPLICATION FOR REZONING, CONSOLIDATION, CONSENT USE, DEPARTURE, AMENDMENT OF CONDITIONS OF APPROVAL AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF J & MM STEENKAMP**

**146 & 631 GGB (4891/2024)**

**SW van der Merwe**

**(028) 313 8900**

**Hermanus Administration**

**06 January 2026**

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**1. EXECUTIVE SUMMARY**

An application has been received on 13 December 2024 from Messrs PlanActive Town and Regional Planners on behalf of J & MM Steenkamp in terms of the Overstrand Municipality Amendment By-law on Municipal Land Use Planning, 2020 for the following:

- **Rezoning** in terms of Section 16(2)(a) of the By-law of Erf 146 and Erf 631, Gansbaai from Business Zone 2: General Business and Residential Zone 1: Single Residential to Business Zone 1: General Business.
- **Consolidation** in terms of Section 16(2)(e) of the By-law of Erf 146 and Erf 631, Gansbaai to create a consolidated property of 1918m<sup>2</sup>.
- **Consent use** in terms of Section 16(2)(o) of the By-law, to accommodate a ground floor dwelling unit, two ground floor flats, and a place of entertainment (five gambling machines).
- **Departure** in terms of Section 16(2)(b) of the By-law to encroach the northern rear building line from 3m to 0m to accommodate the existing flats, covered patio, bathroom and recreation area.
- **Amendment of conditions** in respect of existing 2007 and 2023 approvals in terms of Section 16(2)(h) of the By-law.
- **Determination of an administrative penalty** in terms of Section 16(2)(q) of the By-law.

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

**2. DECISION AUTHORITY**

Municipal Planning Tribunal

### 3. BACKGROUND / SITE HISTORY

The application properties are situated within the Gansbaai CBD, Bulk Zone 1 area and the Heritage Protection Overlay Zone (HPOZ) in terms of the Overstrand Land Use Scheme.

Surrounding properties features mixed uses being single residential, harbour use (maritime and related harbour industrial activities), general business providing essential services and amenities to the community, public roads, public open spaces to enhance environmental sustainability and community wellbeing.

Erf 146, Gansbaai is developed with a restaurant with associated storage (outbuildings), two ground floor flats and on-site parking.

Erf 631 is developed with a dwelling house and loose standing wooden Wielhuis, that was removed from the fishing boat Bella Prima and placed on Erf 631, Gansbaai as a memento.

#### Background pertaining to Erf 146 Gansbaai

Rezoning approval was granted on 28 February 2007 from Residential Zone 1: Single Residential to Business Zone 2: General Business (rezoning approval attached as Annexure D) limited to a restaurant of 180m<sup>2</sup> only, subject to compliance with conditions imposed by engineering services and the provision of on-site parking at a ratio of one parking bay for every four seats. The restaurant has been operating since the rezoning approval, without adherence of the approval conditions.

Following registration of transfer in 2019 into the name of the current owners' renovations were carried out comprising the enclosure of the unauthorised stoep with sliding aluminium windows and a roof, internal alterations comprising a new enlarged kitchen, in / outdoor smoking sections and a larger bar area. The aforesaid renovations had been conducted by the current owner without formal approval in terms of the Land Use Scheme with reference to the HPOZ, the National Building Regulations and the Heritage Resources Act.

ME Planners submitted an application on behalf of the property owners applicable to Erf 146, Gansbaai to address to aforesaid contraventions as well as consent use for a place of entertainment to permit five gambling machines. The application was only partially approved as per the MPT resolution dated 28 September 2023 attached as per Annexure E.

Following the 2023 MPT decision the current owners appointed PlanActive Town- and Regional Planners to submit an application applicable to both Erf 146 and Erf 631, Gansbaai that aims to create a larger, more adaptable property supporting existing uses whilst providing sufficient on-site parking to address the historic non-compliance. The proposed development entails rezoning, consolidation, consent use, building line departures, amendment of conditions of an existing approval and determination of an administrative penalty to enhance the properties overall functionality and attractiveness, aligning with modern urban planning practices and community expectations. The development of the consolidated property comprises the following:

- Restaurant

- Place of entertainment (5 gambling machines)
- One ground floor dwelling unit
- Two ground floor flats
- 15 on-site parking bays

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

THE MOTIVATION CAN BE SUMMARIZED AS FOLLOWS:

##### **REZONING AND CONSOLIDATION**

- ❖ Application property is situated within the CBD adjacent to the harbour in a mixed-use area.
- ❖ Restaurant is a primary right.
- ❖ Zoning provides for place of entertainment as a consent use.
- ❖ Zoning provides for a ground floor dwelling unit and ground floor flats as a consent use.
- ❖ Rezoning and consolidation aim to create a functional property that aligns with surrounding zoning and land use patterns.
- ❖ Proposal will enhance potential for viable commercial operations on ground floor, residential accommodation and sufficient on-site parking facilities contributing to a vibrant urban environment.

##### **CONSENT USE**

- ❖ Proposed consent uses will support the commercial and residential viability of the property.
- ❖ Consent uses tailored to maximize the utility of the consolidated erven, providing amenities that align with the existing zoning patterns in the CBD, supporting mixed use development.
- ❖ Proposed gambling facilities will be situated in a demarcated closed off 15m<sup>2</sup> section of the property ensuring separation from demarcated dining and social areas minimising impact on restaurant patrons.
- ❖ Consent use applicable to dwelling 1 on former Erf 631 will permit the retention of the dwelling and "wielhuis" supporting mixed use living within the CBD overlooking the Gansbaai harbour.
- ❖ Consent use for ground floor flats on former Erf 146 is single bedroom units with ensuite facilities and provides self-contained residential accommodation that enhance the properties versatility and residential options supporting both the commercial and residential needs of Gansbaai.
- ❖ Proposal integrating residential and entertainment options, enhance the properties business operations as well as promoting a well-rounded accessible environment contributing to the local economy and community lifestyle.
- ❖ The combination of uses promotes a sustainable urban planning, supporting Gansbaai's goal of a balanced and vibrant mixed-use district.

##### **DEPARTURE**

- ❖ Building line departure to accommodate the existing flats will not impact vested rights as there are no windows or doors on the property boundary.

**AMENDMENT OF CONDITIONS OF APPROVAL**

- ❖ Amendment of approval conditions (a), (b), (c) & (g) dated 14 March 2007 and conditions 5(a), 5(b), 5(d) and 5(e) dated 12 October 2023 are essential to align with the updated zoning to ensure compatibility with the Overstrand Land Use Scheme, 2020 and supports the mixed used functionality of the consolidated property.

**DETERMINATION OF AN ADMINISTRATIVE PENALTY**

- ❖ Application aims to rectify contraventions related to two ground-floor flats, storage area and covered patio that were constructed up to the southern boundary line.
- ❖ An existing storeroom and garage were converted into these two flats by the previous owner.
- ❖ These unauthorized alterations were inherited by the current owners, who continued using the flats since they took transfer in 2018 without making any modifications other than general maintenance.
- ❖ The flats covered patio and storage area were constructed directly adjacent to the southern rear boundary, where a 3-meter building line is required due to the zoning of the neighbouring erf, Erf 145 Gansbaai, as previously noted.
- ❖ Considering the historical nature of the contravention, the lack of any previous non-compliance by the owners, the minimal impact on the area, and the proportionality of the contravention to the estimated costs, we respectfully recommend that either a minimal penalty or no administrative penalty be imposed. This recommendation acknowledges the owners' efforts to rectify the situation and ensures fairness in the application of municipal planning regulations.

In accordance with Section 90(3) of the By-law the following factors should be considered by the decision maker when determining an appropriate administrative penalty

**(a) nature, duration, gravity and extent of the contravention**

The originally approved storeroom and garage, located directly on the southern rear boundary, were unlawfully converted into two ground-floor flats by the previous owner. The exact timeframe of this unauthorized conversion is unknown. However, the current owners acquired the property in 2018, at which point the two flats were already in existence. Since taking ownership, the current owners have continued to use the flats as such without making any alterations other than routine maintenance. This indicates that the contravention has been in effect for over 7 years. While the unauthorized use has persisted for an extended period, it is important to note that the contravention originated under the previous ownership, and the current owners inherited the situation without making further changes. This context may be relevant in the MPT's assessment of the penalty.

Flat 1 was approved as a storeroom and converted by the former owner. It has an area of 56m<sup>2</sup> and storage area of 32m<sup>2</sup>.

Flat 2 was approved as a garage and converted by the former owner and has an area of 41m<sup>2</sup> excluding a 19m<sup>2</sup> covered patio.

**(b) the conduct of the person (allegedly) involved in the contravention**

According to the information provided to us, the current property owners, Mr. and Mrs. Steenkamp, have not previously been involved in any contraventions of the Municipal Planning By-Law. They purchased the property in 2018, at which time the two ground floor flats, storage area and covered patio were already in existence and operational. The owners have continued to utilize these flats, covered patio and storage area in their current form since the purchase, without making any alterations or structural changes. In 2023, an application was lodged and partially approved; however, at that time, it was proposed that the flats revert to their former approved uses as a storeroom and garage. Despite this, the owners now wish to retain the flats as they currently exist, citing a significant shortage of affordable housing in the area. The two flats, which are being rented out, contribute to addressing this need while supporting the local housing market. This history indicates that the owners acted in good faith and inherited the contraventions from the previous owner, making efforts to regularize the situation through proper municipal processes

**(c) a report by a quantity surveyor in matters of unauthorised building/construction**

To determine the administrative penalty, we have obtained cost estimates from two reputable building contractors regarding the modifications made to convert the garage and storeroom into the two ground-floor flats. The contractors and their respective cost estimates are as follows:

- ✚ REDEV Construction and Property Maintenance: R25,500.00
- ✚ On Demand Property Maintenance and Alterations: R29,250.00

Copies of these cost estimates are enclosed for reference. It is important to note that the unlawful changes to the two ground-floor flats have had no significant impact on the surrounding properties. Given these circumstances and the minimal nature of the modifications, we respectfully recommend that no administrative penalty be imposed in this instance. This recommendation aligns with the principles of proportionality and fairness, considering the historical nature of the contravention and the efforts made by the owners to address the matter

**(d) whether the unlawful conduct was stopped**

The current owners, Mr. and Mrs. Steenkamp, have continued to use the property with the established land uses since acquiring it in 2018. Upon becoming aware of the non-compliance issues, they submitted an application in 2023 to address the contraventions. In this previous application, it was proposed that the two ground-floor flats be reverted to their originally approved uses as a garage and storage area. However, the owners now wish to retain the two flats as they are, given the pressing need for affordable housing in the area and the fact that these units have been in existence for over 7 years. The current application seeks to rectify the contravention by requesting an administrative penalty and a departure application to legalize the as-built structures. This demonstrates the owners' proactive approach in addressing historical contraventions and ensuring compliance with municipal requirements.

(e) whether the person allegedly 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.

**GENERAL**

- ❖ Existing accesses will be retained.
- ❖ Development triggers 14 on-site parking bays, whilst 15 parking bays has been provided allowing for manoeuvring of vehicles on the premises.
- ❖ Proposal accommodates existing land uses and will not impact upon existing municipal service provision.
- ❖ Proposal promotes efficient use of resources aligning with sustainable development principles.
- ❖ The title deeds do not contain restrictive conditions that hinders the proposal.
- ❖ Proposal is consistent with the SDF and Overstrand Municipal Growth Management Strategy.
- ❖ Proposal is not considered to negatively impact heritage value of the property or the surrounding HPOZ in which the property is situated.
- ❖ No impact on the biophysical environment.
- ❖ Consistent with the planning principles in terms of LUPA and SPLUMA.

**5. ADMINISTRATIVE COMPLIANCE**

Methods of advertising		Date published	Closing date for comments
Local Newspaper	Yes	28 February 2025	04 April 2025
Notices and Site Notice	Yes	27 February 2025	04 April 2025
Internal Departments	Yes	27 February 2025	04 April 2025
Ward councillor	Yes	27 February 2025	04 April 2025
Total comments	<b>THREE (3)</b>		
Total letters of support	<b>NONE</b>		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly?			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA?			<b>Yes</b>
In case of application for removal, amendment or suspension of restrictive title conditions if notices in accordance with Section 35(3)(d) of the By-Law on Municipal Land Use Planning was served on all persons mentioned in the title deed for whose benefit the restriction applies?			<b>N/A</b>




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

Name	Date received	Summary of comments
Building Control	27/02/2025	No objection. Building plan application must comply with NBR and all applicable law. Plans to be submitted for any changes to any of the buildings, because both buildings are graded Heritage buildings.
Local Heritage	27/02/2025	No objection.
Fire Services	18/03/2025	No objection, subject to compliance with the provisions of SANS 10400-T:2024 and the By-law relating to fire safety.
District Health	27/03/2025	Attached as Annexure H.
Waste Management	02/04/2025	No objection.
Development Control	21/05/2025	Attached as Annexure I.

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

The application was advertised in the local newspaper; notices were e-mailed to surrounding residents in the area and the applicant's consultant also placed on-site notice board during the public participation period.

In the public participation process three (3) letters of objection were received from interested and affected parties directly adjoining the application property. See list below:

<b><u>OBJECTORS</u></b>
 AS Badenhorst, on behalf of J & A Familie Trust, owner of Erf 140, Gansbaai
 D & CL Sawtelle, on behalf of Saxon Lodge CC, owner of Erf 145, Gansbaai
 T Nel, on behalf of Schooner House, Erf 139, Gansbaai

The objections are attached as Annexure F and the applicant's response thereto as Annexure G. The main grounds of objection are summarised as follows:

**OBJECTOR 1 (J & A FAMILIE TRUST)**

Belief that a “casino” is being introduced and concerned that gambling facilities will negatively affect nearby residential dwellings, community wellbeing, and the quality of the living environment.

**OBJECTOR 2 (SAXON LODGE)**

- Concerned that existing ground-floor flats are “illegal” and generate disturbance
- Belief that slot machines will increase noise, nuisance and attract undesirable clientele.
- Concern that the proposal will worsen parking and noise conditions in an area perceived as a quiet cul-de-sac.

**OBJECTOR 3 (SCHOONER HOUSE)**

- Concern that slot machines may lead to social problems such as addiction, aggression or intoxication.
- Fear that gambling and alcohol together may detract from the area’s ambience and negatively affect guesthouse clientele.
- Concern that slot machines will create constant noise and compromise guests’ comfort and safety.

**RESPONSE FROM APPLICANT**

After careful consideration of the issues raised, it is evident that many of the objections stem from a misunderstanding of the proposal, particularly the incorrect assumption that a casino or major gambling facility is being established. As the Motivation Report makes clear (pp. 7–10), the application includes only five (5) limited-payout machines (LPMs) located in a small ±15 m<sup>2</sup> enclosed room within the existing restaurant.

