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**ERF 124, 20 SERVICE ROAD, FISHERHAVEN, OVERSTRAND MUNICIPAL AREA:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION:
INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF AD WOOLNOUGH**

124 HFH (4566/2024)

H Olivier

6 September 2024

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 22 January 2024 from Interactive Town & Regional Planning on behalf of AD Woolnough on Erf 124, Fisherhaven in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:

- ❖ **Removal of Restrictive Title Deed Conditions** in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the removal of restrictive title deed conditions D.4.(a), D.4.(b), D.4.(c), D.4.(d) and D.4.(e) as contained in Title Deed T34078/2023 of the property to accommodate the proposed development.

The restrictive title conditions read as follows:

"D. SUBJECT FURTHER to the following special conditions contained in Deed of Transfer No. T35689/1970 imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 of 1934 when approving of the establishment of Fisherhaven Township, namely:

4. *This erf shall be subject to the following further conditions, provided especially that where in the opinion of the Administrator, after consultation with the Townships Board and the Local Authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation, subject to compliance with such conditions as he may impose: -*

(a) it shall not be subdivided;

(b) it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;

(c) not more than 30% of the area thereof shall be built upon;

(d) no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the said street line which forms a boundary of this erf, not within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf, provided that with the consent of the Local Authority an outbuilding not exceeding 1,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space. On consolidation of any two or more erven this condition shall apply to the consolidated area as one erf;

(e) in the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above, then the provisions of such scheme shall apply.”

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The erf measures 699m² in extent and is currently vacant. The erf is situated in a business area and is zoned Business Zone 3.

The Title Deed however show that the property may only be developed as one dwelling, not be subdivided, stipulate that a 30% coverage is applicable and stipulate more restrictive building lines than the Land Use Scheme.

The property owner now proposes to construct offices on ground floor and two flats on first floor, which is allowed in terms of the Land Use Scheme. Application is made to remove the restrictive Title Deed conditions.

4. SUMMARY OF APPLICANT’S MOTIVATION

THE MOTIVATION CAN BE SUMMARIZED AS FOLLOWS:

- ❖ The proposal is to construct a building with offices on the ground floor and two flats on first floor.
- ❖ The Title Deed however show that the property may only be developed as one dwelling, not be subdivided, stipulate that a 30% coverage is applicable and stipulate more restrictive building lines than the land use scheme.
- ❖ The Land Use Scheme allows for 75% coverage, 0m street and side building lines and 3m rear building line.
- ❖ Erf 124 is situated in the Fisherhaven Business node in The Crescent Street.
- ❖ At this stage the property to the east is used for business purposes, whilst the property to the west is used for residential purposes. The property is bordered by public open spaces to the north and south. All the properties in The Crescent are however zoned Business Zone 3.
- ❖ In terms of the Overstrand SDF, 2020 the area is identified for Business purposes.
- ❖ In terms of the Overstrand GMS, 2010 the area is earmarked for proposed economic opportunity and commercial.
- ❖ The condition stipulating no subdivision is allowed, must be removed, as flats are proposed which could be sold off (sectional title) to individual owners.

- ❖ The condition which limits the development of only one dwelling and outbuildings on the property will be removed, to enable the property owner to develop the primary rights allowed in terms of the existing Business Zone 3 zoning of the property.
- ❖ The restriction limiting the coverage to 30% will be removed, to allow a 75% coverage in terms of the Business Zone 3 zone.
- ❖ The Title Deed stipulate 4,72m street building lines, 1,47m side building lines and a 3,15m rear building line. This will be removed to enable the applicant to use the land use scheme building lines which are a 0m street and side building line and a 3m rear building line.
- ❖ Condition D.4.(e) can only exist with the four above-mentioned conditions, therefore it must also be removed.

DESIRABILITY

- ❖ Allow optimal use of the property.
- ❖ The application will provide business, housing and employment opportunities.
- ❖ Will resolve the conflict between the Land Use Scheme and Title Deed.
- ❖ Proposal is consistent with the Land Use Scheme.
- ❖ Proposal is consistent with Policy documents.
- ❖ Proposal is in business node and in line with character of the area.

PLANNING PRINCIPLES

- ❖ **Spatial Justice**
Consistent with principle.
- ❖ **Spatial Sustainability**
Application will not impact valuable agricultural land or environmentally sensitive areas, as it is within the urban edge.
- ❖ **Efficiency**
Will provide for additional business in Fisherhaven, reducing residents to have to travel to Hermanus, and will also more housing opportunities close to business sites.
- ❖ **Spatial Resilience**
Will provide for optimal use of land and increase ability to absorb potential economic shocks.
- ❖ **Good Administration**
The correct consultation process is followed in consultation with the Municipality, and relevant government tiers and the public are enabled to participate.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Gazette	Yes	08/03/2024	12/04/2024
Local newspaper	Yes	08/03/2024	12/04/2024
Notices via e-mail / on-site notice	Yes	09/03/2024	12/04/2024

Internal departments	Yes	08/03/2024	12/04/2024
Ward councillor	Yes	08/03/2024	12/04/2024
Total comments	NINE (9)		
Total letters of support	NONE		
Was public participation undertaken in accordance with Section 46 - 50 of the By-law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

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

Name	Date received	Summary of comments
Fire Department	19/03/2024	No objection.
Building Control	08/03/2024	No objection.
Engineering Services	15/03/2024	See Annexure G.
Telkom	09/04/2024	See Annexure H.
Eskom	18/04/2024	See Annexure I.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

The application was duly advertised in the local newspaper and Government Gazette. E-mail letters were also sent out to all property owners in Fisherhaven. A notice board were also placed on-site by the applicant's consultant.

Nine (9) letters of objection were received from the following individuals:

-  *N Evans*
-  *W Louw*
-  *L Wagner*
-  *S Ballantyne*
-  *A Hoffmeyer*
-  *I Sparrow*
-  *B Luttig*
-  *D Wadley*
-  *B Bintley (A slightly revised comment was received from B Bintley on 19 September 2024.)*

The applicant was provided with an opportunity to respond to the objections. See Annexures E and F respectively.

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

OBJECTION 1 – CHARACTER OF AREA

- (a) *The charming character of Fisherhaven must be retained. Was a noise impact assessment done? How will the wild horses be impacted? More information is required.*
- (b) *Concerned that a conference centre, bottle store, hotel, tourist accommodation, place of worship, entertainment, pub, a service station etc. will be developed impacting the character. It should only be used for residential purposes.*
- (c) *A hideous development in The Crescent will impact the exquisite village comprising greenbelts as well as Fish and Bird Sanctuary.*

APPLICANT'S RESPONSE

- (a) The property is already zoned Business Zone 3: Local Business, and the area is earmarked for business purposes in terms of the Overstrand SDF, 2020 and Overstrand GMS, 2010. The Title Deed restrict the owner to act on these rights. The restrictive Title Deed conditions are likely to be a result of a mistake when the title deeds were compiled when the property was transferred over time. The development of offices on ground floor and flats on first floor is in essence the statutory zoning rights of the property.
- (b) The applicant would require a new consent use application should he want to develop a bottle store, hotel, etc, and is not permitted without specific information and a valid motivation. The objection is not considered relevant.
- (c) The objector's property has the same land-use rights and is also located in an area statutory approved for business purposes. The extend of the development will also be managed by the Town Planning scheme parameters, which is the same on the objector's property.

TOWN PLANNER'S RESPONSE

- (a) The scale of the development does not require a noise impact assessment. It is also difficult to understand how developing a property in an earmarked business area would in any way impact the wild horses or the character of the area.
- (b) The applicant's response is supported.
- (c) Erf 124 and the objector's property fall within a business area. The character of a business area should not be confused with the surrounding residential area. The business node was created to allow higher density and considering that the business sites are relatively small and there are limited sites, these sites will have to be developed to its full potential to be financially viable.

OBJECTION 2 – DEVELOPMENT RIGHTS

The number of offices that can be built, type of shops allowed, and number of parking bays is questioned. A 50% coverage is supported.

Some objectors do not support the increase coverage.

APPLICANT'S RESPONSE

The extent of the offices and flats are restricted by the number of parking required, the coverage allowed and the floor factor. This is also clearly indicated in the motivation report.

The property also falls within an area approved for local business purposes and is fully compliant with requirements.

TOWN PLANNER'S RESPONSE

The applicant can only act on the Primary uses but will have to apply for consent uses should he want to utilize the property for such uses. The consideration of the consent uses is not part of this application.

The proposed coverage is only 32%, and this is since sufficient on-site parking must still be provided. It is highly unlikely that this property will ever be developed with a 70% coverage in future.

OBJECTION 3 -REMOVAL OF RESTRICTIVE CONDITIONS

- (a) The objector requests that the municipality treat all applications within the subject area the same, hence if this application is approved for the removal of conditions, it should be applicable for all other applications within this area to be treated similarly.*
- (b) The application for removal of restrictive conditions should not be removed to ensure the property is only used for business purposes and not flats, creating noise and smells, and restrictions such as building lines, etc. must also not be removed on these small stands.*

APPLICANT'S RESPONSE

- (a) The comments are acknowledged, and this is considered support for the application. The comments that all applications to remove the same conditions must be treated the same is noted. It is the prerogative of the applicable deciding authority and to evaluate them accordingly.
- (b) The Title Deed restrictions restrict the property owner to not be able to use the property for business purposes. The title deed restrictions for building lines restrict the development of the small erven for business purposes even more. The objector (Erf 125) also operates a business from his property.

TOWN PLANNER'S RESPONSE

- (a) The comments are noted.

It could be that similar applications are submitted with a similar impact, and that the recommendation will be the same by the Local Authority. It must however still be noted that each application must be considered on its own merits, especially considering what objections are received and what comments are received from Municipal and State departments and other institutions for each application. This could impact on the final recommendation.