LPMs are low-stake, low-impact devices subject to strict Western Cape Gambling and Racing Board controls. They do not function, appear, or operate like casino equipment, nor do they generate significant noise or external visibility. No new building work, no expansion of the premises and no increase in operating hours accompany this component. The proposal therefore does not introduce the scale, intensity or external effects typically associated with a casino, as feared by the objectors.

Concerns relating to neighbourhood character and noise require similar clarification. The erven fall squarely within the Gansbaai Central Business District (CBD), an established mixed-use environment that includes business premises, restaurants, guesthouses, residential units, harbour-related industry and public amenities (Motivation Report pp. 3–6).

The area is not a purely residential enclave, and the land uses proposed including a restaurant, dwelling, flats and a small interior entertainment area fit comfortably within the Business Zone 1 rights applicable to CBD properties. The application does not intensify land use beyond existing activity patterns. The LPM room is internal, controlled, and acoustically contained, ensuring no external noise impact. No increase in customer capacity or external entertainment is proposed.

Two objections refer specifically to the existing ground-floor flats, describing them as “illegal,” noisy or problematic. These flats, however, were constructed by a previous owner more than seven years ago and were inherited in their current form by the present owners (Motivation Report pp. 14–18). The purpose of this application is precisely to regularise these longstanding structures by addressing historic non-compliance and applying for the necessary building line departure and administrative penalty. It is therefore inaccurate to characterise the flats as newly introduced or unlawfully erected by the current owners. As to concerns about tenant behaviour, such matters fall under general municipal by-law enforcement rather than land-use planning, and they are not impacts created or intensified by the uses applied for.

Additional objections relate to fears of anti-social behaviour, addiction, or undesirable clientele being drawn to the area. These concerns appear to be based on generalised perceptions rather than the functioning of LPMs in small, supervised restaurant environments. LPMs are among the most closely regulated entertainment devices in the country, with strict age controls, surveillance requirements, low betting limits and capped payouts. Their presence inside a restaurant does not translate into public disorder, aggression, continuous noise or social degradation. The Motivation Report (p. 28) highlights their economic value, assisting the viability of the restaurant without introducing external impacts. No evidence locally or nationally suggests that five enclosed LPMs within a CBD restaurant generate the kinds of harm described in the objections.

Concerns about traffic and parking have similarly been addressed through the detailed parking description in the Motivation Report. The consolidated erven will provide 15 compliant parking bays, exceeding the 14-bay requirement for the combined uses (Motivation Report p. 19). Access points remain unchanged, and the proposal does not increase building bulk, floor area or trip generation. The application also maintains full compliance with existing infrastructure capacities, including water, sewage, stormwater and electricity, all of which are already in place and sufficient for the proposed configuration (Motivation Report pp. 20–21).

Finally, the erven lie within the Heritage Protection Overlay Zone. However, the application proposes no new structures, no alteration to the external building form, and no demolition works. As indicated in the Motivation Report (p. 22), the proposal will have no adverse effect on heritage resources or the visual character of the area. Instead, the application updates outdated conditions of approval from 2007 and 2023, aligns the erven with prevailing Business Zone 1 rights and ensures regulatory compliance consistent with SPLUMA principles of spatial justice, sustainability, efficiency and good administration.

In conclusion, while the concerns raised by neighbouring owners are understood and respectfully acknowledged, they are largely based on incorrect assumptions regarding the nature and scale of the proposal or relate to existing conditions that are neither caused nor exacerbated by the application. The proposal regularises historic structures, improves compliance, reflects the mixed-use character of the CBD, and introduces no negative spatial, environmental or social impacts. Accordingly, we submit that the objections do not provide sufficient grounds to refuse the application and that the proposal, as motivated, remains appropriate for approval.

#### **RESPONSE FROM TOWN PLANNER**

The applicant's comment is noted and agreed with.

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

N/A

#### **9. MUNICIPAL ASSESSMENT OF COMMENTS**

N/A

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

##### **10.1 Background**

N/A

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

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

##### **Spatial Justice**

The proposal aligns with the principle of spatial justice making use of existing infrastructure within the Gansbaai CBD. The proposal contributes to sustainable development within an established business district. By optimising land use, maintaining existing urban fabric it addresses spatial inequities without disrupting the local community.

The proposed consolidation promotes mixed use development integrating residential units, a restaurant and small-scale entertainment facilities thereby creating a more inclusive and accessible environment, enhancing the area's functionality and supporting economic activity.

The proposal promotes densification and efficient use of resources in line with the SDF and Overstrand Municipal Growth Management Strategy.

#### Spatial Sustainability

The proposed development makes efficient use of land within the established urban fabric of the Gansbaai CBD, and area already serviced with essential infrastructure. By consolidating the properties and retaining existing land uses, the development minimizes the need for new infrastructure, reducing both environmental and financial costs, ensuring that the development supports long-term sustainability by promoting urban growth within existing urban boundaries. This approach contributes to minimizing urban sprawl and encourages the efficient use of space, enhancing the overall sustainability of the area.

#### Efficiency

The development maximizes the potential of the existing urban area, utilizing established infrastructure and minimizing the need for new construction, thus optimizing the use of space and resources, while maintaining the character and functionality of the Gansbaai CBD. The properties are already connected to water, electricity, sewage, and stormwater systems, ensuring that the development will not place additional strain on municipal resources. This efficient approach minimizes both environmental and economic costs, while supporting the ongoing growth and development of the area within its existing boundaries.

#### Spatial Resilience

The proposed development on Erf 146 and Erf 631 Gansbaai demonstrates spatial resilience by adapting to the current urban context and leveraging existing infrastructure. The consolidation of the properties and the proposed land uses align with the established patterns of development in the Gansbaai CBD, ensuring that the area continues to evolve in a sustainable and integrated manner. The development is situated within a well-developed area with access to essential services, which enhances its resilience to environmental, social, and economic changes. Additionally, the proposed changes are designed to have minimal impact on the heritage and environmental qualities of the area, ensuring that the development contributes to the long-term stability and sustainability of the Gansbaai urban fabric.

#### Good Administration

The application followed the required planning procedures to ensure that land use activity is in line with municipal by-laws and the public participation process has been followed.

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

Same as Point 10.2 above.

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

The property is situated within the CBD of Gansbaai. The existing and proposed land uses is therefore consistent with the SDF in that it contributes to optimum use of the property within service capacity constraints, contribute to economic development / mixed land use and residential options within the CBD.

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

N/A

**10.6 Impact on Municipal Engineering Services**

The existing services are available and have been viewed positively by the Engineering Services Department, subject to conditions (see attached Annexure I), including payment of a bulk service contribution.

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

The proposal does not trigger the provisions of NEMA.

Alterations made to the existing building, older than 60 years, requires approval of Heritage Western Cape in terms of the National Heritage Resources Act.

The property is situated within the Heritage Protection Overlay Zone which is not impacted by the proposal as the development exists for several years without any external changes. Should the application be supported, the applicant will be required to submit building plans, which plans will be referred to OHAC and Heritage Western Cape for comment / approval.

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

The application is in line with the Overstrand Zoning Scheme that provides for a place of entertainment as well as ground floor flats and ground floor dwelling unit as a consent use and the use changes applicable to buildings on the rear boundary and application for determination of an administrative penalty to be addressed through an application process.

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

N/A

**12.THE DESIRABILITY OF THE PROPOSAL**

The 2007 rezoning approval limits the use of the property to a restaurant only. This aspect was not addressed in the application that resulted in the MPT partial approval and refusal during 2023, nor did the application entail the amendment of the former approval conditions. The current application for rezoning, consolidation, consent use, departure, amendment of approval conditions in respect of the 2007 and 2023 approvals and determination of an administrative penalty address the unauthorised land use as per the discussion below.

PROPOSED REZONING AND CONSOLIDATION

The application properties are not situated within a purely residential area as portrayed by the objectors. The proposed rezoning and consolidation are consistent with the development trends in the Gansbaai CBD and not considered out of keeping with the character of the area. The proposal promotes mixed use and more efficient use of land within the CBD within service capacity constraints and will formalise the existing land uses (i.e. restaurant, and two ground floor flats and associated outbuildings) and provides for on-site parking in accordance with the provisions of the Overstrand Land Use Scheme.

The proposal will not impact the heritage character of the area as it is not proposing significant structural changes but rather legalizing and formalizing existing land uses to ensure that the Gansbaai historical and cultural significance is respected and maintained.

The proposal is aligned with the SDF and the OMGMS that promote land consolidation to optimize land use. The proposed development supports these frameworks by contributing to Gansbaai's growth and functionality while preserving its character, helping to achieve the municipality's goals for sustainable urban development.

PROPOSED CONSENT USE (GROUND FLOOR FLATS, GROUND FLOOR DWELLING) AND REAR BUILDING LINE DEPARTURE

The MPT in the 2023 decision approved the departure applicable to the existing flats on the basis that it will be converted back into outbuildings. The applicant now proposes to retain the two ground floor flats, hence the application for consent use and building line departure applicable to the two ground floor flats situated on the rear property boundary. These flats are situated in former approved outbuildings and existed for several years. Changes were made mostly internally by the former property owner and does not impact on the character of the area or vested rights of adjoining property owners. Objections from the adjoining property owners relating to the flats, relates to alleged behaviour of occupant's pets (dogs barking) and lack of enforcement capacity is not sufficient reason to refuse the retention of the ground floor flats on the property.

Although situated on the rear boundary of the application property, shared with the neighbouring Saxon Lodge, the two flats do not contain window and door openings onto the communal property boundary, save for the covered patio adjacent to flat 2. The majority of Saxon Lodge building that face towards Erf 146 comprises a garage and staff room and the remainder a bar, none of which have windows or doors facing or opening towards the communal boundary of the application property. It is therefore not considered that the retention of the two flats will have a significant impact, such as to justify refusal of planning permission.

The SDF and OMGMS promote mixed land use within the CBD and a variety of housing options. The proposal is therefore considered consistent with the aforesaid forward planning and policy frameworks whilst it will address shortage of housing options, especially flats within the greater Gansbaai area. The proposal will also ensure optimum use of existing resources (i.e. land, services etc) which is considered a sustainable practice and will not adversely affect vested rights of adjoining properties. The application for consent use and building line departure is therefore supported.

#### MUNICIPAL SERVICE PROVISION

No objections are raised from a service capacity point of view subject to compliance with approval conditions including payment of a bulk service levy.

#### ACCESS AND PARKING

The existing accesses to Erf 146 and Erf 631 will be retained. On-site parking on former Erf 146 has been reconfigured to allow manoeuvring on-site. The remainder of the on-site parking will be provided on former Erf 631. On-site parking provision is made in accordance with the scheme regulations allowing for access and manoeuvring on-site and will resolve current non-compliance with the on-site parking requirements. The SDP in respect of the consolidated property is supported by the municipal engineering services department.

#### PROPOSED CONSENT USE (PLACE OF ENTERTAINMENT)

The proposed place of entertainment comprises five gambling machines situated within the restaurant building in a designated area (15m<sup>2</sup>) where it will not interfere with the clientele / restaurant operations. Being situated within the building the gambling facilities will not result in noise and disturbance as alleged by the objectors and is not considered to have a significant impact on the vested rights of adjoining property owners. These facilities are typically found within the CBD area, where there is more activity, especially after normal business hours and thus not deemed out of keeping with the area character.

The proposal is not for the establishment of a casino as referred to by the objectors and will be controlled and limited to the designated area as indicated on the SDP, should the application be supported. Also, the designated gambling area does not encroach the 3m rear building line per the objections.

The gambling area will be situated inside the existing restaurant building in a separate demarcated room, thus no adverse impact to the character of the area and HPOZ. Further, the objectors did not provide any substantive motivation as to the undesirability of the proposed limited payout machines, only generalisations with regards to noise and disturbance, impact on the character of the area, including the HPOZ.

Objection based on the type of clientele attracted by establishments such as gambling facilities are based on stereotyping and not considered a valid reason for objection. Fact of the matter that the objectors' properties are situated within a mixed-use environment within the CBD and not a low-density residential area. Also, the restaurant operations and liquor license exists legally and does not form part of the consideration of the application. The proposal is therefore not considered to have an impact over and above the existing operations, sufficient not to support the proposal.

AMENDMENT OF CONDITIONS OF APPROVAL

The following conditions of the approval dated 28 February 2007 (attached as Annexure D) require amendments to align with the proposed development application:

Condition (a)

*"that the proposed restaurant of 180m<sup>2</sup> only be permitted."*

Amendment required

*This condition should be updated to allow for a restaurant area exceeding 180m<sup>2</sup>, incorporating space for five slot machines, two flats, storage, a dwelling, and associated parking facilities.*

Condition (b)

*"that a maximum height of 8.5m above natural ground level be maintained."*

Amendment required

This height restriction should be removed, applying instead the land use and height restrictions specified under the proposed Business Zone 1 zoning per the Overstrand Municipal Land Use Scheme Regulations, 2020.

Condition (c)

*"that one parking space be provided for every four seats of the restaurant."*

Amendment required

According to the Overstrand Municipal Land Use Scheme Regulations, 2020, the following updated parking requirements apply:

- Four parking bays per 100m<sup>2</sup> Gross Leasable Area (GLA) for the restaurant.
- One parking bay per four seats for the place of entertainment (slot machine area).
- 1.5 parking bays per single-bedroom flat.
- Two parking bays for the dwelling unit.

This condition should therefore be revised to meet the requirements outlined in Section 17 of the Overstrand Municipal Land Use Scheme Regulations, 2020.

Condition (g):

*"that all conditions in the Services Report be complied with."*

Amendment required

This condition should be replaced with a requirement to comply with an updated Services Report that reflects the proposed development's specific needs.

In addition, the decision dated 28 September 2023 (Annexure E) includes conditions that also require revision:

## Condition 5(a)

*“that this approval is only for the conversion of the flats into a storeroom as indicated on Drawing no. KS/0/02 dated 2018/10/18.”*

Amendment required

This condition should be removed as the owner wishes to retain the two flats rather than convert them into storage.

## Condition 5(b)

*“that building plans be submitted to the Building Department to accommodate the proposed storeroom within 30 days of the final approval, and that all conditions of the Building and Fire Departments be complied with at that stage.”*

Amendment required

This condition should be removed, with building plans for the legalisation of the flats to be submitted once approval is obtained.

## Condition 5(d)

*“that the conversion of the two flats into storeroom 1 and 2 be completed within 90 days of the decision date.”*

Amendment required

This condition should be removed as the flats are to be retained for the current use.

## Condition 5(e)

*“that the shower and toilet facilities within storerooms 1 and 2 be omitted and that the area may only be utilised for storage purposes.”*

Amendment required

This condition should be removed as the shower and toilet facilities will remain for use by the retained flats. These amendments are essential to align the conditions of approval with the updated zoning, land use framework, and regulatory standards, ensuring compatibility with the Overstrand Municipal Land Use Scheme Regulations, 2020, and supporting the intended mixed-use functionality of the consolidated erven.

The application for amendment of the conditions of approval to legalise the existing development will ensure compliance with the development parameters in terms of the Overstrand Land Use Scheme 2020 which is considered desirable and supported, save for condition (b) pertaining to the 28 February 2007 rezoning approval. Although located within the CBD the location of the application property within the HPOZ allowing views to and from the harbour, the scale and bulk of the development may impact upon the heritage aspects of the area. It is thus recommended that should the property in future be redeveloped the applicant be required to submit an application for approval of a detailed Site Development Plan to allow the decision maker at the time to assess the desirability of the proposed SDP at that stage.

DETERMINATION OF AN ADMINISTRATIVE PENALTY

The applicant motivates that:

- ❖ The current owner is not responsible for the contraventions.
- ❖ The current owner only conducted repairs / maintenance.
- ❖ Application aims to rectify the contraventions by the former property owner.
- ❖ The owner continued to use the flats since taking transfer in 2018.

In terms of the By-law the applicant must provide the following in terms of Section 90(3) of the By-law, namely:

*Nature, duration, gravity and extent of the contravention:*

The originally approved storeroom and garage, located directly on the southern rear boundary, were unlawfully converted into two ground-floor flats by the previous owner. The exact timeframe of this unauthorized conversion is unknown. However, the current owners acquired the property in 2018, at which point the two flats were already in existence. Since taking ownership, the current owners have continued to use the flats as such without making any alterations other than routine maintenance. This indicates that the contravention has been in effect for over 7 years. While the unauthorized use has persisted for an extended period, it is important to note that the contravention originated under the previous ownership, and the current owners inherited the situation without making further changes. This context may be relevant in the MPT's assessment of the penalty.

Flat 1 was approved as a storeroom and converted by the former owner. It has an area of 56m<sup>2</sup> and storage area of 32m<sup>2</sup>.

Flat 2 was approved as a garage and converted by the former owner and has an area of 41m<sup>2</sup> excluding a 19m<sup>2</sup> covered patio.

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

The current property owners, Mr. and Mrs. Steenkamp, have not previously been involved in any contraventions of the Municipal Planning By-law. They purchased the property in 2018, at which time the two ground floor flats, storage area and covered patio were already in existence and operational. The owners have continued to utilize these flats, covered patio and storage area in their current form since the purchase, without making any alterations or structural changes. In 2023, an application was lodged and partially approved; however, at that time, it was proposed that the flats revert to their former approved uses as a storeroom and garage. Despite this, the owners now wish to retain the flats as they currently exist, citing a significant shortage of affordable housing in the area. The two flats, which are being rented out, contribute to addressing this need while supporting the local housing market. This history indicates that the owners acted in good faith and inherited the contraventions from the previous owner, making efforts to regularize the situation through proper municipal processes

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

QS report has not been provided. Quotations from two building contractors regarding the modifications made to convert the garage and storeroom into the two ground-floor flats. The contractors and their respective cost estimates are as follows:

- ✚ REDEV Construction and Property Maintenance: R25,500.00
- ✚ On Demand Property Maintenance and Alterations: R29,250.00

*Whether the unlawful conduct was stopped:*

The current owners, Mr. and Mrs. Steenkamp, have continued to use the property with the established land uses since acquiring it in 2018. Upon becoming aware of the non-compliance issues, they submitted an application in 2023 to address the contraventions. In this previous application, it was proposed that the two ground-floor flats be reverted to their originally approved uses as a garage and storage area. However, the owners now wish to retain the two flats as they are, given the pressing need for affordable housing in the area and the fact that these units have been in existence for over 7 years. The current application seeks to rectify the contravention by requesting an administrative penalty and a departure application to legalize the as-built structures. This demonstrates the owners' proactive approach in addressing historical contraventions and ensuring compliance with municipal requirements.

*Whether the person allegedly 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.

The MPT in 2023 exempted the applicant from the payment of an administrative penalty based on the basis that the applicant was not responsible for the unauthorised construction on the property. The SDP of the 2023 application indicated that the ground floor flats on Erf 146 will be converted back into outbuildings, which is no longer the case.

The applicant was however aware of the fact that these flats were unauthorised structures, being the objector at the time as owner of Erf 631 provided to the Building Control Department. This was again pointed out by the Principal Town Planner to Mr Steenkamp in a phone conversation prior to transfer in 2018 but following the signature of the deed of sale. According to the applicant's motivation the flats have still been utilised as flats in contravention of the 2023 MPT decision. Since the MPT already exempted the property owner from the payment of an administrative penalty pertaining to unauthorised construction in 2023, the opinion is held that the continued use of the flats contravene the By-law and was to the benefit (financially) of the owner and that an administrative penalty based on the unauthorised land use be imposed from the effective date of the 2023 MPT decision being 20 October 2023. In this regard construction cost is not applicable but the municipal valuation, having had regard to Section 90(5)(b) of the By-Law. The administrative penalty is calculated as follows:

Floor area Flat 1:	56m <sup>2</sup>
Floor area Flat 2:	60m <sup>2</sup>
<b>Total floor area:</b>	<b>114m<sup>2</sup></b>
Municipal land value/ m <sup>2</sup> relating to unauthorised land use:	R900.10/m <sup>2</sup>
Duration of contravention:	24 months

Total value of the contravention:  $R900,10 \times 114 = R102\,611,40$

The maximum penalty to be imposed amounts to R102 611,40 per annum for the duration of the encroachment. Given the history of the property and the fact that the applicant was not responsible for the unauthorised development of the property, but benefitted financially from the flats being tenanted, though no compliance notices were served, an administrative penalty of 5% per annum for the duration of the contravention being imposed for the amount of **R10261,14** ( $R102611,40 \times 5\% \times 24$ ).

Considering the above-mentioned, the proposal is considered desirable and recommended for approval.

### 13. RECOMMENDATION

1. that the objections be noted;
2. that the application for **rezoning** in terms of Section 16(2)(a) of the By-law of Erven 146 and Erf 631, Gansbaai from Business Zone 2: General Business and Residential Zone 1: Single Residential to Business Zone 1: General Business, **be approved** in terms of the provisions of Section 61 of the By-law;
3. that the application for **consolidation** in terms of Section 16(2)(e) of the By-law of Erf 146 and Erf 631, Gansbaai to create one erf of 1918m<sup>2</sup>, **be approved** in terms of the provisions of Section 61 of the By-law;
4. that the application for **consent use** (place of entertainment) in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-law on Municipal Land Use Planning, 2020 to accommodate a place of entertainment (five gambling machines), two ground floor flats and a ground floor dwelling unit on the consolidated property, **be approved** in terms of the provisions of Section 61 of the By-law;
5. that the application for **departure** in terms of Section 16(2)(b) of the By-law to encroach the rear building line from 3m to 0m to accommodate the existing flats, covered patio bathroom and recreation area, **be approved** in terms of the provisions of Section 61 of the By-law;
6. that the application for **amendment** of conditions 1.(a), (b), (c), and (g) of an existing approval dated 28 February 2007 approval and amendment of conditions 5.(a), (b), (d) and (e) of an existing approval dated 28 September 2023 in terms of Section 16(2)(h), **be approved** in terms of the provisions of Section 61 of the By-law;
7. that the **determination of an administrative penalty** in terms of Section 90(4) of the By-Law pertaining to the unauthorised land use **not be exempt** from the payment of an administrative penalty;
8. that the decisions in paragraphs 2. to 7. above be subject to the following conditions:

- (a) that this approval is only for a restaurant, five (5) gambling machines, dwelling and two (2) ground floor flats as indicated on the Site Development Plan;
  - (b) that the applicant appoints a conveyancing attorney to register the consolidation of Erf 146 and Erf 631 Gansbaai within two months from the effective date of the decision;
  - (c) that the consolidation be effected within six months from the effective date of the decision;
  - (c) that building plans be submitted to the Building Department to accommodate the existing development on the property within 6 months from the effective date of the decision and that all conditions of the Building – and the Fire Department be complied with at that stage;
  - (d) that the consent use approval relating to the place of entertainment (five gambling machines), two ground floor flats and dwelling house be limited to the area indicated on the Site Development Plan;
  - (e) that the consent use for a place of entertainment be limited to five gambling machines only and that live music may not be permitted;
  - (f) that the operation of gambling machines be subject to a valid business license and gambling license;
  - (g) that an administrative penalty of **R10 261,14** be payable within sixty (60) days of the decision;
  - (h) that all the conditions in the Engineering Services Report and District Health (attached as Annexures H and I), be complied with;
  - (i) that should the consolidated property be redevelopment in future; such redevelopment be subject to the submission and approval of a detailed Site Development Plan prior to the submission of building plans;
  - (j) that on-site parking provision be clearly market out and demarcated as indicated on the approved SDP;
  - (k) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
  - (l) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
9. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-law on Land Use Planning, 2020 with regard to the above conditions of approval.

**14. REASONS FOR RECOMMENDATION**

- ❖ Proposal is consistent with the SDF and Overstrand Municipal Growth Management Strategy.
- ❖ Proposal is consistent with the Planning Principles in terms of LUPA and SPLUMA.
- ❖ Application property is situated within the Gansbaai CBD in an area with a mixed character.
- ❖ Proposal comprises mixed commercial and residential land use contributing to a vibrant CBD.
- ❖ Proposal is not considered to have a significant impact upon vested rights, sufficient to warrant refusal of planning permission.
- ❖ Proposal will resolve historic non-compliance of the land use scheme pertaining to on-site parking provision.

**15. ANNEXURES**

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Rezoning approval dated 28 February 2007
Annexure E:	MPT decision dated 28 September 2023
Annexure F:	Objections received
Annexure G:	Comment on objections
Annexure H:	Comment: District Health
Annexure I:	Services Report

**SIGNATURES****AUTHOR**

Name: **SW VAN DER MERWE**

SACPLAN registration number: **A/1850/2014**

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

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



NTS  
 Drawing No: Gansbaai 146L.dwg  
 Date: 11 Dec 2024

LOCALITY  
 MAP

ERVEN 146 & 631  
 GANSBAAI

Property Description:  
 All distances approximate  
 and subject to survey.

**PLAN** Stads- en Streeksbeplanners  
 Town & Regional Planners

PROPERTY DESCRIPTION:  
 ERVEN 146 & 631  
 GANSBAAI

COPY RIGHT RESERVED

**PROPOSED REZONING,  
CONSOLIDATION, CONSENT USES,  
DEPARTURES, THE AMENDMENT OF  
FORMER APPROVALS AND AN  
ADMINISTRATIVE PENALTY**

**ERVEN 146 AND 631**

**GANSBAAI**

**OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT**

**1. BACKGROUND**

Mr. J. Steenkamp and Mrs. M.M. Steenkamp, the owners of Erven 146 and 631 in Gansbaai, have appointed Plan Active Town and Regional Planners to apply for rezoning and consolidation of these erven. Our responsibilities include applying for consent uses to accommodate flats and a dwelling on the ground floor, legalizing existing structures through building line departures, the amendment of former conditions of approval and addressing an applying for the determination of an administrative penalty.

An application was approved in 2007 for the land use to accommodate a restaurant within the existing dwelling, a store room, a garage to accommodate 2 vehicles and associated parking. In 2023 an application was partially approved for consent uses, a departure and the determination of an administrative penalty. The following were approved:

## Motivation report

- A building line departure to accommodate the conversion of the flats into outbuildings.
- That the applicant be exempted from the payment of an administrative penalty.

The owners continued to utilise the property as described below after the last-mentioned approval was obtained.

Both Erven 146 and 631 are currently developed. Erf 146 features a restaurant with associated storage, two flats on ground floor, storage and parking facilities, while Erf 631 hosts a dwelling and a loose standing "Wielhuis". The "Wielhuis" is one of the last wooden ones from the fishing boat Bella Prima that was removed and placed on the property by crane as a memento. Please refer to the photograph below:



This application aims to create a larger, more adaptable property that supports existing uses and ensures sufficient onsite parking.

This development initiative aligns with the owners' strategic vision to maximize the utility and value of their Gansbaai properties. By consolidating erven 146 and 631 Gansbaai, the owners plan to meet the increasing demand for mixed-use spaces that offer both

## Motivation report

commercial and residential advantages, contributing positively to the local community and economy. The proposed development will include:

- A restaurant
- Place of entertainment (5 gambling machines)
- One ground-floor dwelling unit
- Two ground-floor flats
- Fifteen parking bays

Erf 146 covers 991m<sup>2</sup> and Erf 631 covers 927m<sup>2</sup>, held under Title Deed Numbers T51779/2018 and T75399/2004, respectively. This proposed rezoning, consolidation, consent uses, building line departures and the determination of an administrative penalty are designed to enhance the properties' overall functionality and attractiveness, aligning with modern urban planning practices and community expectations.

## **2. APPLICATION DETAILS**

The application is submitted in accordance with the provisions outlined in the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, as follows:

- Chapter 4, Section 16(2)(a): Rezoning of Erven 146 and 631 Gansbaai from Residential Zone 1 and Business Zone 2 to Business Zone 1.
- Chapter 4, Section 16(2)(e): Consolidation of Erven 146 and 631 Gansbaai.
- Chapter 4, Section 16(2)(b): Building line departures for the consolidated Erven 146 and 631 Gansbaai.
- Chapter 4, Section 16(2)(o): Consent uses applicable to the consolidated erven 146 and 631 Gansbaai.
- Chapter 4, Section 16(2)(h): The amendment of former approvals applicable to Erf 146 Gansbaai.
- Chapter 4, Section 16(2)(q): Determination of an administrative penalty for addressing illegal structures and land use.

### 3. DESIRABILITY

#### 3.1 PROPERTY DESCRIPTION

Erf 146 and Erf 631 in Gansbaai are located at 2 and 2a Market Street. Gansbaai. For more detailed information, please refer to the attached locality plan and the extract from the Overstrand GIS Map provided below.



#### 3.2 ZONING

Erf 146 in Gansbaai is zoned as Business Zone 2 and is currently developed for use as a restaurant, with associated storage, two ground-floor flats, and parking facilities. In contrast, Erf 631 Gansbaai is zoned Residential Zone 1 and is occupied by a single residential dwelling and a loose standing "Wielhuis".