- (b) There is an existing security business on the objector's property (Erf 125). The fact that he objects to the flats is against the land use scheme which allows flats on first floor as a primary right. Considering that there are other dwellings in The Crescent, the objection is not reasonable.

OBJECTION 4 – BUILDING LINES

Objections against the relaxation of the street and side building lines to 0m and states it is not aligned with most buildings in Fisherhaven being residential buildings.

The relaxation of the building lines will impede on the quality of life of the residents on either side of the property.

APPLICANT'S RESPONSE

The property is situated in a business area and has business rights.

All properties in the street have business rights, and it is not explained, or reasons provided why there is concern that the adjacent properties will be impacted.

TOWN PLANNER'S RESPONSE

The comments area noted.

The only reason why there is concern about the building line relaxations is since some surrounding properties were developed with dwellings. The fact is that residential dwellings were constructed in a business node. This should not impact the potential of this area to be developed for business purposes, what it has always been planned for.

The proposal is only to develop on one lateral boundary, and the placement of the building will still be 3,8m from The Crescent, more than 10m from Service Road and 2,65m from the western boundary. The reality is to have sufficient area for parking, access to the parking and open spaces for occupants/residents, a limited area on the property can be developed (approximately 32% coverage).

OBJECTION 5 – IMPACT ON SERVICES, PARKING AND ENVIRONMENT

- (a) *Multiple vehicles and influx of people will impact quiet peaceful ecological sensitive area and an increase in paving will provide drainage problems. Infrastructure in Fisherhaven is not suited to accommodate a building complex of this nature.*
- (b) *Parking will be a problem as the only parking will be in a very narrow village road.*
- (c) *There will be a possible increase of approximately 8 residents and 9 office workers to the site; this will place pressure on the existing sewerage collection, with tankers visiting the site on short intervals.*
- (d) *Ten (10) parking bays are not sufficient, and The Crescent cannot deal with the extra traffic or people parking next to the road and would require extra maintenances.*

APPLICANT'S RESPONSE

- (a) Drainage is dealt with by the local authority as part of their responsibility and maintenance in the approved township.
- (b) In terms of the Land Use Scheme all parking must be provided on-site. Parking is provided on-site therefore the objection that vehicles will park in the narrow Village Road is incorrect.
- (c) The objector is only trying to paint a negative picture; the property owner only wants to exercise its zoning rights. The Municipality manage and control sewerage services.
- (d) The area is an approved business area. The Crescent is not a service road, the service road runs behind the property. Parking will be provided on-site in line with the Land Use Scheme requirements.

TOWN PLANNER'S RESPONSE

- (a) The scale of the application will not lead to any significant increase in people into this area. The property is also an existing business site, buffered by two green corridors to the north and south from surrounding residential areas. It is also situated a fair distance from the lagoon and any areas of ecological value.

The Municipal Engineering Services and Operational Branches supports this application, and it is therefore considered that sufficient services are available to deal with drainage concerns.

- (b) The applicant's response is supported.
- (c) The property owner wants to develop in terms of the existing land use rights. The application is supported by the Municipal Engineering and Operational Branches.
- (d) Four on-site parking bays are provided for the two flats and 7 parking bays for the approximately 160m² office space area. This is in line with the Land Use Scheme requirements. The objection with regards to parking provision is speculative.

The applicant's comments regarding the Crescent are supported.

OBJECTION 6 – SUBDIVISION

It is not supported as the objector is not willing to deal with multiple owners next to her property.

APPLICANT'S RESPONSE

The removal of the condition is to align the Title Deed with the Land Use Scheme for if the property owner in future wants to subdivide the property. The application does not include a subdivision application, and therefore the objection is invalid.

TOWN PLANNER'S RESPONSE

The comments are noted.

The applicant is correct in that any future subdivision application will have to go through a public participation process and must then also comply with forward planning policies.

The main reason the applicant wants to remove the condition is since the Land Use Scheme already make provision for a good administration process to consider such applications with public participation, and the Title Deed condition was only required to control such parameters before the Land Use Scheme was approved.

OBJECTION 7 – IS THERE A NEEDS FOR BUSINESSES

- (a) *The number of offices that can be built, type of shops allowed, and number of parking - has a survey been done to see if there is a need for more business sites? People work from their own homes.*
- (b) *There is no need for office space.*

APPLICANT'S RESPONSE

- (a) The property already has business rights; it is only possibly due to an error on the Title Deed that application is made to remove the restrictive conditions.
- (b) Fisherhaven is a township with all planned sites for amenities. The growth in the town and new school that was developed will require additional amenities and facilities soon.

TOWN PLANNER'S RESPONSE

- (a) The applicant's opinion is supported.
- (b) The applicant's opinion is supported. It must also be noted that the best person who will know if there is a need for office space is the applicant, who will not develop the site if he cannot fill the office with tenants.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Paragraph 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS

All Municipal Branches and other institutions support the application.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)**10.1 Background**

N/A

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

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

The objectives relating to:

Spatial Justice

N/A

Spatial Sustainability

The application will not impact valuable agricultural and sensitive environmental land.

Efficiency

The application will allow the applicant to construct a building with offices and flats on first floor, which is in line with its current zoning rights. This will help the owner to utilize his land to its full potential.

Spatial Resilience

The application is in line with spatial planning policies which promotes mixed developments with work and residential opportunities in close proximity.

Good Administration

Procedure as determined by the relevant B-Law of the Municipality has been followed and a good public participation process was followed.

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

The application is consistent with the planning principles.

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

Consistent since no land use change is proposed.

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

N/A

10.6 Impact on Municipal engineering services

No impact. The application is supported by the Municipal Engineering Branch.

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

The Title Deed does contain restrictive conditions, and application is made to remove one such restriction.

10.8 Existing and proposed zoning comparisons and considerations

The application is in line with the Overstrand Spatial documents.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

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

There is no financial value of the rights.

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

There is no benefit to the holder of the rights due to the restrictive conditions.

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

It will have a personal benefit for the applicant who wants to remove the restrictive conditions to enable him to act on his primary rights in terms of the Land Use Scheme.

The social benefit of the restrictive condition remaining in place.

There is no real social benefit for the conditions to remain, as it is only at this stage stopping the property owner to provide business related services in a business area, specifically planned to cater for the needs of the Fisherhaven community.

The social benefit of the removal of the restrictive condition.

The restrictive conditions restrict subdivision, limits coverage to maximum 30%, only allows for one dwelling to be erected on the site and stipulate 4,72m street building lines, a 1,57m lateral building line and a 3,15m rear building line.

The property is zoned for Business Zone 3 purposes. Other properties with this zoning have restrictions in their Title Deeds stipulating that no subdivision may take place, a maximum coverage of 66,6% is allowed, that only shops may be constructed, and only a 2,36m street building line must be applied.

Considering the above, and the fact that it appears that the incorrect restrictions were written into the Title Deed, considering the Township establishment Rules (attached as Annexure J), the applicant's requests to have the conditions removed will only bring the uses in line with restrictions applied on other Business sites.

This area was created to serve the community with business facilities, and the removal of the restrictive conditions will benefit the larger community of Fisherhaven in providing business related facilities.

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

Application is made to only remove the restriction restricting subdivision, that only one dwelling be constructed, the restriction regarding coverage and also building lines.

12. THE DESIRABILITY OF THE PROPOSAL

The erf measures 699m² in extent and is a vacant stand. The erf is in a business area and is zoned Business Zone 3.

The Title Deed however stipulate that the property may only be developed with one dwelling, may not be subdivided, have a 30% coverage restriction and have a 4,72m street building line, a 1,57m lateral building line and a 3,15m rear building line. Application is made to remove the restrictive Title Deed conditions, to enable the property owner to construct offices with two flats on first floor.

It is motivated by the applicant that for some or other reason the property has the limitations applied in the Title Deeds of residential properties inserted in the properties Title Deed. A copy of the original Township Establishment conditions for Fisherhaven (attached as Annexure J) was submitted, and it indicates that restrictions in the Title Deeds for business sites stipulates that no subdivision may take place, a maximum coverage of 66,6% is allowed, that only shops may be constructed, and only a 2,36m street building line is applied.

The application was circulated to all relevant Municipal and State Branches/Departments, and no objections were received.

The application was advertised, and nine (9) objections were received. The applicant was provided an opportunity to respond to the objections.

The writer did address the objections under point 7 in this report. The objections that the restrictions must not be removed to protect the character of the area and limit impact on surrounding property owners, will be further elaborated on.

In the original Fisherhaven Township Establishment conditions Erven 67, 115-128 were earmarked for business purposes, allowing for shops, 66,6% coverage and only had a 2,36m street building line. It is then also zoned for Business Zone III: Local Business purposes in terms of the Overstrand Land Use Scheme, which allows for shops, offices, restaurants and flats and dwelling units above ground floor, self-catering accommodation and caretakers accommodation.

Even with the shop limitation in the title deeds restaurants were also allowed on the business sites, so there are different business uses in The Crescent. The building on Erf 125 is even used as a security company premises. The reality is The Crescent was also earmarked to be the business corridor of Fisherhaven, and therefore the proposal to develop offices and flats on the property is in line with the character of this area. The condition limiting the use to one dwelling, limiting the coverage to 30% and the condition stipulating stricter building lines restricts the potential of the property. The removal of such conditions is thus supported.

The adjacent property owners are also of the opinion that they will be negatively impacted. There are some existing residential dwellings in The Crescent, but this area was never planned for residential purposes. The objectors' concerns about the impact on them is therefore not supported, as they should have informed themselves of the zoning of the properties and the possible future uses of the area.

The proposed uses will be low impact office use and flats which is a residential use. The impact of the immediate neighbour (Erf 123) will be limited as the proposed building will be set back from the common boundary, and Erf 125 is used for office purposes, thus the 0m building line would not have a major impact on such property. The proposed coverage of the building is 32% almost in line with surrounding properties, and the building will be double storey, also in line with surrounding properties.

Sufficient parking will also be provided on-site, and this should not have a major impact on the surrounding properties.

There is also the condition that restricts subdivision. The subdivision of properties in Fisherhaven is controlled by policy plans for the area. Considering the size of the property it is highly unlikely that this property can ever be subdivided. The reality is it is not necessary to still have this restriction in the Title Deed as the Planning By-law, SDF and other policy plans now control the subdivision potential and processes. This condition can therefore be removed.

If the above-mentioned restrictive conditions are removed, Condition D.4.(e) has no function to still be in the Title Deed. The removal of such condition is thus supported.

The site development plan was scrutinized in detail and the entrance road is only 2,63m wide, and will only be able to provide for single traffic. The area behind the two garages and parking bays is also only 5m wide, which is problematic for manoeuvrability. There was consultation with the Engineering Division, and it is recommended that The Crescent entrance point only be used as an entrance, and that an exit be provided into Service Road. It is further recommended that there be at least a 7m distance behind the garages and parking bays to ensure manoeuvrability. The above amendments can easily be done to make slight changes to the placement of the garage and moving one (1) parking bay next to Service Road and place it next to the garages.

Considering the above, it is the opinion that the application will not have a negative impact on the character of the area and is desirable and is supported.

13. RECOMMENDATION

1. that the objections be noted.
2. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 124, Fisherhaven for the removal of restrictive title deed conditions D.4.(a), D.4.(b), D.4.(c), D.4.(d) and D.4.(e) as contained in Title Deed T34078/2023 of the property to accommodate the proposed development, **be approved**, in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
 - (a) that a revised site development plan be submitted with a site access point off The Crescent and a site exit point into Service Road, and a revamped parking layout to provide for a 7m wide road area between the parking bays next to Service Road and the front of the garages, to the satisfaction of the Divisional Manager: Town & Spatial Planning;
 - (b) that building plans be submitted to the Building Control Department for approval, and that all conditions of the Building Control – and the Fire Department be complied with at that stage;
 - (c) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with;
 - (d) that all the conditions in the Services Report (attached as Annexure F), be complied with;
 - (e) that the conditions of Eskom (attached as Annexure H) be complied with, and
 - (f) that the conditions of Telkom (attached as Annexure G) be complied with
3. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2020 regarding the above decision.

14. REASONS FOR RECOMMENDATION

- ❖ The application is supported by all relevant Municipal and State Departments or other institutions.
- ❖ The Title Deed restrictions conflicts with the zoning of the property and the Township Establishment Conditions for Fisherhaven and limits the erf to not be developed to its full potential for what it was earmarked for.
- ❖ The objections received does not proof that the application is not desirable as the removal of the restrictions will enable the property owner to act on his existing rights in terms of his zoning of Business Zone 3.
- ❖ The Crescent is an existing business node and therefore it cannot be argued that this application will have a negative impact on the character of this area.
- ❖ No municipal services are affected.
- ❖ It is foreseen that the proposed offices and flats will not have a negative impact on neighbours, as its low impact uses.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Building Plan
Annexure D:	Title Deed T34078/2023
Annexure E:	Objections received
Annexure F:	Applicant's response to objections received
Annexure G:	Services Report
Annexure H:	Comment: Telkom
Annexure I:	Comment: Eskom
Annexure J:	Fisherhaven Township Establishment Conditions

SIGNATURES**AUTHOR:**

Name: **HENK OLIVIER**

SACPLAN Reg No: **B/8128/2004**

Signature: _____

Date: _____

REGISTERED PLANNER

Name: **H VAN DER STOEP**

SACPLAN Reg No: **A/1708/2013**

Signature: _____

Date: _____

PROJECT Erf 124 Fisherhaven	TITLE Locality Plan Local Context	Application Area <input checked="" type="checkbox"/>		PREPARED BY INTERACTIVE TOWN & REGIONAL PLANNING MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, WITH REGARD TO THE ACCURACY OF THE DATA OR THE INFORMATION CONTAINED HEREIN. THE USER ASSUMES ALL LIABILITY FOR THE INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS DATA. THE DATA REMAINS THE PROPERTY OF INTERACTIVE TOWN & REGIONAL PLANNING AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN APPROVAL OF THE CLIENT.	CLIENT
		DRAWN BY A101	CHECKED BY CLEAR	DATE 2020/01/11	PROJECT NUMBER 001
		SCALE (R: A4) A101	DRAWING NUMBER A101		
Interactive Town & Regional Planning 9444 Main Rd, Unit 101, 1500 Telephone: 08 212 1100 Email: info@itrp.com.au					



1. Introduction








<p>a. Brief</p> <p>Refer to Annexure B for the Power of Attorney.</p>	<p>Interactive Town and Regional Planning was appointed by the owner of the property Alan Woolnough to prepare and submit an application for the removal of restrictive title deed conditions of Erf 124, Fisherhaven in terms of the relevant legislation.</p>																																																							
<p>b. Background</p>	<p>The application area is zoned Business Zone 3: Local Business, but the title deed only allows for the land use of a <u>single dwelling</u> with associated outbuildings. The title deed also has other restrictive title deed condition such as 30% coverage which is very limiting for a business zoned erf.</p> <p>The zoning development criteria are in conflict with the title deed development conditions resulting that the application area cannot be developed in its current state.</p>																																																							
<p>c. Development Objective & Application Proposal</p>	<p>The development objective is to allow for the property to be developed in terms of its zoning. Application is therefore to remove restrictive title deed conditions D.4.(a)-(e) from title deed T34078/2023 in terms of Section 16(2)(f).</p> <p>No final development proposal exists for the application area, however the following concept proposal is provided to illustrate the typical land uses, scale and zoning criteria proposed on the application area. This plan is subject to change.</p> <div data-bbox="430 873 1436 1579" style="border: 1px solid black; padding: 10px;"> <table border="0"> <tr> <td colspan="2">Proposed Offices & Flats on 20 The Crescent, erf 124 Fisherhaven</td> <td rowspan="2" style="text-align: center; vertical-align: middle;">  <p>elevation From The Crescent</p> </td> </tr> <tr> <td>Offices</td> <td>155 m2</td> </tr> <tr> <td>Toilet/store</td> <td>19 m2</td> </tr> <tr> <td>Garages</td> <td>54 m2</td> </tr> <tr> <td>Total g/floor</td> <td>225 m2</td> </tr> <tr> <td>Erf Area</td> <td>699 m2</td> </tr> <tr> <td>Coverage</td> <td>32%</td> </tr> <tr> <td>Flats</td> <td>214 m2</td> </tr> <tr> <td>Total</td> <td>439 m2</td> </tr> <tr> <td>GLA</td> <td>155 m2</td> <td rowspan="5" style="text-align: center; vertical-align: middle;">  <p>First Floor</p> </td> </tr> <tr> <td>Parking Requirements</td> <td>7</td> </tr> <tr> <td>Offices</td> <td>4</td> </tr> <tr> <td>Flats</td> <td>4</td> </tr> <tr> <td>Total</td> <td>11</td> </tr> </table> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 10px;"> <div style="width: 45%;"> <table border="0"> <tr> <td>entrance</td> <td colspan="3" style="text-align: center;">The Crescent</td> <td>boundary</td> </tr> <tr> <td></td> <td style="text-align: center;">office 51,3 m2</td> <td style="text-align: center;">office 50,9 m2</td> <td style="text-align: center;">office 53,0 m2</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">garage</td> <td></td> <td style="text-align: center;">garage</td> <td></td> </tr> <tr> <td></td> <td colspan="3" style="text-align: center;">Ground Floor</td> <td></td> </tr> <tr> <td></td> <td colspan="3" style="text-align: center;">Service Road</td> <td></td> </tr> </table> </div> <div style="width: 45%; text-align: right;">  <p>LINK Architects Tel + 088 315 2587 Cell + 082 411 3990 No. 5 Broadway, Fisherhaven email : alan@linkarchitects.co.za Date : 15th August 2023</p> <p style="font-size: 2em; font-weight: bold;">A3</p> </div> </div> </div>	Proposed Offices & Flats on 20 The Crescent, erf 124 Fisherhaven		 <p>elevation From The Crescent</p>	Offices	155 m2	Toilet/store	19 m2	Garages	54 m2	Total g/floor	225 m2	Erf Area	699 m2	Coverage	32%	Flats	214 m2	Total	439 m2	GLA	155 m2	 <p>First Floor</p>	Parking Requirements	7	Offices	4	Flats	4	Total	11	entrance	The Crescent			boundary		office 51,3 m2	office 50,9 m2	office 53,0 m2			garage		garage			Ground Floor					Service Road			
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Figure 1: Concept plan

2. The Application

a. Analysis: Title Deed
Refer to Annexure D for the Conveyancer Certificate.

The conveyancer, Amelia Galvin from Virtual Lawyers provided a conveyancer certificate confirming that several title deed conditions exists which restricts the property from being developed effectively.