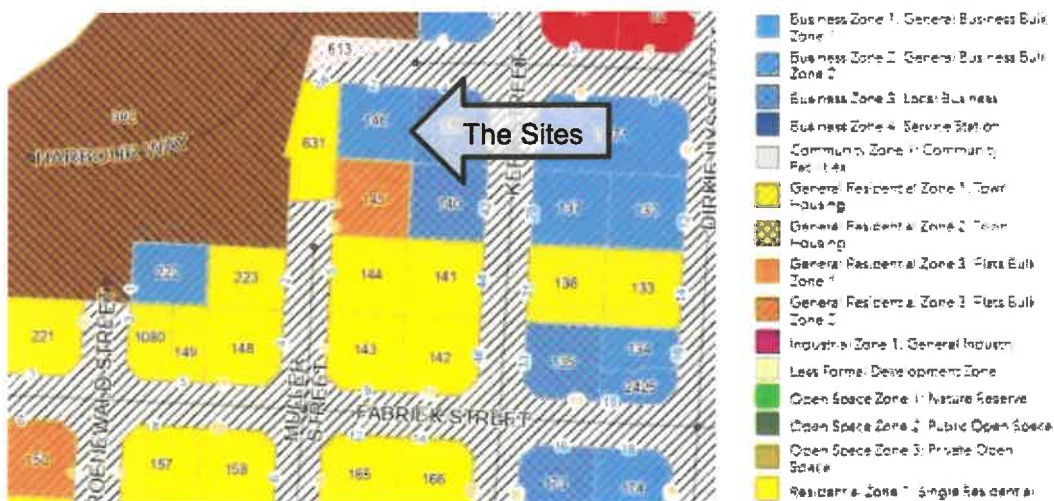
The surrounding properties in this area feature a variety of zoning designations, reflecting a diverse mix of uses that contribute to Gansbaai's overall character and functionality. These zones include:

## Motivation report

- **Single Residential:** Properties designated for residential use, similar to Erf 631.
- **Harbour Usage:** Areas supporting maritime and related activities.
- **General Business:** Properties allocated for commercial purposes, providing essential services and amenities to the community.
- **Public Roads:** Land reserved for transportation infrastructure, ensuring connectivity and accessibility.
- **Public Open Space:** Areas designated for public recreational use, enhancing environmental sustainability and community well-being.

This zoning diversity creates a balanced, integrated urban environment that supports residential living, commercial activity, and public accessibility. The proposed development and consolidation of Erven 146 and 631 seek to complement this balance by introducing mixed-use elements that align with the area's existing zoning framework.

For further reference and visual context, please see the zoning map extract below.



### 3.3 LAND USE

The subject area, consisting of Erf 146 and Erf 631 Gansbaai, features a combination of commercial and residential land uses. Erf 146, zoned as Business Zone 2, supports a vibrant mix of activities, including a restaurant, associated storage facilities, two ground-

## Motivation report

floor flats, and parking. In contrast, Erf 631, zoned as Residential Zone 1, is developed for single residential purposes, with an established dwelling and a loose standing "Wielhuis".

The surrounding land uses in Gansbaai are varied and contribute to a dynamic urban environment. These include:

- **Single Residential:** Neighbouring properties designated for residential use, providing a cohesive living environment.
- **Harbour Usage:** Areas dedicated to maritime activities, which include a fish processing and canning facility as well as a restaurant, playing a crucial role in the local economy and community identity.
- **General Business:** Commercial properties that offer essential goods, services, and amenities, enhancing the economic vitality of the area and serving both residents and visitors.
- **Public Roads:** Infrastructure that ensures efficient transportation and connectivity throughout Gansbaai, facilitating access to key destinations.

This diverse land use pattern supports a well-rounded and integrated urban environment, where residential, commercial, and public spaces coexist harmoniously. The proposed development and consolidation of Erven 146 and 631 aim to strengthen this integration, introducing mixed-use functionalities that align with the area's existing character and land use framework.

### 3.4 PROPOSAL

The following is proposed in terms of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020:

- Chapter 4, Section 16(2)(a): Rezoning of Erven 146 and 631 in Gansbaai from Residential Zone 1 and Business Zone 2 to Business Zone 1.
- Chapter 4, Section 16(2)(e): Consolidation of Erven 146 and 631 in Gansbaai.  
Chapter 4, Section 16(2)(b): Building line departures for the consolidated Erven 146 and 631 Gansbaai.

## Motivation report

- Chapter 4, Section 16(2)(o): Consent uses applicable to the consolidated erven 146 and 631 Gansbaai.
- Chapter 4, Section 16(2)(h): The amendment of former approvals applicable to Erf 146 Gansbaai.
- Chapter 4, Section 16(2)(q): Determination of an administrative penalty for addressing illegal structures and land uses.

### 3.4.1. Proposed Rezoning of the Properties

Erven 146 and 631 Gansbaai are situated within the Central Business District (CBD) of Gansbaai, adjacent to the harbour in a mixed-use area. Surrounding properties in the CBD are zoned Business Zone 1, a designation that aligns with both the existing and proposed land uses for the subject erven. To facilitate the consolidation of Erf 146 and Erf 631, it is necessary for both erven to have the same zoning. Therefore, we propose the following rezoning:

- Erf 146 Gansbaai: from Business Zone 2 to Business Zone 1
- Erf 631 Gansbaai: from Residential Zone 1 to Business Zone 1

This proposed rezoning aligns with the prevailing zoning within Gansbaai's CBD.

The primary and consent use rights for properties zoned Business Zone 1 include:

- Primary uses: **business premises**, caretaker's accommodation, conference facility, flats (above ground floor), guest house, hotel, place of assembly, place of instruction, and self-catering units.
- Consent uses: adult entertainment business, bottle store, crematorium, **dwelling unit, flats (on the ground floor)**, funeral parlour, institution, motor repair garage, **place of entertainment**, recreational facilities, residential building, second dwelling unit, service station, transmission apparatus (subject to Chapter 16.10 of the Overstrand Municipal Land Use Scheme Regulations, 2020), transport use, utility services, warehouse, and service trade.

The existing restaurant on Erf 146 falls within the primary use category as a business premises. The following consent uses will be applied for:

- 5 Slot Machines: classified as Place of Entertainment (Erf 146 Gansbaai)

## Motivation report

- 1 Dwelling House: classified as Dwelling Unit (Erf 631 Gansbaai)
- 2 Ground-floor Flats: Flats on the ground floor (Erf 146 Gansbaai)

This strategic rezoning and consolidation aim to create a cohesive, functional property that aligns with the surrounding zoning and land use patterns. Rezoning will enable a seamless integration of Erf 146 Gansbaai with Erf 631 Gansbaai, promoting a flexible space that supports both commercial and residential activities.

Rezoning the subject erven will enhance the potential for viable commercial operations on the ground floor, residential accommodations, and sufficient parking facilities, contributing to a vibrant and functional urban environment. This proposal not only optimizes property usage but also supports the broader development goals of the Gansbaai community by promoting economic growth and residential convenience.

### **3.4.2. Proposed Consolidation**

Erf 146 Gansbaai is 991m<sup>2</sup> in extent, while Erf 631 Gansbaai is 927m<sup>2</sup> in extent. The proposal is to consolidate these two erven, creating a single property with a total area of 1,918m<sup>2</sup>.

This diverse land use pattern promotes a balanced and integrated urban environment where residential, commercial, and public spaces coexist harmoniously. The proposed consolidation of Erven 146 and 631 Gansbaai is intended to enhance this integration by introducing mixed-use functionalities that aligns with the area's established character and land use framework. Furthermore, the consolidation will provide sufficient parking space to support the increased commercial and existing residential activities, ensuring accessibility and convenience for all users.

### **3.4.3 Proposed Consent Uses**

In alignment with the proposed rezoning and consolidation of Erven 146 and 631 Gansbaai, several consent uses are being requested to support both commercial and residential functionality on the properties. These consent uses are tailored to maximize the utility of the consolidated erven, providing amenities that align with the existing zoning patterns of the Central Business District (CBD) and supporting the surrounding mixed-

## Motivation report

use environment.

The following consent uses are proposed:

- **Place of Entertainment (5 Slot Machines) on Erf 146 Gansbaai:** This consent use allows for a small entertainment area with five slot machines, which will be located within a closed, demarcated section of approximately 15m<sup>2</sup> within the restaurant. This enclosed area ensures that the slot machines are separated from the main dining and social areas, minimizing any impact on restaurant patrons. The space will be carefully managed to provide a discreet, controlled environment, prioritizing the comfort of both guests and surrounding property owners.
- **Dwelling Unit (1 Dwelling House) on Erf 631 Gansbaai:** With the rezoning to Business Zone 1, this consent use permits the retention of a single dwelling unit and a loose standing “Wielhuis” on Erf 631 Gansbaai, maintaining residential use within the consolidated property. This residential component will support mixed-use functionality and offers an unique living opportunity within the CBD environment overlooking the Gansbaai Harbour.
- **Flats on Ground Floor (2 Flats) on Erf 146 Gansbaai:** These two ground-floor flats will each be single-bedroom units, designed to include en-suite bathroom facilities and a small kitchenette, providing comfortable, self-contained residential accommodation. This setup enhances the property’s versatility by offering residential options that support both the residential and commercial needs of the Gansbaai area. The inclusion of these flats aligns with the Business Zone 1 consent use provisions, ensuring a balanced development that caters to a diverse range of occupants.

These proposed consent uses are essential to achieving a cohesive, multi-functional property that aligns with the zoning framework of the Gansbaai CBD. The integration of entertainment and residential options within the consolidated erven will not only enhance business operations but also promote a well-rounded, accessible environment that contributes to the local economy and community lifestyle. The combination of these uses promotes a sustainable approach to urban planning, supporting Gansbaai's goal of a balanced and vibrant mixed-use district.

## Motivation report

### **3.4.4 Building Line Departures**

Under the proposed Business Zone 1 zoning for the consolidated erf, the applicable building lines, as defined by the Overstrand Municipal Land Use Scheme Regulations, 2020, are as follows:

- **Street Building Line: 0 meters, with conditions:**
  - The Municipality may impose setback restrictions under Section 7.1.2(b).
  - Any enclosed part of a building from the fourth storey must have a setback of 4.5 meters.
  
- **Side Building Line: 0 meters, with conditions:**
  - No windows, doors, ventilation, or openings may be installed in any wall on the property boundary without the Municipality's consent.
  - Where a Business Zone 1 or 2 property borders a residential or community zone, a 3-meter building line is required.
  
- **Rear Building Line: 0 meters, with conditions:**
  - No windows, doors, ventilation, or openings may be installed in any wall on the property boundary.
  - A 3-meter building line applies where a Business Zone 1 or 2 property borders a residential or community zone.
  
- **Additional Restrictions:** The Municipality reserves the right to impose stricter building lines for public health and safety.
- **General Exemptions:** Section 16.1 of the Overstrand Municipal Land Use Scheme Regulations, 2020, includes general building line exemptions.

Despite the 0-meter building lines generally applicable to Business Zone 1 properties, the consolidated property borders a General Residential Zone 3 property (Erf 145 Gansbaai) to the south, necessitating a 3-meter building line along the southern boundary.

#### **Existing Structures and Required Building Line Departure:**

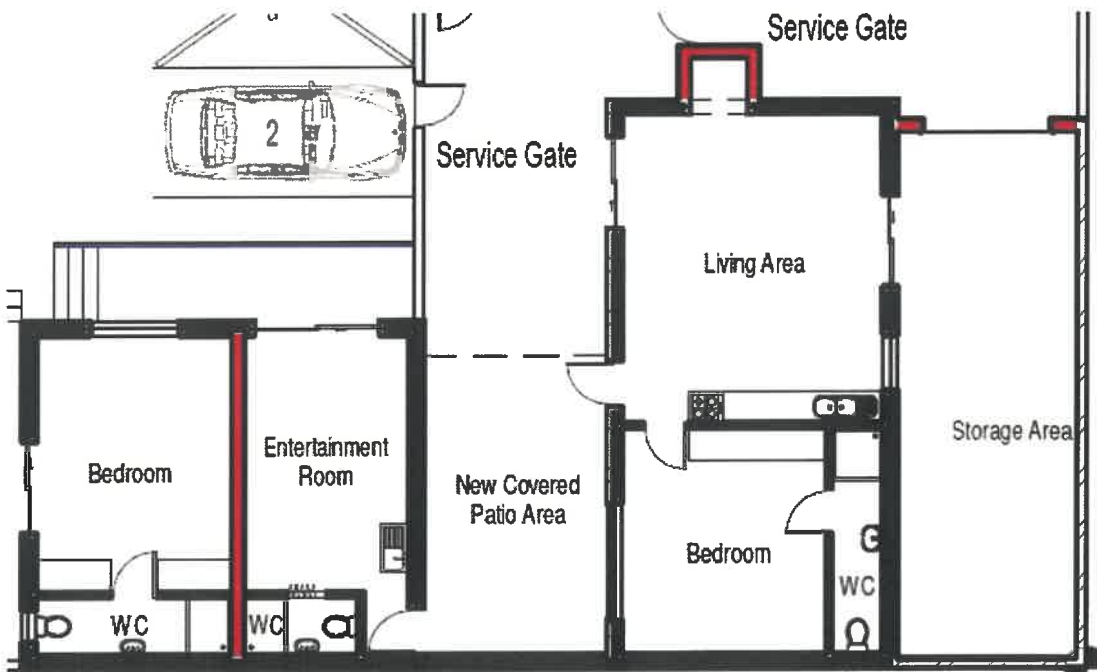
The two existing flats, covered patio and storage area on the southern boundary of the

## Motivation report

consolidated erf are constructed up to the property boundary. These flats covered patio and storage area have no windows or doors on the walls constructed up to the southern boundary. The eastern flat includes a bedroom and bathroom on the boundary, with an adjacent storage area extending to the eastern corner of Erf 146 Gansbaai, which will remain for storage usage. The western flat has two bathrooms located directly on the southern boundary, along with a rear entrance door and covered patio established within the southern building line joining the eastern wall at the boundary.

To formalize the placement of the bedroom, bathroom, and two additional bathrooms, covered patio and storage area located up to the southern boundary, an application for a building line departure from 3 meter to 0 meter along this boundary is required due to its adjacency to the General Residential Zone 3 erf.

For reference, please see the enclosed plan abstract below:



### 3.4.5 The Amendment of Former Conditions of Approval

With reference to the decision letter dated 14 March 2007 (Annexure A), the following conditions of approval require amendments to align with the proposed development application:

## Motivation report

- Condition (a): “that the proposed restaurant of 180m<sup>2</sup> only be permitted.”
  - Amendment Required: This condition should be updated to allow for a restaurant area exceeding 180m<sup>2</sup>, incorporating space for five slot machines, two flats, storage, a dwelling, and associated parking facilities.
  
- Condition (b): “that a maximum height of 8.5m above natural ground level be maintained.”
  - Amendment Required: This height restriction should be removed, applying instead the land use and height restrictions specified under the proposed Business Zone 1 zoning per the Overstrand Municipal Land Use Scheme Regulations, 2020.
  