Title Deed 34078/2023

"D. SUBJECT FURTHER to the following special conditions contained in Deed of Transfer No. T35689/1970 imposed by the Administrator of the Province of the Cape Good Hope in terms of Ordinance 33 of 1934 when approving the establishment of Fisherhaven Township, namely:-

4. This erf shall be subject to the following further conditions provided especially that where in the opinion of the Administrator, after consultation with the Township Board and the Local Authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation, subject to compliance with such conditions as he may impose:-

(a) it shall not be subdivided;

(b) it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;

(c) not more than 30% of the area thereof shall be built upon;

(d) no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the said street line which forms a boundary of this erf, nor within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf, provided that with the consent of the Local Authority an outbuilding not exceeding 1,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space. On consolidation of any two or more erven this condition shall apply to the consolidated area as one erf;

(e) in the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above, then the provision of such scheme shall apply."

b. Analysis: Development Criteria:	Parameters	Existing Zoning:	Proposal:	Comments
<p>The development parameters for Erf 124 Overstrand as per the Overstrand Municipality Land use Scheme, 2020 are summarised as follows:</p>	Zoning	Business Zone 3: Local Business	Business Zone 3: Local Business	Consistent
	Primary Use	Shops, dwelling unit (above ground floor), flats (above ground floor), offices, restaurant, caretaker's accommodation and self-catering.	Shops, offices & dwelling units above ground floor	Consistent
	Consent Uses	Bottle store, business premises, clinic, conference facility, dwelling unit (on ground floor), flats (on ground floor), town housing, tourist accommodation, hotel, institution, place of assembly, place of entertainment, place of instruction, place of worship, recreational facilities, residential building, sale of alcoholic beverages, service station, service trade and transmission apparatus.	N/A	Consistent
	Coverage	75% (30% in term of the title deed)	To be determined and aligned with the existing Business Zone 3: Local Business criteria	Application is for the removal of restrictive title deed conditions
	Floor factor	1.5		Consistent
	Height	8.5m 2 storeys		Consistent
	Building lines	Street		0m (4.72m in terms of the title deed)
		Side	0m 3m when abutting a different zone (1.57m in terms of the title deed)	Application is for the removal of restrictive title deed conditions
		Rear	3m (3.15m in terms of the title deed)	Application is for the removal of restrictive title deed conditions
	Parking	Shops, offices or restaurants: 4 bays per 100m ² GLA Flats: 2 bays		Consistent

<p>c. Application: The application form is attached as Annexure A.</p>	<p>Application is subsequently made in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020:</p> <ul style="list-style-type: none">• The removal of restrictive title deed condition D.4.(a) from title deed T34078/2023 in terms of Section 16(2)(f).• The removal of restrictive title deed condition D.4.(b) from title deed T34078/2023 in terms of Section 16(2)(f).• The removal of restrictive title deed condition D.4.(c) from title deed T34078/2023 in terms of Section 16(2)(f).• The removal of restrictive title deed condition D.4.(d) from title deed T34078/2023 in terms of Section 16(2)(f).• The removal of restrictive title deed condition D.4.(e) from title deed T34078/2023 in terms of Section 16(2)(f).
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3. Contextual Site Information

a. Property Description

Property	Extent	Title Deed	Registered Owner
Erf 124 Fisherhaven	699m ²	T34078/2023	Alan Woolnough

Refer to Annexure E for the SG Diagrams, Annexure C for the Title Deed of Erf 124 Fisherhaven.

The following Surveyor General Plans reflect the application site:

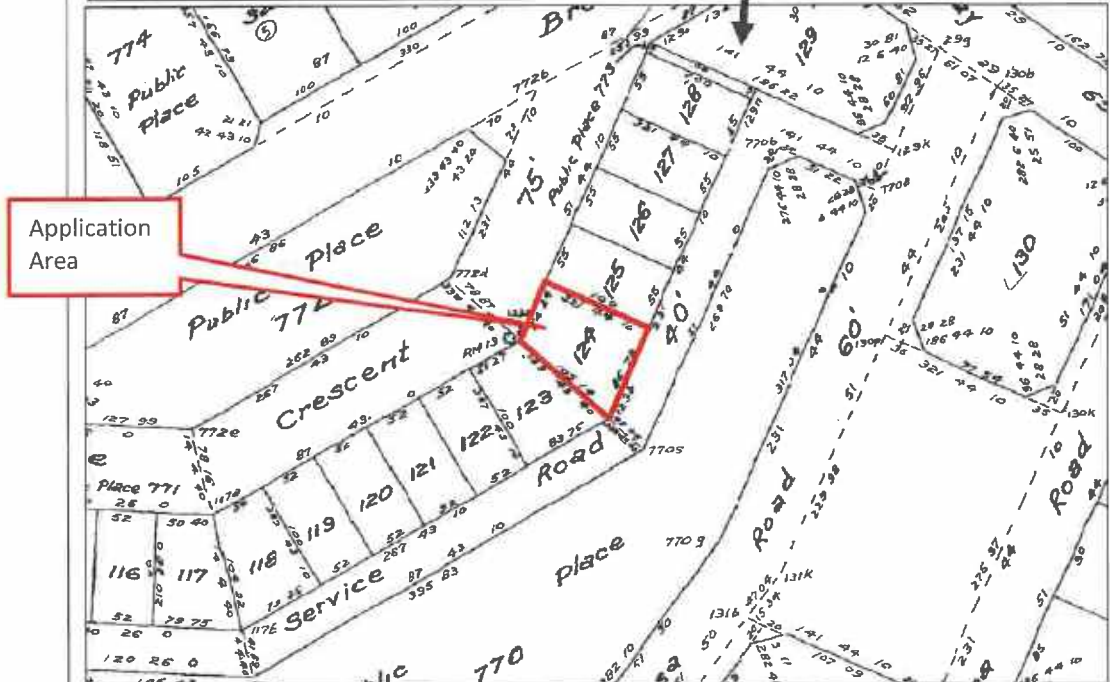
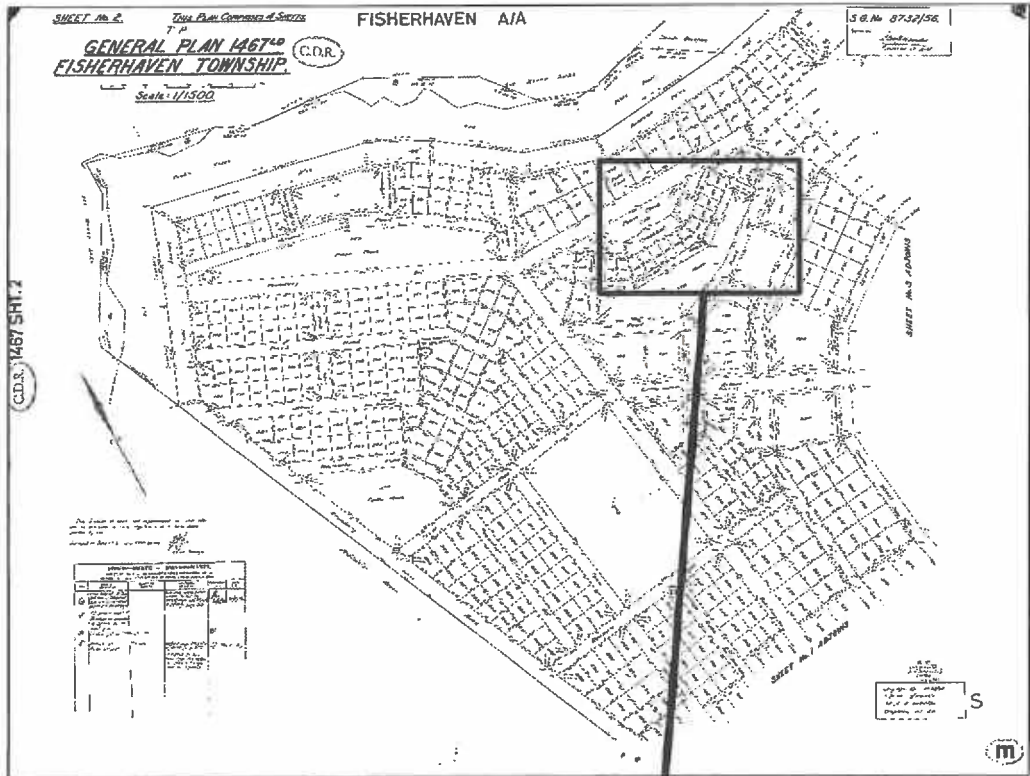


Figure 2: Extracts of the Surveyor General Plans of the application site

b. Location:
 For the Locality Plans refer to Annexure F

Regional Context:

Within the regional context, the application area is located within Fisherhaven. Fisherhaven is located on the eastern bank of the Bot River estuary, 9km west of the Hermanus CBD and 8km east of Kleinmond and predominantly functions as a retirement/ residential and holiday destination with approximately 30% of the dwellings permanently occupied.



Figure 3: Locality Plan – Regional Context

Local Context:

The application area is located at number 20 Service Road and forms part of the existing Fisherhaven business node.



Figure 4: Locality Plan – Local Context

c. Land Use:
Refer to the Extract of Overstrand Zoning plan attached as Annexure G.

The application area consists of a vacant erf. The surrounding land-uses consist of single residential dwellings, business premises, open space and vacant erven. The area is thus a mixed use area. Business premises is proposed on the application area. The application proposal is **consistent** with the land use of the area.



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

d. Zoning:
Refer to the Extract of Overstrand Zoning plan attached as Annexure H.

The application area, Erf 124, Fisherhaven is zoned Business Zone 3: Local Business. The surrounding erven are zoned Business Zone 3: Local Business as well as Open Space Zone 2: Public Open Space. No change in zoning is proposed. The application proposal is **consistent** with the zoning of the area.



Figure 6: Extract from the Overstrand Municipality: Online zoning viewer

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

The following policy is applicable to the application area.

i. **Overstrand Municipal Spatial Development Framework, 2020**

The application area falls within a Vacant Business Zone. The proposal is for Business Zone 3: Local Business related land uses.

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



Figure 7: Spatial Development Framework 2020 Spatial Proposals Plan

ii. **Overstrand Municipality Growth Management Strategy, 2020**

The application area is within an area earmarked for a 20 to 30 Dwelling Units Per Hectare Densification Zone as well as a Proposed Economic Opportunity area. Two flats are proposed in addition to the business resulting in 28.6 dwelling units per hectare.

The application is thus consistent with the Overstrand Municipality Growth Management Strategy, 2020.

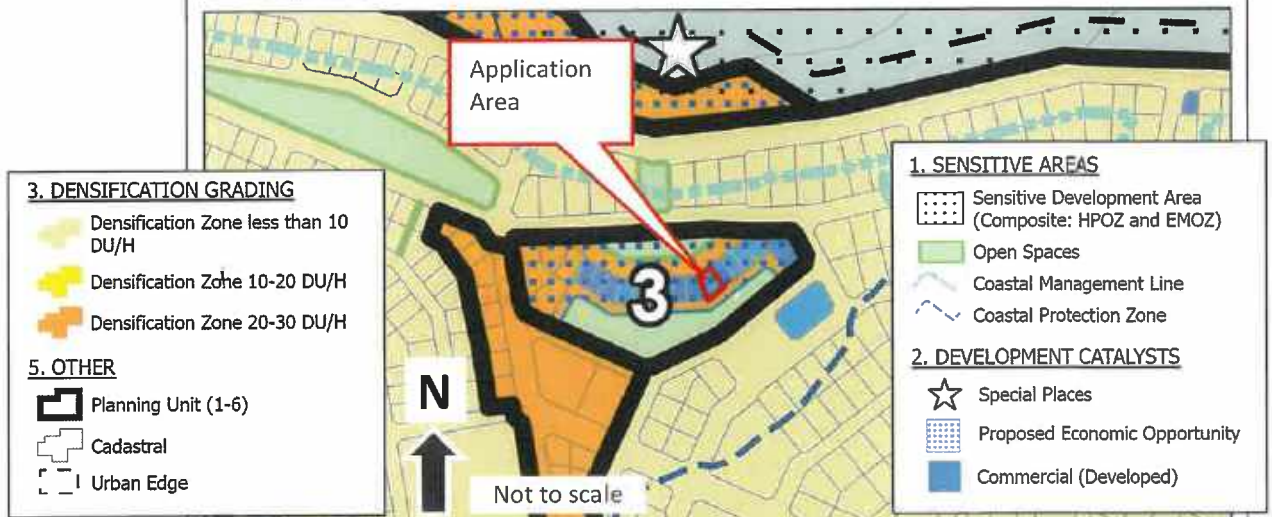


Figure 8: Extract from the Overstrand Municipality Growth Management Strategy, 2020 reflecting the envisaged land-uses for the area.

4. Motivation

Motivation for the application:

Refer to **Annexure I** for the Building Plan

a. Introduction and Background

The application area consists of a vacant 699m² single residential erf situated at number 20 Service Road. The application area is within the Fisherhaven local business node and both business and residential land uses and currently represented within this node.

The zoning of the application area is Business Zone 3 while the title deed does not allow for business uses and contains zoning criteria more suited for low density residential land uses as reflected in the following extract from the subject Erf 124 Fisherhaven's title deed:

Title Deed 34078/2023

"D. SUBJECT FURTHER to the following special conditions contained in Deed of Transfer No. T35689/1970 imposed by the Administrator of the Province of the Cape Good Hope in terms of Ordinance 33 of 1934 when approving the establishment of Fisherhaven Township, namely:-

4. This erf shall be subject to the following further conditions provided especially that where in the opinion of the Administrator, after consultation with the Township Board and the Local Authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation, subject to compliance with such conditions as he may impose:-

- (a) it shall not be subdivided;*
- (b) it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;*
- (c) not more than 30% of the area thereof shall be built upon;*
- (d) no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the said street line which forms a boundary of this erf, nor within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf, provided that with the consent of the Local Authority an outbuilding not exceeding 1,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space. On consolidation of any two or more erven this condition shall apply to the consolidated area as one erf;*
- (e) in the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above, then the provision of such scheme shall apply."*

b. Proposal

The **development objective** is to remove the restrictive title deed conditions to allow for the property to be developed in terms of its zoning and the municipal strategic statutory planning documents.

Thus the following changes are proposed:

i. The removal of title deed condition D.4.(a)

Title deed condition D.4.(a): *"it shall not be subdivided;"*

The application proposal is for business premises with flats. The need may in future exist to subdivide the property, thus improving ownership and financial flexibility and viability. It will also potentially remove barriers to ownership for people with lower budgets and needs.

i. The removal of title deed condition D.4.(b)

Title deed condition D.4.(b): *"it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;"*

The application area is presently zoned Business Zone 3: Local Business.

The primary uses of Business Zone 3: Local Business are shops, dwelling unit (above ground floor), flats (above ground floor), offices, restaurant, caretaker's accommodation and self-catering. The primary uses of Business Zone 3: Local Business does not allow for a dwelling unit on the ground floor. The title deed also does not allow for business uses such as shops, offices and a restaurant.

As evident in terms of the Overstrand Online Zoning Map, the Spatial Development Framework & Growth Management Strategy, the application area is within a local business node. The application area is marked as a vacant business erf in terms of the Overstrand Municipal Spatial Development Framework, 2020 and within a local economic opportunity area in terms of the Overstrand Municipality Growth Management Strategy, 2010.

The title deed is in conflict with the zoning scheme and municipal strategic planning documents.

The provisional development proposal is for business premises on the ground floor with shops and offices and flats on the first floor. The proposal is therefore consistent with the zoning and municipal strategic planning documents, but in conflict with the title deed.

ii. The removal of title deed condition D.4.(c)

Title deed condition D.4.(c): *"not more than 30% of the area thereof shall be built upon;"*

The zoning scheme allows for 75% coverage. 30% coverage is generally considered suitable for low density residential properties. The property is proposed to be developed as a business property and likely to exceed 30%. The 30% coverage is in conflict with the proposed development, significantly more restrictive than the zoning scheme and will have a significant impact on the viability of the proposed development.

iii. The removal of title deed condition D.4.(d)

Title deed condition D.4.(d): *"no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the said street line which forms a boundary of this erf, nor within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf, provided that with the consent of the Local Authority an outbuilding not exceeding 1,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space. On consolidation of any two or more erven this condition shall apply to the consolidated area as one erf;"*.

Currently for Business Zone 3: Local Business, the zoning scheme allows for 0m street, 0m side and 3m rear building lines. The title deed building lines are 4.72m for the street, 1.57 for the side and 3.15m for the rear. The title deed building lines are therefore more restrictive than the zoning scheme.

The zoning scheme reflects building lines appropriate for a local business erf, while the title deed reflects building lines which are more appropriate for a single residential erf. The proposal is for business premises which is consistent with the zoning scheme and municipal future planning documents.

The title deed building lines are therefore inconsistent with what is suitable and optimal for the intended use in terms of the application proposal, zoning scheme and municipal future planning documents.

The title deed building lines will also have a negative impact on the development potential and viability of the application area.

	<p>i. The removal of title deed condition D.4.(e)</p> <p>Title deed condition D.4.(e): <i>“in the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above, then the provision of such scheme shall apply.”</i></p> <p>Title Deed condition D.4.(e) is only applicable to and therefore dependent on the existence of conditions D.4.(a)-(d) and therefore cannot exist independently. Since title deed conditions D.4.(a)-(d) are proposed to be removed, condition D.4.(e) which is dependent on conditions D.4.(a)-(d) should also be removed.</p> <p>Conditions D.4 (a)-(d) reads as follows:</p> <ul style="list-style-type: none"> (a) <i>it shall not be subdivided;</i> (b) <i>it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;</i> (c) <i>not more than 30% of the area thereof shall be built upon;</i> (a) <i>no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the said street line which forms a boundary of this erf, nor within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf, provided that with the consent of the Local Authority an outbuilding not exceeding 1,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space. On consolidation of any two or more even this condition shall apply to the consolidated area as one erf;</i> <p>c. Desirability</p> <p>The application proposal is considered desirable for the following reasons:</p> <ul style="list-style-type: none"> • The application proposal will allow for the optimal use of the property. • The application proposal will contribute to the provision of business, housing and employment. • The application proposal will resolve the conflict between the title deed, zoning scheme and municipal future planning documents. • The application proposal is consistent with the municipal zoning scheme. • The application proposal is consistent with the municipal future planning documents. • The application area is within a business node and is therefore consistent with the character of the area.
	<p>d. Planning Principles</p> <p>In terms of Chapter VI of the Spatial Planning and Land Use Management Act, 2013 the following Planning Principles have been applied to the application site:</p> <p>1) Spatial Justice which refers to the need for redressing the past apartheid spatial development imbalances and aims for equity in the provision of access opportunities, facilities, services and land.</p> <p>Possible results of the development</p> <p>The application proposal will contribute to the provision of housing and employment which will be equitably available.</p> <p>The application proposal is consistent with spatial justice.</p> <p>2) Spatial Sustainability which refers to the fact that a spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.</p>

	<p>Possible results of the development The application area is within the statutory approved urban edge and will not impact on agricultural land, environmentally sensitive or biodiversity rich areas.</p> <p>The application proposal is consistent with spatial sustainability.</p> <p>3) Spatial Efficiency which refers to the manner in which settlements themselves are designed to function in such a way that there will be a minimum need to travel long distances to access services, facilities and opportunities.</p> <p>Possible results of the development The application proposal will allow for additional business within Fisherhaven, reducing potential travel distances for residents of Fisherhaven and will provide more housing opportunity close to business, reducing travel distances.</p> <p>The application proposal is consistent with the efficiency principle.</p> <p>4) Spatial Resilience which, in the context of land use planning, refers to spatial plans, policies and land use management systems which should enable communities to be able to resist, absorb and accommodate any economic and environmental shocks which might occur in a timely and efficient manner.</p> <p>Possible results of the development The application proposal will not impact on environmental shocks, however it will allow for the optimal use of land and increase the ability to absorb potential economic shocks.</p> <p>The application proposal is consistent with the principle of spatial resilience.</p> <p>5) Good Administration which, in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure that a joint planning approach is pursued.</p> <p>Possible results of the development Consultive practices are being followed in this application as it is done in consultation with the Planning Department of the Overstrand Municipality who will also advertise the application in such a manner as to enable the different spheres of government and the general public to participate in the eventual decision-making process.</p> <p>The application proposal is consistent with the principle of good administration.</p>
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5. Conclusion