- Condition (c): “that one parking space be provided for every four seats of the restaurant.”
  - Amendment Required: According to the Overstrand Municipal Land Use Scheme Regulations, 2020, the following updated parking requirements apply:
    - Four parking bays per 100m<sup>2</sup> Gross Leasable Area (GLA) for the restaurant.
    - One parking bay per four seats for the place of entertainment (slot machine area).
    - 1.5 parking bays per single-bedroom flat.
    - Two parking bays for the dwelling unit.

This condition should therefore be revised to meet the requirements outlined in Section 17 of the Overstrand Municipal Land Use Scheme Regulations, 2020.
  
- Condition (g): “that all conditions in the Services Report be complied with.”
  - Amendment Required: This condition should be replaced with a requirement to comply with an updated Services Report that reflects the proposed development’s specific needs.

In addition, the decision letter dated 12 October 2023 (Annexure B) includes conditions that also require revision:

- Condition 5(a): “that this approval is only for the conversion of the flats into a

## Motivation report

- storeroom as indicated on Drawing no. KS/0/02 dated 2018/10/18.”
- Amendment Required: This condition should be removed as the owner wishes to retain the two flats rather than convert them into storage.
- Condition 5(b): “that building plans be submitted to the Building Department to accommodate the proposed storeroom within 30 days of the final approval, and that all conditions of the Building and Fire Departments be complied with at that stage.”
    - Amendment Required: This condition should be removed, with building plans for the legalisation of the flats to be submitted once approval is obtained.
  - Condition 5(d): “that the conversion of the two flats into storeroom 1 and 2 be completed within 90 days of the decision date.”
    - Amendment Required: This condition should be removed as the flats are to be retained for the current use.
  - Condition 5(e): “that the shower and toilet facilities within storerooms 1 and 2 be omitted and that the area may only be utilised for storage purposes.”
    - Amendment Required: This condition should be removed as the shower and toilet facilities will remain for use by the retained flats.

These amendments are essential to align the conditions of approval with the updated zoning, land use framework, and regulatory standards, ensuring compatibility with the Overstrand Municipal Land Use Scheme Regulations, 2020, and supporting the intended mixed-use functionality of the consolidated erven.

### **3.4.6. The Determination of an Administrative Penalty**

In accordance with Chapter 5, Section 90(1) of the Overstrand Municipality’s Amended By-Law on Municipal Land Use Planning (2020), any individual in contravention of the By-Law who submits an application to address the violation must seek the determination of an administrative penalty from the Municipality, provided no demolition directive has been issued under Section 85 for the land, building, or any portion thereof.

## Motivation report

This application aims to rectify contraventions related to two ground-floor flats, storage area and covered patio that were constructed up to the southern boundary line. As indicated on the site development plan, an existing storeroom and garage were converted into these two flats by the previous owner. These unauthorized alterations were inherited by the current owners, who continued using the flats since they took transfer in 2018 without making any modifications other than general maintenance.

The flats, covered patio and storage area were constructed directly adjacent to the southern rear boundary, where a 3-meter building line is required due to the zoning of the neighbouring erf, Erf 145 Gansbaai, as previously noted. Consequently, an application is submitted for the determination of an administrative penalty in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-Law on Municipal Land Use Planning, 2020.

It is important to emphasize that the imposition of an administrative penalty is at the discretion of the Municipal Planning Tribunal (MPT). This process ensures that the contraventions are addressed within the framework of the applicable municipal regulations.

In accordance with Section 90(3) of the Municipal Planning By-Law, the Municipal Planning Tribunal (MPT) is required to consider the following factors when determining an appropriate administrative penalty:

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

The originally approved storeroom and garage, located directly on the southern rear boundary, were unlawfully converted into two ground-floor flats by the previous owner. The exact timeframe of this unauthorized conversion is unknown. However, the current owners acquired the property in 2018, at which point the two flats were already in existence. Since taking ownership, the current owners have continued to use the flats as such without making any alterations other than routine maintenance.

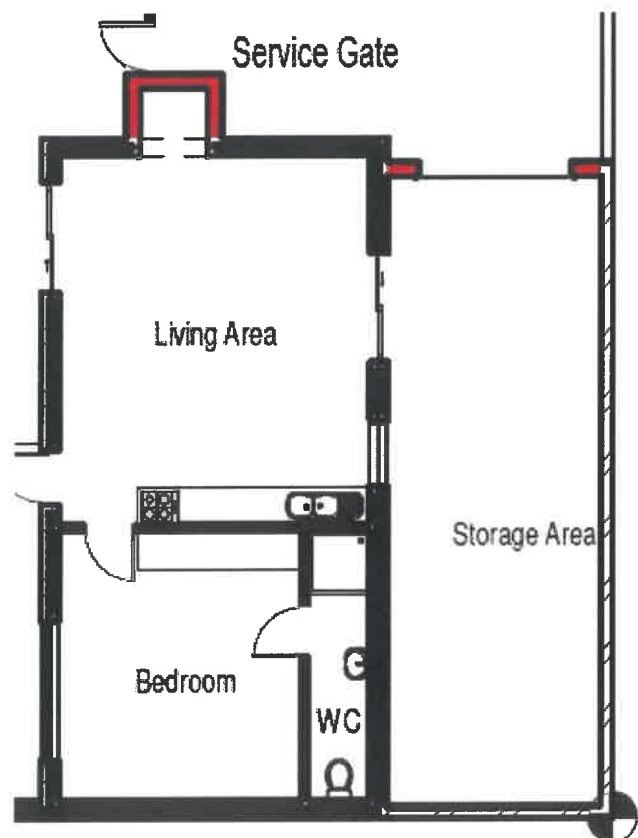
## Motivation report

This indicates that the contravention has been in effect for over 7 years. While the unauthorized use has persisted for an extended period, it is important to note that the contravention originated under the previous ownership, and the current owners inherited the situation without making further changes. This context may be relevant in the MPT's assessment of the penalty.

### o The change of use of the storeroom:

An approved storeroom, located on the eastern side of the southern rear boundary, was unlawfully converted into a small flat by the former owner. This ground-floor flat, Flat 1, comprises a living area, small kitchenette, built-in braai and storage area located in the northern section of the unit. The flat also includes a bedroom with an en-suite bathroom situated along the western boundary.

The construction of the flat primarily utilized the existing structure of the storeroom. The living area has a total floor space of approximately 35m<sup>2</sup>, while the bedroom, including the en-suite bathroom, covers approximately 21m<sup>2</sup>. Additionally, the storage area spans an extent of 32m<sup>2</sup>. For a comprehensive overview of the layout, please refer to the attached building plan abstract.



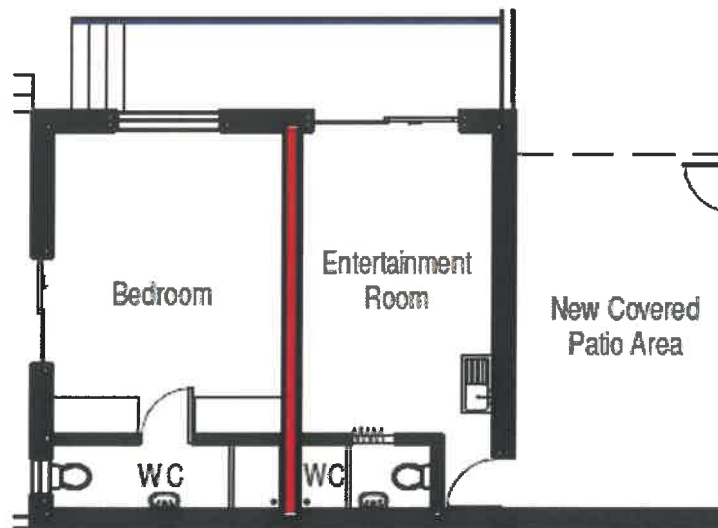
## Motivation report

This flat and storage area was already established when the current owners took transfer of the property in 2018. Since then, the owners have continued to use the flat in its existing condition, making no structural alterations to the unit. This historical context highlights that the contravention predates the current ownership. The storage area is approved and will continue to be used as a storage area.

### o The change of use of the garage:

A garage was approved on the southern boundary of Erf 146 Gansbaai. The garage is centrally located on the southern boundary of Erf 146 Gansbaai. The approved garage was also changed into a flat, Flat No.2 and a covered patio was also added by the former owner and was also inherited by the current owners who took transfer of the property in 2018 as previously stated. Flat 2 consists of a 17m<sup>2</sup> entertainment room, kitchenette, 2m<sup>2</sup> bathroom, a 18m<sup>2</sup> bedroom with a 4m<sup>2</sup> en-suite bathroom. the covered patio is approximately 19m<sup>2</sup> in extent.

Please refer to the building plan abstract below:



### o The conduct of the person involved in the contravention

According to the information provided to us, the current property owners, Mr. and Mrs. Steenkamp, have not previously been involved in any contraventions of the Municipal Planning By-Law. They purchased the property in 2018, at which time the two ground-floor flats, storage area and covered patio were already in existence and operational. The

## Motivation report

owners have continued to utilize these flats, covered patio and storage area in their current form since the purchase, without making any alterations or structural changes.

In 2023, an application was lodged and partially approved; however, at that time, it was proposed that the flats revert to their former approved uses as a storeroom and garage. Despite this, the owners now wish to retain the flats as they currently exist, citing a significant shortage of affordable housing in the area. The two flats, which are being rented out, contribute to addressing this need while supporting the local housing market.

This history indicates that the owners acted in good faith and inherited the contraventions from the previous owner, making efforts to regularize the situation through proper municipal processes.

- **Whether the unlawful conduct was stopped**

The current owners, Mr. and Mrs. Steenkamp, have continued to use the property with the established land uses since acquiring it in 2018. Upon becoming aware of the non-compliance issues, they submitted an application in 2023 to address the contraventions. In this previous application, it was proposed that the two ground-floor flats be reverted to their originally approved uses as a garage and storage area.

However, the owners now wish to retain the two flats as they are, given the pressing need for affordable housing in the area and the fact that these units have been in existence for over 7 years. The current application seeks to rectify the contravention by requesting an administrative penalty and a departure application to legalize the as-built structures. This demonstrates the owners' proactive approach in addressing historical contraventions and ensuring compliance with municipal requirements.

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

To determine the administrative penalty, we have obtained cost estimates from two reputable building contractors regarding the modifications made to convert the garage

## Motivation report

and storeroom into the two ground-floor flats. The contractors and their respective cost estimates are as follows:

- REDEV Construction and Property Maintenance: R25,500.00
- On Demand Property Maintenance and Alterations: R29,250.00

Copies of these cost estimates are enclosed for reference.

It is important to note that the unlawful changes to the two ground-floor flats have had no significant impact on the surrounding properties. Given these circumstances and the minimal nature of the modifications, we respectfully recommend that no administrative penalty be imposed in this instance. This recommendation aligns with the principles of proportionality and fairness, considering the historical nature of the contravention and the efforts made by the owners to address the matter.

- **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**

In accordance with the Overstrand Municipal Planning By-Law, the determination of an administrative penalty must consider factors such as the nature and extent of the contravention, the duration of the unlawful use, the conduct of the property owners, and any mitigating circumstances.

The contravention pertains to the unauthorized conversion of a garage and storeroom into two ground-floor flats, a covered patio and storage area. These alterations were made by the former owner before the current owners, Mr. and Mrs. Steenkamp, acquired the property in 2018. The Steenkamps continued to utilize the flats in their inherited state without making any further modifications. It is confirmed that these flats, covered patio and storage area have existed for over 7 years.

The unlawful use was acknowledged in a prior application submitted by the owners in 2023. That application proposed reverting the flats to their approved uses (garage and

## Motivation report

storeroom); however, the owners have since expressed a desire to retain the flats due to the high demand for affordable rental housing.

Cost estimates for the unauthorized construction were obtained from two contractors, with amounts ranging from R25,500.00 to R29,250.00. These figures have been submitted to assist in determining the penalty. Importantly, the unauthorized use has not caused any adverse impacts on surrounding properties, and the owners have taken steps to regularize the matter through the current application.

Considering the historical nature of the contravention, the lack of any previous non-compliance by the owners, the minimal impact on the area, and the proportionality of the contravention to the estimated costs, we respectfully recommend that either a minimal penalty or no administrative penalty be imposed. This recommendation acknowledges the owners' efforts to rectify the situation and ensures fairness in the application of municipal planning regulations.

### **3.5 ACCESS AND TRAFFIC**

Both Erven 146 and 631 Gansbaai will retain their existing accesses from Market Street, ensuring continuity and convenience. The first access point into Erf 146 Gansbaai leads to a parking area with eight bays, including Parking Bay No. 10, a dedicated handicap parking bay. The second access point into Erf 631 Gansbaai provides entry to seven parking bays.

The required parking for the proposed land uses has been calculated as follows:

- Restaurant (190m<sup>2</sup> GLA) @ 4 bays per 100m<sup>2</sup> GLA: 7.6 bays
- Place of Entertainment (5 slot machines) @ 1 bay per 4 seats: 1.25 bays
- Two single-bedroom ground-floor flats @ 1.5 bays per flat: 3 bays
- Dwelling unit @ 2 bays per dwelling: 2 bays

Total Parking Requirement: 14 parking bays

Total Parking Provided: 15 parking bays

All parking bays meet the standard dimensions of 2.5m x 5m, with the handicap bay measuring 3.5m x 5m. Sufficient manoeuvring space is provided to facilitate ease of

## Motivation report

movement within the parking area, ensuring accessibility and compliance with regulations.

This parking layout plan accommodates the needs of residents, customers, and visitors while adhering to municipal standards. The proposed parking layout minimizes impact on traffic flow, as the majority of the land uses on the consolidated properties already exist. This ensures that the development is both functional and sensitive to its surrounding environment. For detailed dimensions and arrangement, refer to the accompanying parking layout plan.

### **3.6 SERVICES**

The consolidated erven will continue to accommodate the existing land uses, with the only proposed addition being the inclusion of five slot machines within the restaurant area. The current uses on the properties are as follows:

- Restaurant
- Two single-bedroom ground-floor flats
- One dwelling

The properties are already serviced and fully operational, with the following infrastructure in place:

- **Water Supply:** Adequate water is available and actively utilized to meet the needs of the existing uses.
- **Electricity:** The current electrical infrastructure is sufficient and capable of supporting all existing land uses.
- **Sewage:** The sewage system is in place and effectively handles the current load.
- **Stormwater Management:** Stormwater is efficiently managed within the properties, preventing issues such as flooding or erosion.
- **Refuse Removal:** Regular refuse collection occurs on a weekly basis, ensuring proper waste management.