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

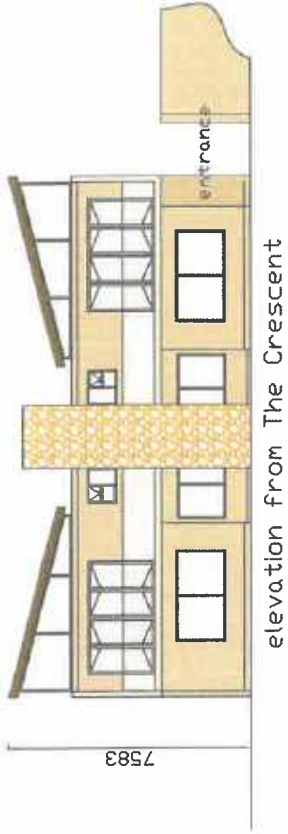
It is therefore recommended that the application **be approved** in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020:

- The removal of restrictive title deed condition D.4.(a) from title deed T34078/2023 in terms of Section 16(2)(f).
- The removal of restrictive title deed condition D.4.(b) from title deed T34078/2023 in terms of Section 16(2)(f).
- The removal of restrictive title deed condition D.4.(c) from title deed T34078/2023 in terms of Section 16(2)(f).
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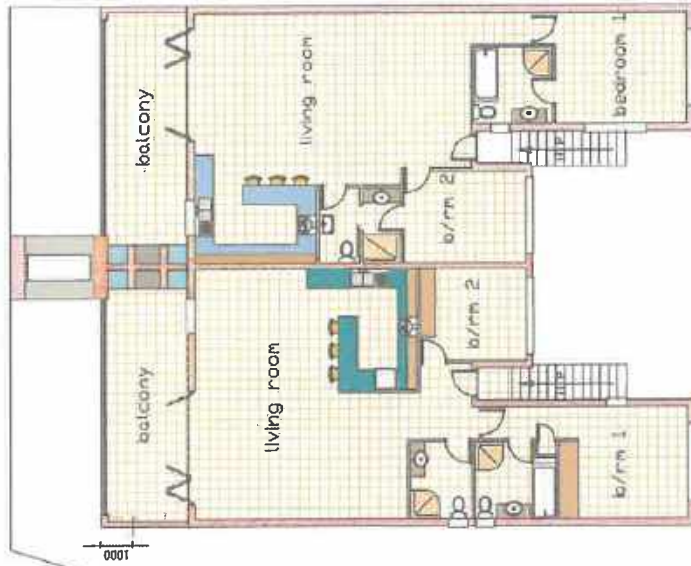
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Flats	214 m ²
Total	439 m ²

GLA	155 m ²
Parking Requirements	7
Offices	4
Flats	11
Total	11



elevation from The Crescent



First Floor



A3

Date : 15th August 2023

Service Road

39

STRAUSS DALY INC
13th Floor, Touchstone House
7 Bree Street
Cape Town
8001

Prepared by me

CONVEYANCER
ANINA MARI BEZUIDENHOUT (15870)

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 600 000-00	R. 800-00
Reason for exemption	Category Exemption.....	Exemption i to. Sec/Reg..... Act/Proc.....

DATA / VERIFY
27-08-2023
PHUMELELA MNAMATA

DATA / VERIFY
27-08-2023
RENEE M... ..

T000034073 / 2023

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

SHAMEEMAH NAIDOO-BRENNER (91986)

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

TREE TELL 25 PROPRIETARY LIMITED
Registration Number 2003/028175/07

which said Power of Attorney was signed at CAPE TOWN on 25 JULY 2023

108

And the appearer declared that his/her said principal had, on 1 June 2023, truly and legally sold by , and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

ALAN DAVID WOOLNOUGH
Identity Number 470919 5071 08 1
Married out of community of property

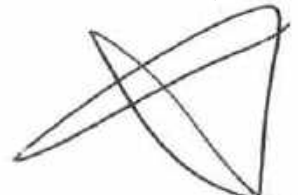
his Heirs, Executors, Administrators or Assigns, in full and free property

ERF 124 FISHERHAVEN
 IN THE OVERSTRAND MUNICIPALITY,
 DIVISION CALEDON, WESTERN CAPE PROVINCE

IN EXTENT 699 (SIX HUNDRED AND NINETY NINE) Square metres

FIRST TRANSFERRED by Deed of Transfer Number T 35689/1970 with Diagram No. 9091/1970 relating thereto and held by Deed of Transfer Number T4764/2005

- A. SUBJECT** to the conditions referred to in Certificate of Uniform Title no T5659/1959.
- B. SUBJECT** to the condition mentioned in Deed of Partition Transfer No. T8000/1931, in favour of Josias Servaas Delpont, that Petrus Johannes Delpont and his successors in title of the property called **ROOI SAND**, a portion of the **AFDAKS RIVIER**, transferred to him by Deed of Transfer No T7998/1931, shall have the right, 12 times a year to herd his sheep over the hereby transferred property at a place as indicated by the said Transferees and his successors.
- C. SUBJECT** as set forth in Certificate of Uniform Title No. T5659/1959:
- “(a)
- (b) To the right to take land and remove materials for making and repairing public roads.”
- D. SUBJECT FURTHER** to the following special conditions contained in Deed of Transfer No. T35689/1970 imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 of 1934 when approving of the establishment of Fisherhaven Township, namely:



- “1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Administration Notice No. 401 dated 17th October 1935, and in the memorandum which accompanied the said regulations.
2. The owner of this erf shall, without compensation, be obliged to allow electricity and water mains and the sewage and drainage including storm-water of any other erf or erven to be conveyed across this erf, if deemed necessary by the Local Authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.
3. The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the Local Authority.
4. This erf shall be subject to the following further conditions, provided especially that where in the opinion of the Administrator, after consultation with the Township Board and the Local Authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation, subject to compliance with such conditions as he may impose:-
 - (a) it shall not be subdivided;
 - (b) it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;
 - (c) not more than 30% of the area thereof shall be built upon;
 - (d) no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the said street line which forms a boundary of this erf, nor within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf, provided that with the consent of the Local Authority an outbuilding not exceeding 1,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space. On consolidation of any two or more erven this condition shall apply to the consolidated area as one erf;
 - (e) In the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above, then the provisions of such scheme shall apply.”

- E. SUBJECT FURTHER** as contained in Deed of Transfer No. T78904/1995 to the conditions imposed by the Transferor Company in their favour as owner of the remainder of Fisherhaven Township and their Successors in Title, held by it by Deed of Transfer No. T11975/1967:-

"No building shall be placed on the land hereby sold until the plans and location of the buildings have been submitted and approved by both the Company and the Local Authority.

In the foregoing condition the expression "the Company" shall mean LAKE MARINA PROPERTIES (PROPRIETARY) LIMITED and its successors in title."

- F. SUBJECT FURTHER** to the condition referred to in the endorsement dated 11 May 1970 on Deed of Transfer No T11975/1967, which endorsement reads as follows :-

"Registration of Servitude

The within described land is subject to a servitude with regard to apportionment of water in terms of an Order of the Water Court (Water Court District No. 11/64) dated 1st February 1965 as will more fully appear on reference to the copy of the said Order annexed to Deed of Transfer No. 11190/1960."

b



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

TREE TELL 25 PROPRIETARY LIMITED
Registration Number 2003/028175/07

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

ALAN DAVID WOOLNOUGH, Married as aforesaid

his Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R600 000,00 (SIX HUNDRED THOUSAND RAND).

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

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on

17 AUG 2023



q.q.

In my presence



REGISTRAR OF DEEDS



Ninette Evans
97 Daniell Rd East,
Sanddrift
Milnerton
7441



Annexure E 1/19

FILE NO.	ERF 124
	Fisherhaven
SCAN NO.	
COLLABORATOR NO.	2031094

12.4.24

TR. N. Theaile
(H. Olivier)

To whom it may concern:

Ref ERF124 Fisherhaven 20 Service Road – removal of restrictive title deeds

Fisherhaven is and always was, a wonderful, tranquil place to live or retire.

The wild horses and the wildlife is something truly special, which needs to be preserved, While it is true the areas all around Hermanus are expanding very rapidly, it is important to try and preserve the very things that attract the tourists and visitors to the area.

People who come and stay in the local accommodations and hotels always rave about the area and the peace and quiet and the walks and the local restaurants and the whale watching. But then you also have those people who like to hike in the hills and look at the fynbos and watch for insects and other wildlife.

The good thing about Fisherhaven is that it has so far kept its charm.

It is so close to everything – whether you are going towards Strand or Bettys Bay or Hermanus & Walker bay.

There is easy and quick access to restaurants, wineries and boutiques and all the wonderful small shops, which all provide an income to individuals.

Not everyone wants to visit a Mall (there is one close by too.)

I notice that a conference centre is mentioned.

Why would Fisherhaven need a conference centre when you could use other locally situated ones EG. Benguela?

To my mind, a community Hall would be far more useful, especially now that a school has been built. This could be used for all sorts of things like, craft market, weddings, get together

15 APR 2024

entertainment, which could provide a lot of opportunities.

I am concerned about the fact that a bottle store is on the agenda.

There are various bottle stores at nearby areas like Hemel-en-Aarde, Onrus, Vermont, Hawston

Bottle stores and liquor can bring about undesirable consequences.

Fisherhaven has a restaurant/ entertainment already.

The consent uses also mentions a hotel, tourist accommodation, a place of worship, entertainment, service station etc.

it is such a vague & broad use of the consent of the zoning, which leads me to think this can be changed as things progress.

I strongly suggest that the area coverage if increased, be limited to about 50% of the area.

If offices are to built, how many? How much parking would be required and what type of shops?

Surely to provide additional income in the area, you would want individuals to be able to Make extra income by providing accommodation as EG a B&B and not be part of a complex?

If the development was to accommodate a place of worship for example, 11 bays would nowhere near be sufficient.

There is also mention of the removal of the condition to sub-divide in the future.

Again, this needs careful consideration.

As for the reduction in travel time for residents, that would depend on what for.

As for housing opportunities close to business, if it refers to possible flats, it would

Not have much of an impact.

And has a noise impact assessment been done?

Has an assessment on the horses and wildlife been done?

I feel that it would be in the best interest of everyone if more thought and clarity on exactly

What is going to happen is detailed.

This also has the potential to be an example for further such requests in the future.

I hope my thoughts will be given consideration, as a property owner of long standing, this is an area that is close to my heart & we have seen all the development.

Thank you.

Regards

Ninette Evans

(21 Proteas Rd, Fisherhaven)

Email:

Loretta Gillion

From: ninette evans <[redacted]>
Sent: Friday, 12 April 2024 17:30
To: Loretta Gillion
Subject: Erf 124 Fisherhaven: Removal of Restrictive Title Deed Conditions
Attachments: Fisherhaven.docx

Good day,

Please see attached letter re above.

Thank you

Regards

Ninette Evans

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
15 APR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Loretta Gillion

From: Wihan Louw <>
Sent: Friday, 12 April 2024 16:24
To: Loretta Gillion
Cc:
Subject: Comments on application: Erf 124 Fisherhaven: Removal of Restrictive Title Deed Conditions

*TP. N. /heal
(H. Olivia)*

Good day Loretta

This email contains The Crescent Centre (Pty) Ltd's commentary on the application regarding ERF 124, 20 SERVICE ROAD, FISHERHAVEN: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF AD WOOLNOUGH

1. Name of commenter

Wihan Louw, in his capacity as director on behalf of The Crescent Centre (Pty) Ltd.

2. Address

Erf 126, 24 Service Road, Fisherhaven

3. Contact details

FILE NO. <i>Er 124</i>
<i>Fisherhaven</i>
SCAN NO.
COLLABORATOR NO.
<i>2030738</i>

4. Interest in the application

4.1 Commercial interest

The Crescent Centre (Pty) Ltd is the owner of Erf 126, 24 Service Road, Fisherhaven.

The Crescent Centre (Pty) Ltd is a for profit company that bought Erf 126, zoned for business, with the intent to derive a profit either through the increase in land value and/or developing the property for commercial purposes.

The developments of surrounding properties, especially the other business zoned properties along The Crescent and Service Road, have a direct impact on the value of The Crescent Centre (Pty) Ltd's property, namely Erf 126.

4.2 Legal interest

4.2.1 Constitution of the Republic of South Africa, Chapter 2, section 33

The Constitution requires that all administrative actions must be just, meaning lawful, reasonable and procedurally fair.

It will not be procedurally fair to assess the application without considering the impact it has on The Crescent Centre (Pty) Ltd.

4.2.2 Promotion of Administrative Justice Act

Paragraph 3(1) of the Promotion of Administrative Justice Act states "Administrative action which materially and adversely affects the rights or legitimate expectations of any person must be procedurally fair."

12 APR 2024

This application will impact The Crescent Centre (Pty) Ltd's property, which it has a constitutional right to, and legitimate expectations that Overstrand Municipality will treat all property owners equally.

5. Comments on application

The Crescent Centre (Pty) Ltd will comment on each title deed condition that the applicant wants removed.

5.1 The removal of title deed condition D.4.(a): "it shall not be subdivided;"

As far as The Crescent Centre (Pty) Ltd is aware, a restriction on subdividing is included in all the title deeds of Fisherhaven property.

The inability to subdivide does not limit the applicant's ability to develop the property in terms of Local Business (B3) zoning.

The applicant's reasons for requesting this, "*The need may in future exist to subdivide the property, thus improving ownership and financial flexibility and viability. It will also potentially remove barriers to ownership for people with lower budgets and needs.*", are generic reasons that are applicable to all owners of property zoned for Local Business (B3) in The Crescent and Service Road in particular, and Fisherhaven in general.

Thus, if Overstrand Municipality approves the removal of this title deed restriction, it must set a precedent and all subsequent applications for a removal of a subdivision restriction from the title deed conditions of property owners of The Crescent and Service Road must be approved, otherwise the decision will be administratively unjust to financially benefit only one property owner over the others, which will render the decision unlawful.

5.2 The removal of title deed condition D.4.(b): "it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;"

The Crescent Centre (Pty) Ltd supports the application to remove the abovementioned title deed restriction, because it conflicts with the zoning for that erf.

5.3 The removal of title deed condition D.4.(c): "not more than 30% of the area thereof shall be built upon;"

The Crescent Centre (Pty) Ltd, and other erfs along The Crescent and Service Road, have title deed conditions that restricts coverage to two thirds (66⅔%), less than the 75% allowed by Local Business (B3) zoning.

The Crescent Centre (Pty) Ltd will support an application to modify this title deed condition to restrict coverage to 66⅔% in order to be in line with the other properties in the same street. However, approving the complete removal of this title deed restriction to allow coverage of 75% will benefit one property owner over the others.

Thus, if Overstrand Municipality approves the removal of this title deed restriction, it must set a precedent and all subsequent applications for a removal of a coverage / built area restriction from the title deed conditions of property owners of The Crescent and Service Road must be approved, otherwise the decision will be administratively unjust to financially benefit only one property owner over the others, which will render the decision unlawful.

5.4 The removal of title deed condition D.4.(d): "no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the said street line which forms a boundary of this erf, nor within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf, provided that with the consent of the Local Authority an outbuilding not exceeding 1,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space. On consolidation of any two or more even this condition shall apply to the consolidated area as one erf;"

All the reasons of the applicant to support the removal of the abovementioned title deed restriction are generic reasons applicable to all property owners of The Crescent and Service Road in particular, and Fisherhaven in general.

Thus, if Overstrand Municipality approves the removal of this title deed restriction, it must set a precedent and all subsequent applications for a removal of setback and building line restrictions from the title deed conditions of property owners of The Crescent and Service Road must be approved, otherwise the decision will be administratively unjust to financially benefit only one property owner over the others, which will render the decision unlawful.

5.5 The removal of title deed condition D.4.(e): "in the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above, then the provision of such scheme shall apply."

The Crescent Centre (Pty) Ltd supports this application, though not for the reasons supplied by the applicant. The abovementioned title deed condition can exist independently of the other title deed conditions.

It is redundant though. The Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 already has a provision that states that when there is a conflict between the title deed's and the Municipality's conditions, the more restrictive of the two will apply.

-End of comments-

Regards

Wihan Louw

Director: The Crescent Centre (Pty) Ltd

TP- 12/2016
(Holivia)

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
12 APR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

8/19

Loretta Gillion

From: Bruce Bintley < >
Sent: Friday, 12 April 2024 13:21
To: Loretta Gillion
Subject: Date 2024/04/11 Subject: Application for Removal of Restrictive Title Deed Conditions - Erf 124 Fisherhaven

FILE NO. Erf 124
Fisherhaven
SCAN NO.
COLLABORATOR NO.
2030317

To Whom it may concern:

Good Day

I refer to the above application and wish to state my objections as follows:

General

The prospect of having a large hideous development in the Crescent in Fisherhaven is abhorrent and entirely beyond the scope of what is expected in this exquisite village comprising greenbelts as well as being a Fish and Bird Sanctuary.

The request to change the Title Deed from 30% to 70% is amazingly brash and totally unacceptable both for the plots on either side of Erf 124 and for the neighboring houses as well.

Building Lines

Street - the request to change from 4,72m to 0m will enable the developer to build right up to the front boundary line. This is unacceptable considering that the majority of the buildings in Fisherhaven are residential.

Side - the request to change to 0m will enable any developer to build right to the boundaries on either side of the plot which is an invasion on privacy for the properties on either side of Erf 124 and is consequently unacceptable.

We have studied the concept proposal and would like to comment as follows :

Environmental Impact

This is a very quiet peaceful ecologically sensitive area with greenbelts to the front and rear. This peace that is enjoyed in this area by the visitors and residents alike will be ruined by the coming and going of multiple vehicles and the less than desirable people who will go with it not to mention the inevitable additional parking space impact.

Drainage

The drainage in Fisherhaven and particularly around the area of the Crescent is poor and I have on various occasions had to wade through water half way up my shins to reach the front gate!
The plan to pave almost the entire plot on Erf 124 does not bode well for the general drainage as there will be considerable run-off from the plot during a rain storm which will overwhelm the already less than adequate drainage system.

Conclusion

The current infrastructure of Fisherhaven is totally unsuited to cope with a building complex of this nature. The current infrastructure is designed to deal with a small village of residential plots. The increased building activity over the last few years has already put pressure on the current infrastructure.

We chose our Fisherhaven home for the peace and tranquility of the area. Buildings of this nature are totally out of character with the area.

Sent by: B. N. Bintley

53 The Crescent

Erf 122

ID No.

Cell:

TP. 0104eak
(H. Olivier)

10/19

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
23 SEP 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY
FILE NO.
Erf 124 Fisherhaven
SCAN NO.
2125942
COLLABORATOR NO.
Erf 124 Fisherhaven

Loretta Gillion

From: Bruce Bintley < >
Sent: Thursday, 19 September 2024 07:54
To: Loretta Gillion
Subject: Date 2024/04/11 Subject: Application for Removal of Restrictive Title Deed Conditions - Erf 124 Fisherhaven

Subject Re: Application for Removal of Restrictive Title Deed Conditions - Erf 124 Fisherhaven

Good Day

We refer to the above application and wish to state our objections as follows :

General

The prospect of having a large hideous development in the Crescent in Fisherhaven is abhorrent and entirely beyond the scope of what is expected in this exquisite village comprising greenbelts to the front and rear of The Crescent and Service Road and also boasts being a Fish and Bird Sanctuary.