## Motivation report

By leveraging the existing infrastructure and utilities of both the business-zoned and residential-zoned erven, the proposed consolidation promotes efficient resource use and minimizes any additional burden on municipal services. This approach aligns with sustainable development principles while ensuring the continued functionality of the properties.

### **3.7 TITLE DEED**

The Title Deeds for the subject properties, T51779/2018 and T75399/2004, have been thoroughly reviewed and contain no restrictive conditions that would hinder the approval of the proposed application for Erf 146 and Erf 631 Gansbaai.

Furthermore, there are no bonds registered against either property, ensuring an uncomplicated process for implementing the proposed changes. This absence of encumbrances facilitates the smooth progression of the application.

### **3.8 FORWARD PLANNING**

#### **Overstrand Municipal Spatial Development Framework (2020).**

The Overstrand Spatial Development Framework (2020) identifies the area where Erf 146 and Erf 631 Gansbaai are situated as designated for urban development purposes. Importantly, the subject properties fall within the Central Business District (CBD) of Gansbaai, aligning them with the framework's vision for urban intensification and mixed-use developments.

The proposed rezoning, consolidation, building line departures, consent uses, and the determination of an administrative penalty will have minimal impact on the spatial integrity of the area. The proposal supports the broader urban development strategy by complementing the intended character and functionality of the CBD while fostering efficient land use and economic activity in the locality.

### **Overstrand Growth Management Strategy (2010)**

The Overstrand Municipal Growth Management Strategy (OMGMS, 2010) identifies Erf 146 and Erf 631 Gansbaai as part of Planning Unit No. 12, which encompasses the heritage-sensitive historic Gansbaai area as well as the existing Central Business District (CBD). The strategy proposes densification through site consolidation in the form of two-storey gallery access simplex row housing for an estimated 20% of the planning unit.

In this context, the proposed consolidation of Erf 146 and Erf 631 Gansbaai aligns with the spatial planning policies for the area. It also conforms to existing land-use patterns and development trends within Gansbaai, ensuring that the proposal remains consistent with the objectives of the OMGMS while preserving the planned character and functionality of the area.

### **3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**

#### **3.9.5 HERITAGE VALUE**

Erf 146 and Erf 631 Gansbaai are located within the Heritage Protection Overlay Zone (HPOZ).

Under the HPOZ, these properties are classified as part of the Local Area. Additionally, they fall within a Special Conservation Area, although they are not designated as a Heritage Area. Erf 146 is identified as a Heritage Erf with a 3C grading, while Erf 631 holds a 3B grading.

The proposed application, which includes rezoning, consolidation, consent uses and building line relaxations aims to address existing structures and their associated land uses. This application is not expected to negatively impact the heritage value of the properties or the surrounding area.

## Motivation report

By aligning with existing land use trends, the proposed development ensures the preservation of the area's heritage value while maintaining the historical character of Gansbaai. This approach upholds the principles of heritage conservation and supports the sustainable integration of the proposed changes within the existing urban fabric.

### **3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT**

The proposed rezoning, consolidation, consent uses and building line relaxations for Erven 146 and 631 Gansbaai aim to regularize the existing structures and land uses on these properties.

These activities do not trigger any listed activities under the National Environmental Management Act (NEMA), 1998 (Act No. 107 of 1998). Furthermore, the properties are not situated within any Environmental Management Overlay Zones, indicating that they do not fall within areas of heightened environmental sensitivity.

Given the above, the proposed application is not expected to negatively impact the biophysical environment. The erven are located within the developed area of the Gansbaai CBD, where established infrastructure and urban development patterns mitigate potential environmental risks.

It is therefore concluded that the proposed application will not adversely affect the biophysical environment or its conservation, aligning with sustainable development principles and supporting the continued functionality of the existing urban area.

### **3.10 PLANNING PRINCIPLES**

The planning principles of spatial justice, spatial sustainability, efficiency and spatial resilience of this application can be described as follows:

**Spatial Justice:**

The proposed rezoning, consolidation, consent uses and building line relaxations for Erven 146 and 631 Gansbaai align with the principles of spatial justice as set out in the Spatial Planning and Land Use Management Act (SPLUMA). The development makes use of existing infrastructure in the Gansbaai Central Business District (CBD), ensuring equitable access to essential services such as water, electricity, sewage, stormwater management, and refuse removal. This ensures that the development is consistent with the goal of providing fair and accessible living and working conditions within urban areas.

The proposal does not displace or negatively affect vulnerable communities, and it contributes to sustainable urban development in a well-established business district. By optimizing land use and maintaining the existing urban fabric, it helps address spatial inequities without disrupting the local community.

Furthermore, the consolidation of the erven promotes mixed-use development, integrating residential units, a restaurant, and small-scale entertainment facilities. This creates a more inclusive and accessible environment, enhancing the area's functionality and supporting economic activity.

Overall, the application promotes densification and efficient use of resources, in line with the Overstrand Growth Management Strategy and the Spatial Development Framework. It avoids further urban sprawl, thus preserving surrounding rural and natural areas. The proposal respects the heritage and urban planning character of the area, ensuring that the development contributes to a more equitable spatial arrangement in Gansbaai.

**Spatial sustainability:**

The proposed development on Erf 146 and Erf 631 Gansbaai aligns with the principles of spatial sustainability by making efficient use of land within the established urban fabric of the Gansbaai CBD. The area is already serviced with essential infrastructure, including water, electricity, sewage, and stormwater management systems. By consolidating the properties and retaining existing land uses, the development minimizes the need for new

## Motivation report

infrastructure, reducing both environmental and financial costs. The proposed changes are in line with the current land use trends in the area and will not disrupt the broader spatial context. Furthermore, the application maintains the functionality and character of the Gansbaai CBD, ensuring that the development supports long-term sustainability by promoting urban growth within existing urban boundaries. This approach contributes to minimizing urban sprawl and encourages the efficient use of space, enhancing the overall sustainability of the area.

### **Efficiency:**

The proposed development on Erf 146 and Erf 631 Gansbaai demonstrates efficiency in both land use and resource management. By consolidating the properties, the development maximizes the potential of the existing urban area, utilizing established infrastructure and minimizing the need for new construction. The proposed rezoning, consolidation, and consent uses focus on optimizing the use of space and resources, while maintaining the character and functionality of the Gansbaai CBD. The properties are already connected to water, electricity, sewage, and stormwater systems, ensuring that the development will not place additional strain on municipal resources. This efficient approach minimizes both environmental and economic costs, while supporting the ongoing growth and development of the area within its existing boundaries.

### **Spatial Resilience:**

The proposed development on Erf 146 and Erf 631 Gansbaai demonstrates spatial resilience by adapting to the current urban context and leveraging existing infrastructure. The consolidation of the properties and the proposed land uses align with the established patterns of development in the Gansbaai CBD, ensuring that the area continues to evolve in a sustainable and integrated manner. The development is situated within a well-developed area with access to essential services, which enhances its resilience to environmental, social, and economic changes. Additionally, the proposed changes are designed to have minimal impact on the heritage and environmental qualities of the area, ensuring that the development contributes to the long-term stability and sustainability of the Gansbaai urban fabric.

## Motivation report

**Good administration:** It is commendable that Plan Active is dedicated to the principle of good administration and is committed to collaborating with the Overstrand Municipality to facilitate a smooth and timely land use planning process. Adhering to municipal bylaws as well as provincial and national land use planning legislation is essential for ensuring transparency and legality throughout the procedure.

By strictly following the regulations specified in the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, we can contribute to an efficient and streamlined process. This involves adhering to established timeframes and ensuring that all required documentation and procedures are completed accurately and promptly.

#### 4. **RECOMMENDATION**

Based on the comprehensive assessment of the proposed rezoning, consolidation, consent uses and building line relaxations for Erven 146 and 631 Gansbaai, along with the inclusion of 5 proposed slot machines within the restaurant, we recommend approval of the application for the following key reasons:

- The proposed changes are consistent with the current development trends within the Gansbaai Central Business District (CBD). The properties are situated in an established urban area, and the proposed adjustments will not disrupt the existing character of the CBD.

Rezoning, consolidation, and building line relaxations are in line with the area's goals to promote efficient land use and accommodate growth while preserving the surrounding environment. Additionally, these changes formalize existing land uses such as the restaurant, two ground floor flats, and a dwelling, ensuring compliance with municipal regulations and facilitating the integration of the properties within the local context.

- The subject erven are fully serviced with water, electricity, sewage, stormwater, and refuse services already in place. This minimises the need for new infrastructure investments, making the development resource-efficient and sustainable.

## Motivation report

By utilizing existing utilities, the proposal reduces the demand on municipal resources and fosters cost-effectiveness. The proposed development ensures that current infrastructure is optimized, thereby reducing environmental impact and supporting sustainable urban growth.

- The proposed rezoning and changes are sensitive to the Gansbaai heritage context. Although the properties fall within a Heritage Protection Overlay Zone, the proposed development is unlikely to impact the area's heritage value. Erf 146 Gansbaai is a Heritage Erf with a 3C grading, and Erf 631 Gansbaai has a 3B grading. The application seeks to preserve the heritage character of the area by not proposing significant structural changes but rather legalizing and formalizing existing land uses. This ensures that the Gansbaai historical and cultural significance is respected and maintained.
- The proposed changes align with the Overstrand Municipal Spatial Development Framework (2020) and the Overstrand Growth Management Strategy (2010). Both documents advocate for land consolidation, particularly in urban areas, to optimize land use. The proposed development supports these frameworks by contributing to Gansbaai's growth and functionality while preserving its character, helping to achieve the municipality's goals for sustainable urban development.
- The proposed changes are expected to contribute positively to the local economy by offering additional housing options and preserving the business use of the property. The two ground floor flats and the restaurant will help meet the increasing demand for both residential and commercial spaces in Gansbaai.

Furthermore, by formalizing existing land uses, the application promotes accessibility and supports social inclusivity by diversifying property types within the local market. This development will also support the community by providing residential and commercial opportunities in an established and well-connected area.

- The proposed development supports environmental sustainability by consolidating the properties and minimizing the need for additional land use, which would reduce urban sprawl. Utilizing existing infrastructure and services help preserve natural areas while ensuring that the urban fabric of Gansbaai is strengthened.

## Motivation report

The project will enhance spatial resilience by adapting to the future growth of the area, ensuring that land use is optimized, and the development remains sustainable in the long term.

- The application also addresses past contraventions by formalizing long-standing land uses and structures. This approach ensures compliance with current regulations, while the proposed administrative penalty and building line relaxations provide a practical solution to regularize the existing use. This helps hold the property owners accountable for past deviations, while ensuring that the land uses are properly legalized.
- The proposal to include 5 slot machines within the restaurant aligns with the growing demand for diverse entertainment options in the Gansbaai CBD. The addition of the slot machines will contribute to the financial viability of the restaurant and enhance its ability to offer varied services to the community.

The operation of the slot machines will be fully compliant with the relevant gaming regulations, and the necessary permits and licenses will be obtained to ensure legal compliance.

- The slot machines will be managed in compliance with all gaming regulations. Age restrictions, responsible gambling practices, and operational hours will be strictly adhered to, ensuring the responsible operation of the machines. Security measures will be implemented to monitor the gaming area, preventing any misuse, and regular maintenance and audits will ensure their proper functioning and transparency.
- The inclusion of slot machines will contribute to the financial sustainability of the restaurant, attracting more customers and increasing the restaurant's revenue. The introduction of entertainment options will also support local tourism, increasing foot traffic to the restaurant and benefiting surrounding businesses. This will further contribute to the economic vitality and vibrancy of the Gansbaai CBD.
- The restaurant will implement responsible gambling measures, such as providing information about the risks of gambling and offering support for those who need assistance. Community engagement will ensure that the introduction of the slot machines is well-received and that any concerns from residents are addressed, promoting a positive relationship between the development and the local community.

## Motivation report

In conclusion, we recommend the approval of the application for Erven 146 and 631 Gansbaai, as it supports sustainable urban development, respects the heritage and cultural context, and contributes positively to the local economy and community. Additionally, we recommend approval for the inclusion of 5 slot machines within the restaurant, subject to regulatory compliance and operational management measures. This addition will enhance the restaurant's economic sustainability while contributing to the vibrancy and attractiveness of the Gansbaai CBD.

## On Demand investments 57 cc

### ta : On Demand property maintenance and alterations

Reg no : 2005/096173/23 VAT reg no : 4550224457 Date: 2024/11/25

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### Quote / Estimation:

Wielhuis restaurant : 2 Mark street , Gansbaai Erf : 146

Convert store room 1 to rental Flat no 1 / Caretakers flat :

---

Refurbish existing bathroom: Toilet , washbasin and shower / clean and paint : R 2 500.00

Convert existing store room and kitchenette into Living room / clean and paint : R 2 750.00

Convert existing store room to bedroom / clean and paint : R 2 000.00

Convert garage to Flat no 2 :

---

Remove existing garage doors and replace with aluminum sliding doors

and window with double openers : R 8 500.00

Build inner separation wall between living room and bedroom : R 2 500.00

Install toilet / hand basin and shower : R 8 500.00

Install dishwashing basin and cupboard : R 2 500.00

---

Total : R29 250.00

All the above work is non structural and will be done with single hollow cement blocks and aluminum doors and windows will be low cost off the shelf items. Plumbing will be no brand taps and no shower doors.

## REDEV CONSTRUCTION AND PROPERTY MAINTENANCE

Reg no : 2021/335135/0726/11/2024

PO Box 3835, Durbanville 7550 Tel : 079 129 9529

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### Estimation /Quotation

Wielhuis restaurant, erf :146 , 2 Market street, Gansbay

To convert existing store room into a rentable one bedroom flat with no building work involved.

Clean and paint existing bathroom.

Clean and paint Bedroom area.

Clean and paint living room/kitchenette area R 9 500.00

To convert existing garage into a rentable one bedroom flat :

Remove existing garage doors and replace with aluminium sliding doors and windows.

Erect separation wall between bedroom and living room area.

Install dishwash basin and cupboard

Install toilet, hand wash basin and shower R 25 500.00

Total amount : R 35 000.00

All the above work will be done with single hollow cement blocks and low cost aluminium sliding doors and windows . All taps will be low cost taps and no shower doors to be installed as per owner .

CR de Villiers

25/11/2024



**Parking Schedule:**

- Under covered stoep and seating counter: 72m<sup>2</sup>
  - Indoor seating area and passage: 41m<sup>2</sup>
  - Indoor bar area: 38m<sup>2</sup>
  - Office: 7m<sup>2</sup>
  - Kitchen: 32m<sup>2</sup>
  - 4 Parking Bays / 100m<sup>2</sup>
  - 190m<sup>2</sup> GLA = 7.6 parking Bays
  - 5 Slot Machines
  - 1 parking bay for very 5 4 seats:
  - 1.25 Parking Bays
  - 2 Single bedroom flats
  - 1.5 Parking bays / flat:
  - 3 Parking Bays
  - 1 Dwelling
  - 2 Parking Bays:
  - 2 Parking Bays
- Total Number of parking bays required: 14 Parking Bays  
15 Parking Bays are provided

Plan Description: PROPOSED SITE DEVELOPMENT PLAN  
 Scale: 1:250  
 Drawing No: Gansbaai146ae.dwg  
 Date: 5 Dec 2024

Property Description: ERVEN 146 & 631 GANSBAAI

All distances approximate and subject to survey.  
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Stads- en Streeksbeplanners  
**Plan Active**  
 Town & Regional Planners





Navrae:  
Enquiries: **H Boshoff / ac**

Lêerverwysing:  
File Reference: **Erf 146, Gansbaai**

Datum:  
Date: **14 Maart 2007**

**GANSBAAI  
ADMINISTRASIE ADMINISTRATION**

**Geregistreerde Pos**

Minre Plan Active  
Stads- en Streekbeplanners  
Posbus 296  
**HERMANUS**  
7200

Meneer

**ERF 146, GANSBAAI (MARKSTRAAT 2): AANSOEK OM OPHEFFING VAN  
BEPERKINGS, 1967 (WET 84 VAN 1967) EN HERSONERING**

U bogenoemde aansoek verwys.

Die burgemeesterskomitee het tydens 'n vergadering gehou op 28 Februarie 2007 soos volg besluit (aangehaal):-

"1. *that in terms of Section 16 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) application for the rezoning of erf 146, Gansbaai, from Single Residential Zone to Central Business Zone in order to operate a restaurant on the property as indicated on Plan No. GANS146.DRW dated April 2006, be approved, subject to the following conditions:*

- (a) *that the proposed restaurant (of 180m<sup>2</sup>) only be permitted;*
- (b) *that a maximum height of 8, 5 m above natural ground level be maintained;*
- (c) *that one parking be provided for every four seats of the restaurant;*
- (d) *that all other development restrictions as prescribed in the relevant Scheme Regulations, be complied with;*
- (e) *that this approval does not absolve the applicant from compliance with any other relevant legislation (including "noise regulations", health requirements; etc);*
- (f) *that the removal of the restrictive conditions of Title be approved by the Provincial Administration, and*

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Posbus 26  
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GANSBAAI, 7220

- g) *that all the conditions in the Services Report (Annexure I, pages 111 – 112 of the agenda ) be complied with.*
2. *that it be recommended to the Provincial Administration that the Removal of Restrictive Conditions of Title in order to allow the proposed rezoning on erf 146, Gansbaai, be approved."*

U aandag word hiermee gevestig op die bepalings van artikel 44(1)(a) van die Ordonnansie op Grondgebruikbeplanning, 1985 (Ordonnansie 15 van 1985), saamgelees met die regulasies uitgevaardig kragtens artikel 47(1) van genoemde ordonnansie (P.K.1050/1988) gedateer 5 Desember 1988 met betrekking tot die aanteken van 'n appèl na die betrokke kantoor van die Premier ten opsigte van die voorwaardes soos uiteengesit hierbo.

Indien u van voorneme is om appèl aan te teken, moet die volgende vereistes streng nagekom word:-

- (a) U appèl moet die betrokke kantoor van die Premier bereik nie later nie as 21 (een-en-twintig) dae vanaf die datum van registrasie van hierdie skrywe (openbare vakansiedae uitgesluit), en 'n afskrif daarvan moet gelyktydig op hierdie kantoor gedien word.
- (b) Die appèl, met volledige redes daarvoor, moet skriftelik wees en gerig word aan die onderstaande adres en vergesel wees van alle relevante dokumentasie tesame met bevestiging dat 'n afskrif van die appèl gelyktydig aan hierdie kantoor voorsien is.

Die Direkteur  
Geïntegreerde Omgewingsbestuur (Streek B)  
Departement van Omgewingsake en  
Ontwikkelingsbeplanning  
Privaatsak X9086  
KAAPSTAD  
8000

of

Utilitasgebou (Kamer 6-01, 6de Vloer), Dorpstraat 1, Kaapstad 8001.

Tel.Nr.: (021)483-4796 / 483-3638  
Fax.Nr.: (021)483-4372 / 483-3633

Indien enige van bogenoemde vereistes nie nagekom word nie, kan die appèl as ongeldig beskou word.

Die uwe

  
BESTUURDER: STADSBEPLANNING / EKONOMIESE ONTWIKKELING

OFFICE OF THE DIRECTOR: INFRASTRUCTURE & PLANNING  
TOWN & SPATIAL PLANNING

ENQUIRIES | NAVRAE: Mr SW van der Merwe (Senior Town Planner)  
FILE REF | LEËRVERV: 146 GGB  
APPL ID | AANSOEK ID: 3745/2022  
DATE | DATUM: 12 October 2023



REGISTERED MAIL

J Steenkamp  
19 Mopani Street  
PLATTEKLOOF  
7500

EMAIL: steenj@telkomsa.net

Dear Sir/Madam

DECISION LETTER TO APPLICANT

ERF 146, 2 MARK STREET, GANSBAAI: APPLICATION FOR CONSENT USE, DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: J STEENKAMP ON BEHALF OF J & MM STEENKAMP

1. The above application refers.
2. You are hereby notified in terms of Section 62 of the Overstrand By-law on Municipal Land Use Planning of the decision made by the Municipal Planning Tribunal on 28 September 2023.
3. The Resolution in terms of Section 61 of the Overstrand By-Law on Municipal Land Use Planning, with conditions, are as follows:

**RESOLVED**

1. *that the application for consent use (place of entertainment) in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-law on Municipal Land Use Planning, 2020 applicable to Erf 146, Gansbaai to accommodate five limited payout machines, **not be approved** in terms of the provisions of Section 61 of the By-law;*
2. *that the application for a building line departure in terms of Section 16(2)(b) of the By-law to accommodate the caretakers dwelling, **not be approved** in terms of the provisions of Section 61 of the By-law;*
3. *that the application for a building line departure in terms of Section 16(2)(b) of the By-law to accommodate the conversion of the flats into an outbuilding (stores 1 and 2), **be approved** in terms of the provisions of Section 61 of the By-law;*
4. *that the applicant **be exempted** from the payment of an administrative penalty in terms of Section 90(4) of the By-law;*
5. *that the decision in paragraph 3. above be subject to the following conditions:*
  - (a) *that this approval is only for the conversion of the flats into a storeroom as indicated on Drawing no. KS/O/02 dated 2018/10/18;*
  - (b) *that building plans be submitted to the Building Department to accommodate the proposed store room within 30 days of the final approval and that all conditions of the Building and Fire Departments be complied with at that stage;*



- (c) *that the property owner, within 30 days from the decision date, submit an application to address the unauthorised development on the property namely, but not limited to an application for departure, amendment of conditions of approval and administrative penalty in accordance with the provisions of the By-law;*
- (d) *that the conversion of the two flats into storerooms 1 and 2 be completed within 90 days of decision date;*
- (e) *that the shower and toilet facilities within storerooms 1 and 2 be omitted and that the area may only be utilised for storage purposes;*
- (f) *that this approval does not absolve the applicant from compliance with any other relevant legislation; and*
- (g) *that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.*

6. *that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-law on Land Use Planning, 2020 with regard to the above conditions of approval."*

4. Reasons for the above decision are as follows:

Reasons for departure approval

- ❖ The proposed stores 1 and 2 are situated within an approved structure (double garage).
- ❖ The current unauthorised flat will be converted to store 1 and 2 (i.e. an outbuilding).
- ❖ The converted building will not impact upon the character of the area, the HPOZ or vested rights of adjoining properties.

Reasons for non-approval

- ❖ The applicant's motivation for the place of entertainment is based on generalisations and did not properly assess the need and desirability and impact of the proposal.
- ❖ The use of the property is limited to a restaurant only. The application did not address the amendment of the condition to accommodate the proposed place of entertainment and caretaker's dwelling in accordance with the provisions of Section 16(2)(h) of the By-law.
- ❖ There is insufficient on-site parking provision.
- ❖ The parking layout submitted is misleading and is not a true reflection of the site-specific constraints resulting in substandard manoeuvring space.
- ❖ The parking layout plan lacks critical dimensions to enable the full evaluation thereof and is likely to give rise to on-street parking.
- ❖ The application did not address the shortfall of on-site parking by means of the relevant applications (i.e. departure for offsite parking or an application to buy out parking in lieu of on-site provision).
- ❖ The primary rights do not permit a caretaker's dwelling.

5. You are hereby informed of your right to appeal to the Appeal Authority in terms of Section 78(2) of the By-law.

5.1 The appeal form must be completed and should be directed to the Appeal Authority (Executive Mayor) and received **within 21 days of notification** of this decision together with proof of payment of the appeal fee (R3712-00).



5.2 The appeal form is available at request or alternatively on the Municipal website ([www.overstrand.gov.za](http://www.overstrand.gov.za)).

5.3 Contact details are as follows:

Physical address : 16 Paterson Street, Hermanus, 7200  
Postal address : PO Box 20, Hermanus, 7200  
E-mail address : [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)

Yours faithfully



**S MÜLLER**  
**DIRECTOR : INFRASTRUCTURE AND PLANNING**

# J & A Familie Trust

PO Box 424  
CALEDON  
7230

**Overstrand Munisipaliteit**  
Posbus 20  
Gansbaai  
7220

TP-A Theart  
(Suid merke)

OVERSTRAND MUNISIPALITEIT

REKORDBEHEER

13 MAR 2025

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

Datum: 13 Maart 2025

Geachte Lede van die Overstrand Munisipaliteit,

**Onderwerp: Beswaar teen die aansoek vir hersoneering van Erf 146, 2 Mark Street en Erf 631, 2A Mark Street, Gansbaai**

Ek, Anna Sussana Badenhorst as trustee van die J&A Familie Trust en eienaar van Erf 140 Gansbaai, rig hierdie brief aan u in verband met die aansoek om hersoneering van Erf 146, 2 Mark Street en Erf 631, 2A Mark Street, Gansbaai.

Ek wil graag my beswaar teen die aansoek uitspreek.

Ek is van mening dat die beplande bou van 'n casino op die genoemde persele nie in ooreenstemming is met die beste belange van die gemeenskap nie, aangesien die omliggende woonstelle baie naby is.

Dit sal nie net die veiligheid en die welstand van die inwoners benadeel nie, maar ook die kwaliteit van die woonomgewing.

Ek vra dat die munisipaliteit hierdie beswaar in ag neem en die nodige stappe doen om te verhoed dat die aansoek goedgekeur word.

Ek sien uit daarna om van u te hoor en sal dit waardeer as u my op hoogte hou van enige verdere aksies in verband met hierdie aansoek.

Dankie vir u aandag aan hierdie aangeleentheid.

Vriendelike groete,

*AS Badenhorst*

AS Badenhorst  
Trustee: J&A Familie Trust  
Eienaar van Erf 140, Gansbaai

FILE NO. Erf 146 G

631-GB

SCAN NO.

COLLABORATOR NO.

2625479

**Alida Conradie**

ERF 146 GGB

REKORDBEHEER
18 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

**From:** Saxon Lodge  
**Sent:** Tuesday, 18 March 2025 12:19  
**To:** Alida Conradie  
**Cc:**  
**Subject:** Application for consolidation and departure for erf 146 Gansbaai

TP-A Theart  
(Svd Merkle)

Dear Alida,

Thank you for including us as affected neighbours.

Saxon Lodge has been running as a guesthouse for 25 years and our guests come to the Lodge for a relaxing stay in our quiet cul-de-sac with ocean views and a very quiet environment with no passing traffic and very little noise.

We have three direct neighbours, Erf 144, Erf 146 and 2a Mark Street. Erf 144 is a quiet neighbour and we have no issue with them.

Currently, the two ground floor apartments, if you can call them that, on Erf 146, create a lot of disturbance and noise for us with tenants that are noisy, inconsiderate and that have dogs that bark at any movement, at any time of day or night. Neither they nor Mr Steenkamp have changed that despite many requests, arguments, calling the police and so on.

Typically, pubs with entertainment licenses are noisy neighbours to quiet accommodation establishments and this is not a great recipe for our continued profitability.

We notice that, according to the notice, part of the departure of the building line from 3m to 0m includes the two currently illegal apartments as well as the proposed entertainment area (with 5 slot machines). By no stretch of the imagination can the current Wielhuis pub and restaurant be rated "upmarket". Rather, it is a cheap and cheerful pub and restaurant that serves good fish and we send a lot of our guests there to experience just that. The bulk of the clientele are locals.

As demonstrated by the other pubs that have entertainment licenses and slot machines, they typically attract the low-income groups to gamble.

We are concerned that this already noisy environment will become noisier and with the lack of municipal law enforcement regarding noise controls and monitoring, that this will become a nightmare for us. The additional parking on 2a after the re-zoning and consolidation is likely to create another noisy environment with, potentially, a lot of people speaking loudly as they leave the pub, excited about their winnings on the slot machines, slamming car doors in what has been to date a very quiet residential property, and then gunning their engines to climb the steep slope to Mark Street.

This means that we object to the departure on the building line because of the unacceptable existing and future potential noise it is likely to generate and we also object to the consolidation for the same reason.

We would welcome the consolidation and rezoning if we were actually going to get a truly upmarket restaurant (along the lines of Blue Goose, Benguela or Great White House) with a lovely building, great food and no slot machines, that enhanced the stunning property that Erf 146 is and brought new upmarket customers to the area, with minimal or no disturbance.

Warm Regards  
David Sawtelle and Caron Lee

FILE NO. Erf 146 - GGB
SCAN NO.
COLLABORATOR NO.
262 8188

TP - A Theart  
(Suid Merke)

REKORDBEHEER 04 APR 2025 DOCUMENT CONTROL OVERSTRAND MUNICIPALITY
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**Alida Conradie**

**From:** Trudie Nel  
**Sent:** Thursday, 03 April 2025 23:15  
**To:** Marlize Miller; Alida Conradie  
**Cc:** Enquiries  
**Subject:** ERF 146, 2 MARK STREET AND ERF 631, 2A MARK STREET, GANSBAAI - PUBLIC PARTICIPATION - You are regarded as a potentially affected Property Owner

**Importance:** High

To whom it may concern

Thank you for the opportunity to raise my concerns as an affected neighbour regarding the proposed rezoning and introduction of slot machines at "Wielhuis" – Erf 146.

While I understand that this may be seen as a revenue-generating initiative for them, I would like to highlight several issues that I believe should be carefully considered before proceeding.

First and foremost, the presence of slot machines tends to attract individuals who may be inclined to engage in problematic or disruptive behaviour. It is a well-established fact that environments with such machines can attract patrons with gambling addiction issues, as well as individuals who may not contribute positively to the ambiance of the surrounding tourist orientated establishments that Gansbaai want to be known for. This will lead to an increase in public disturbances and other unwanted activities in the surrounding area, with no control, monitoring, or assistance from law enforcement, as we experienced numerous times in the past two years.

Secondly, the noise generated by slot machines is typically loud and constant, which will negatively affect the experience of other patrons who are seeking a more peaceful and enjoyable environment. The combination of incessant noise from these machines, along with the consumption of alcohol, will lead to further disturbances, such as heightened/loud voices, heightened aggression, intoxication-related incidents, and overall discomfort for those making use of my guesthouse as overnight accommodation. Additionally, I am concerned that the increased use of alcohol in such spaces may exacerbate these issues, leading to an environment where people may feel unsafe and/or uncomfortable. The mix of gambling, alcohol, and noisy distractions could attract undesirable elements, ultimately detracting from the quality of the venue, my guesthouse, and the surrounding area.

In light of these concerns, I urge you to reconsider or at least review the potential consequences of allowing slot machines at "Wielhuis" – Erf 146.

Furthermore, as a direct neighbours to Erf 146, I would not have objected to the consolidation and rezoning if we would get an upmarket restaurant with a well-maintained building, attracting new upmarket customers with minimal disturbance.

Warm Regards

Trudie Nel

Schooner House

FILE NO. Erven 146 G
631 - GB
SCAN NO.
COLLABORATOR NO.
2639016



**TOWN & REGIONAL PLANNERS  
STADS-EN STREEKSBEPLANNERS**

6 Magnolia St / Str  
PO Box / Posbus 296  
HERMANUS  
7200  
Tel: (028) 313 1673  
Fax / Faks: (028) 312 1351  
Email:  
[planactive@hermanus.co.za](mailto:planactive@hermanus.co.za)  
**Za**  
Website:  
[www.planactive.co.za](http://www.planactive.co.za)

Our reference: PA24033

23 April 2025

**The Municipal Manager  
Overstrand Municipality  
PO Box 20  
HERMANUS  
7200**

**For attention: Mr. Schalk van der Merwe**

Sir,

**COMMENTS ON OBJECTIONS: ERVEN 146 AND 631, GANSBAAI: APPLICATION FOR REZONING, CONSOLIDATION, CONSENT USE, AMENDMENT OF CONDITIONS OF APPROVAL AND DETERMINATION OF AN ADMINISTRATIVE PENALTY**

The e-mail from Mrs. Alida Conradie dated 9 April 2025 with the 3 objections attached thereto refers.

Three objections were received during the public participation process. Although the individual concerns differ in emphasis, they collectively reflect misunderstandings about the nature of the proposed land use, concerns about noise and neighbourhood character, reservations about existing ground-floor flats, and fears associated with the introduction of five limited-payout machines. For clarity, the primary themes raised by the objectors are summarised as follows:

**SUMMARY OF OBJECTIONS:**

**Objector 1 (J&A Familie Trust)**

- Belief that a “casino” is being introduced.
- Concern that gambling facilities will negatively affect nearby residential dwellings, community wellbeing, and the quality of the living environment.

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Reg. No. 2006/030921/07  
Vat. No. 4770250340

John Mc Lachlan: Ndip (Town Planning) Tech Witwatersrand; MSAPI Nr.10908; SACPLAN Tch.Pln B/8250/2014  
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)  
Meriké Lerm: B. Art et Scien Cum Laude (Town Planning) UNW; SACPLAN Pr.Pln A/158/2009

**Objector 2 (Saxon Lodge)**

- Concern that existing ground-floor flats are “illegal” and generate disturbance.
- Belief that slot machines will increase noise, nuisance and attract undesirable clientele.
- Concern that the proposal will worsen parking and noise conditions in an area perceived as a quiet cul-de-sac.

**Objector 3 (Schooner House)**

- Concern that slot machines may lead to social problems such as addiction, aggression or intoxication.
- Fear that gambling and alcohol together may detract from the area’s ambience and negatively affect guesthouse clientele.
- Concern that slot machines will create constant noise and compromise guests’ comfort and safety.

**RESPONSE TO OBJECTIONS:**

We thank all participating owners for their submissions and the opportunity to address their concerns. After careful consideration of the issues raised, it is evident that many of the objections stem from a misunderstanding of the proposal—particularly the incorrect assumption that a casino or major gambling facility is being established. As the Motivation Report makes clear (pp. 7–10) , the application includes only five (5) limited-payout machines (LPMs) located in a small ±15 m<sup>2</sup> enclosed room within the existing restaurant.

LPMs are low-stake, low-impact devices subject to strict Western Cape Gambling and Racing Board controls. They do not function, appear, or operate like casino equipment, nor do they generate significant noise or external visibility. No new building work, no expansion of the premises and no increase in operating hours accompany this component. The proposal therefore does not introduce the scale, intensity or external effects typically associated with a casino, as feared by the objectors.

Concerns relating to neighbourhood character and noise require similar clarification. The erven fall squarely within the Gansbaai Central Business District (CBD), an established mixed-use environment that includes business premises, restaurants, guesthouses, residential units, harbour-related industry and public amenities (Motivation Report pp. 3–6) .

The area is not a purely residential enclave, and the land uses proposed—including a restaurant, dwelling, flats and a small interior entertainment area—fit comfortably within the Business Zone 1 rights applicable to CBD properties. The application does not intensify land use beyond existing activity patterns. The LPM room is internal, controlled, and acoustically contained, ensuring no external noise impact. No increase in customer capacity or external entertainment is proposed.

Two objections refer specifically to the existing ground-floor flats, describing them as “illegal,” noisy or problematic. These flats, however, were constructed by a previous owner more than seven years ago and were inherited in their current form by the present owners (Motivation Report pp. 14–18) . The purpose of this application is precisely to regularise these longstanding structures by addressing historic non-compliance and applying for the necessary building line departure and administrative penalty. It is therefore inaccurate to characterise the flats as newly introduced or unlawfully erected by the current owners. As to concerns about tenant behaviour, such matters fall under general municipal by-law enforcement rather than land-use planning, and they are not impacts created or intensified by the uses applied for.

Additional objections relate to fears of anti-social behaviour, addiction, or undesirable clientele being drawn to the area. These concerns appear to be based on generalised perceptions rather than the functioning of LPMs in small, supervised restaurant environments. LPMs are among the most closely regulated entertainment devices in the country, with strict age controls, surveillance requirements, low betting limits and capped payouts. Their presence inside a restaurant does not translate into public disorder, aggression, continuous noise or social degradation. The Motivation Report (p. 28) highlights their economic value, assisting the viability of the restaurant without introducing external impacts. No evidence—locally or nationally—suggests that five enclosed LPMs within a CBD restaurant generate the kinds of harm described in the objections.

Concerns about traffic and parking have similarly been addressed through the detailed parking description in the Motivation report. The consolidated erven will provide 15 compliant parking bays, exceeding the 14-bay requirement for the combined uses (Motivation Report p. 19) . Access points remain unchanged and the proposal does not increase building bulk, floor area or trip generation. The application also maintains full compliance with existing infrastructure capacities, including water, sewage, stormwater and electricity, all of which are already in place and sufficient for the proposed configuration (Motivation Report pp. 20–21) .

Finally, the erven lie within the Heritage Protection Overlay Zone. However, the application proposes no new structures, no alteration to the external building form, and no demolition works. As indicated in the Motivation Report (p. 22) , the proposal will have no adverse effect on heritage resources or

the visual character of the area. Instead, the application updates outdated conditions of approval from 2007 and 2023, aligns the erven with prevailing Business Zone 1 rights and ensures regulatory compliance consistent with SPLUMA principles of spatial justice, sustainability, efficiency and good administration.

In conclusion, while the concerns raised by neighbouring owners are understood and respectfully acknowledged, they are largely based on incorrect assumptions regarding the nature and scale of the proposal or relate to existing conditions that are neither caused nor exacerbated by the application. The proposal regularises historic structures, improves compliance, reflects the mixed-use character of the CBD, and introduces no negative spatial, environmental or social impacts. Accordingly, we submit that the objections do not provide sufficient grounds to refuse the application and that the proposal, as motivated, remains appropriate for approval.

We trust that our comments sufficiently address the objections raised and that the application will receive favourable consideration.

Yours faithfully



John Mc Lachlan

<p><b>FILE REF:</b> 146 &amp; 631 GGB  <b>APP ID:</b> 4891/2024                  MM</p>	<h1 style="margin: 0;">Internal Memorandum</h1>												
<p><b>FROM:</b></p> <p><b>TOWN &amp; SPATIAL PLANNING</b></p> <p><b>TOWN PLANNER:</b> SCHALK VAN DER MERWE</p> <p><b>DATE:</b> 27 FEBRUARY 2025</p>	<p><b>APPLICANT:</b> MESSRS PLAN ACTIVE TOWN &amp; REGIONAL PLANNERS ON BEHALF OF J &amp; MM STEENKAMP</p> <p><b>PROPERTY DETAILS:</b> ERF 146, 2 MARK STREET AND ERF 631, 2A MARK STREET, GANSBAAI</p> <p><b>APPLICATION:</b> REZONING, CONSOLIDATION, CONSENT USE, AMENDMENT OF CONDITIONS OF APPROVAL AND DETERMINATION OF AN ADMINISTRATIVE PENALTY</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tr> <td><u>PUBLIC LIAISON MANAGER</u></td> <td><u>BUILDING CONTROL</u></td> <td><u>DISTRICT HEALTH</u></td> <td><u>ELECTRICAL</u></td> </tr> <tr> <td>ENVIRONMENTAL</td> <td><u>ENGINEERING SERVICES</u></td> <td><u>FIRE DEPARTMENT</u></td> <td><u>LOCAL HERITAGE</u></td> </tr> <tr> <td><u>OPERATIONAL</u></td> <td>PROPERTY ADMINISTRATION</td> <td><u>WASTE MANAGEMENT</u></td> <td><u>WARD COUNCILLOR</u></td> </tr> </table>	<u>PUBLIC LIAISON MANAGER</u>	<u>BUILDING CONTROL</u>	<u>DISTRICT HEALTH</u>	<u>ELECTRICAL</u>	ENVIRONMENTAL	<u>ENGINEERING SERVICES</u>	<u>FIRE DEPARTMENT</u>	<u>LOCAL HERITAGE</u>	<u>OPERATIONAL</u>	PROPERTY ADMINISTRATION	<u>WASTE MANAGEMENT</u>	<u>WARD COUNCILLOR</u>
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<u>OPERATIONAL</u>	PROPERTY ADMINISTRATION	<u>WASTE MANAGEMENT</u>	<u>WARD COUNCILLOR</u>										
<p><b>NOTES:</b>                  Please provide your comments (with specific reference to any conditions of approval that should be imposed) in the space provided above or in a separate Memo <u>by not later than the date stipulated below</u>. If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the MPT will be informed accordingly.</p> <p><i>Building Control Department to confirm that all structures on the property/ies are in accordance with the approved building plans.</i></p>	<p style="text-align: center; font-weight: bold; font-size: 1.2em;">INTERNAL DEPARTMENT COMMENTS</p> <p style="font-family: cursive; font-size: 1.1em;">THE PERSON IN CHARGE OF THE PREMISES MUST ENSURE THAT ACCOMMODATION IS OPERATING UNDER A VALID HEALTH CERTIFICATE. SHOP OR ANY FOOD PREMISES MUST BE OPERATED UNDER A VALID CERTIFICATE OF ACCEPTABILITY.</p>												
<p><b>SIGNATURE:</b></p> <p><b>DATE:</b></p>	<p style="text-align: center;"><i>[Handwritten Signature]</i></p> <p style="text-align: center;">27/03/2023</p>												

**CLOSING DATE:**  
4 APRIL 2025



*Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments.*

**COMMENTS FROM THE PROJECT MANAGEMENT DIVISION FOR:  
APPLICATION FOR REZONING, CONSOLIDATION, CONSENT USE,  
AMENDMENT OF CONDITIONS OF APPROVAL & DETERMINATION OF  
AN ADMINISTRATIVE PENALTY: ERF 146 & ERF 631, GANSBAAI  
(4891/2024)**

Electricity	:	Refer to Conditions
Water	:	Refer to Conditions
Sewer	:	Refer to Conditions
Stormwater	:	Refer to Conditions
Roads and traffic	:	Refer to Conditions

**Conditions:**

1. That a Bulk Services Contribution Levy (BICL) be paid by the developer to supplement municipal services and amenities in accordance with the relevant legislation and as determined by the Council. The BICL tariff is adjusted by Council annually. The total BICL payable will be the amount as determined by the BICL Policy and tariff at the date of **actual payment**. BICL amounts quoted in any document will normally be applicable to the particular year in which the document was compiled and Council will not be bound by the quoted amounts.

- 1.1 Developments containing Sectional Title Units/ Commercial Buildings** (non-free standing properties – property is not to be subdivided)

The BICLs are to be paid in full **prior** to submission of the building plans. Building Plans will not be accepted unless the BICL is paid in full.

- 1.2 Developments with free standing properties** (property that is subdivided and plots to be sold individually).

The BICLs are payable **prior** to clearance being issued by the Income Department of the Municipality.

The contribution according to the current policy (2024/2025) is as follows:

**Freehold erven:**

Water	R 27 598.00 x -0.232	=-R 6 402.74
Sewerage	R 19 725.00 x -0.232	=-R 4 576.20
Roads	R 8 845.00 x 10.466667	=R92 577.67
Stormwater	R 10 205.00 x 3.754	=R38 309.57
Solid Waste	R 1 769.00 x 4.3294	= <u>R 7 658.71</u>
<b>TOTAL (inclusive of VAT)</b>	<b>=</b>	<b>R 127 567.01</b>

Note:

- 1.3 The above figures are estimates**
- 1.4 The above figures do not include evaluation/investigation levies and connection fees**
2. that only the existing water and sewerage connections will be available to the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the developer's cost;
  3. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the developer's cost;
  4. that any commercial food preparation facilities (e.g. restaurant / guest house etc.) must be provided with a grease trap, which must comply with the standards and specification of the Division: Civil Engineering Services;
  5. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 140400 – P: 2010: Drainage;
  6. that on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Division: Civil Engineering Services;
  7. that any additional and / or extended vehicle entrances will be for the owner's account;
  8. that no reservation of on-street parking be allowed;
  9. that stormwater discharged from higher lying properties and generated in the catchment area of the property be allowed to drain freely through the property;
  10. that stormwater reticulation and connection(s) to the municipal system be provided at the owners cost, if required.



**RICARDO ANDREW  
PRINCIPAL TECHNOLOGIST:  
DEVELOPMENT CONTROL**

21/05/2025  
DATE