The request to change the Title Deed from 30% to 70% is amazingly brash. and totally unacceptable for the plots on either side of Erf 124 and for the neighboring houses as well.

Building Lines

Street - the request to change from 4,72m to 0m will enable any developer to build right up to the front boundary line. This is unaccepttable considering that the majority of the buildings in Fisherhaven are residential

Side - the request to change to 0m will enable any developer to build right to the boundaries on either side of the plot which is an invasion on privacy for the properties on either side of Erf 124 and is consequently unacceptable.

We have studied the concept proposal and would like to comment as follows :

Environmental Impact

This is a very quiet peaceful ecologically sensitive area with greenbelts to the front and rear. This peace that is enjoyed in this area by the visitors and residents alike will be ruined by the coming and going of multiple vehicles and the less than desirable people who will go with it not to mention the inevitable additional parking space impact.

Drainage

23 SEP 2024

The drainage in Fisherhaven and particularly around the area of the Crescent is poor and I have on various occasions had to wade through water half way up my shins to reach the front gate! The plan to pave almost the entire plot on Erf 124 does not bode well for the general drainage as there will be considerable run-off from the plot during a rain storm which will overwhelm the already less than adequate drainage system.

Conclusion

The current infrastructure of Fisherhaven is totally unsuited to cope with a building of this nature. It is designed to deal with a small village of residential plots. The increased building activity over the last few years has put pressure on the current infrastructure. As retired people we chose to move to Fisherhaven for the peace and tranquility of the area. Buildings of this nature are totally out of character with the area.

Sent by: B Bintley

Erf 122

ID No.

Cell:

12/19

Loretta Gillion

From: Lothar Wagner < >
Sent: Monday, 08 April 2024 15:00
To: josiahm@iatrp.co.za
Cc: Loretta Gillion
Subject: Re: Erf 124 Fisherhaven: Removal of Restrictive Title Deed Conditions

Good day

I wish to herewith lodge my objection for the removal of restrictive title deed conditions on erf 124.

It is my belief that a development as proposed will be to the detriment of all the residential properties in the immediate vicinity. It will also create excess traffic and noise pollution if business' are established there. Under no circumstances should a bottle store or another pub be allowed to operate in what is mainly a residential area. As it is there are already two in operation and the possibility exists that another one could open at the Piekanië Centre a stones throw away. The erf should be solely used for residential.

Lothar Wagner

Unit 6

Lake View Cottages

44 Broad Way

Fisherhaven



FILE NO.	OF 124
	Fisherhaven
SCAN NO.	
COLLABORATOR NO.	2026673

On 2024/03/08 16:48, josiahm@iatrp.co.za wrote:

Good day Sir / Madam

TP. N. Theak
(I. Olivia)

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) of an application received for a removal of restrictive title deed conditions in terms of Section 16(2)(f) of the By-Law to remove conditions D.4.(a), D.4.(b), D.4.(c), D.4.(d) and D.4.(e) as contained in Title Deed T34078/23 of the property to accommodate the proposed development.

Please find attached the motivational report and proposal plan.

Any comments must be in writing and reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before 12 April 2024, with your name, address, contact details, interest in the application and the reasons for comment. Telephonic inquiries can be made to the Town Planner, Mr. H. Olivier at 028-3138900. The Municipality may refuse to accept comments after the closing date. Any person who cannot read or write can visit the Town Planning Department where they will be assisted by a municipal official in formulating their comments.

Josiah Mos
 InterActive Town & Regional Planning
 Telephone: 028 312 1668
 Mobile: 072 729 7193

- 8 APR 2024

TP - N. Abzail
(H. Olivier)

13/19

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
08 APR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY
Deed Conditions - Erf 124

Loretta Gillion

From: Sharon Ballantyne < >
Sent: Sunday, 07 April 2024 23:40
To: Loretta Gillion
Subject: Re: Application for Removal of Restrictive Title Deed Conditions - Erf 124
 Fisherhaven

FILE NO. Erf 124
Fisherhaven
SCAN NO.
CO-ORDINATOR NO.
2025848

Good Day

We refer to the above application and wish to state our objections as follows

Coverage

The request to change the Title Deed from 30% to 70% is inconsistent with the plots on either side of Erf 124

Building Lines

Street - the request to change from 4,72m to 0m will enable any developer to build right up to the front boundary line. This is inconsistent with the building lines of the plots on either side.

Side - the request to change to 0m will enable any developer to build right to the boundaries on either side of the plot. This is unacceptable as it impinges on the quality of life to the residents on either side.

Subdivision

We have concerns with the negative effects this proposed development will have on our property. Should a future dispute arise we are not prepared to deal with multiple owners/Title Holders.

We wish to place on record our objections to the above requests.

We have studied the concept proposal and would like to comment as follows :

Ecology/Parking

This is a very ecologically sensitive area with greenbelts to the front and rear of The Crescent and Service Road. The tortoises that live in these greenbelt areas regularly move from one greenbelt to the other to feed and then move back again. The increase in traffic to the area will almost certainly be detrimental to them. Parking will be a major problem as the only place to park is on a very narrow village road.

Sewerage

A further concern to us is a building of this size with possibly 8 permanent residents and +/- 9 daily office workers. This will further strain an already overstressed sewerage collection system. We certainly would not like sewerage tankers calling in next door at regular short intervals.

Drainage

We are all aware of how hard it can rain in this area and to build on, and pave, almost the entire plot, as envisaged, does not make sense. Over the last two years we have come very close to having our house flooded and have had to run a pipe from the back of the house to prevent water coming in our back door. To further block the natural drainage of stormwater into the earth by building walls and paving the entire area, will increase the amount of water flowing into my plot,. Even running pipes from Service Road to The Crescent will only transfer that water to The Crescent and exacerbate the flooding in that area.

The ditch in front of Erf 124 currently acts as a reservoir in a heavy rain storm. To lay a pipe and fill in the ditch would almost certainly cause more flooding to other plots in the area.

I would also draw your attention to the problem experienced in Service Road when the glass studio wall was erected. The road disintegrated and delivery trucks and vehicles were unable to get through. The rebuilding of the road must have been an expensive exercise.

Utilisation

This concept proposal has similarities to an existing building on Erf 129 - business premises downstairs and residential apartments upstairs. To the best of my knowledge the business premises are under-utilised! Should the ground floor premises not be taken up as shop/office space, as envisaged in the proposal, this would facilitate the use of these premises as one or more of those listed under Consent Uses (Section 2 b) of The Application. This is totally unacceptable.

Conclusion

The current infrastructure of Fisherhaven is totally unsuited to cope with a building of this nature. It is designed to deal with a small village of residential plots. The increased building activity over the last few years has put pressure on the current infrastructure. As retired people we chose to move to Fisherhaven for the peace and tranquility of the area. Buildings of this nature are totally out of character with the area.

Sent by: G M Ballantyne
Erf 123
ID No. ---
Cell:

Loretta Gillion

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
02 APR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

From: Almut Hoffmeyer < >
Sent: Tuesday, 02 April 2024 09:27
To: Loretta Gillion
Subject: Erf124, Fisherhaven. Application for removal of restrictions.

From Almut Erika Hoffmeyer, 6Lagoon Road, Fisherhaven.
 Tel.
 To whom it may concern.

I, the owner of Erf 125, The Crescent, Fisherhaven, strongly oppose to the removal of restrictions and the proposed building plans for Erf 124. These erven were registered as business and should be used just for this purpose. There are no others in Fisherhaven.. The building lines must be adhered to as the erven are so small. Building on the boundary will take away the light and sun of the occupants of Erf 125. The noise and smell of a four flat building is right on the doorstep of Erf 125. The rule of size of the building should be adhered too. This is a village and not the centre of a city. That is why we love to live here. Kind regards,

Almut Hoffmeyer (Mrs)

FILE NO. ERF 124 HFH ✓
SCAN NO. HFH 124
COLLABORATOR NO.
2023542

ÖVERSTRAND MUNISIPALITEIT
REKORDBEHEER
Loretta Gillion
25 MAR 2024
From: Loretta Gillion
Sent: Sunday, 24 March 2024 13:22
To: DOCUMENT CONTROL
Subject: ÖVERSTRAND MUNISIPALITET: Erf 124 Fisherhaven: Removal of Restrictive Title Deed Conditions
Attachments: Application & Plan.pdf

TR n. 110
(H. Olivia)

FILE NO. C11 124
Fisherhaven
SCAN NO.
COLLABORATOR NO.
2019245

16/19

I refer to the circular received dated 8th March 2024 regarding the application for the removal of restrictive title deed conditions on Erf 124 Fisherhaven and wish to submit the following comments and my concerns.

As a long-term owner and resident at Fisherhaven, what drew my husband and I to Fisherhaven initially was the peace and tranquillity of the area. Even though there has been major development since, that peace still prevails at Fisherhaven. I have noticed, with interest, the recent relaxation of sub-divisions allowing second dwellings on individual stands. These have been done with sensitivity and often with pan handle driveways which allow the cars of the second dwelling to park in their own driveway.

I am concerned and not in agreement with the proposed removal of the restrictive title deed conditions on Erf 124 for the following reasons:

Parking:

The proposed plan indicates parking for 10 cars with access from The Crescent. The Crescent is a service road and was never intended to accommodate many vehicles. This road already has traffic which stems from the Blue Roof clients and the existing pub together with the café. There is, however, limited parking in front of these premises.

The addition of 10 vehicles on Erf 124 – and possibly more, as employees in the various businesses will likely take up these parking bays -- will also have a negative impact on the environment. There will be an overflow into The Crescent where no parking bays are allocated, and vehicles will park in front of the houses in that road. The service road will have to be upgraded regularly. This is additional upkeep for the Municipality, and I wonder if this would have a knock-on financial impact to the rest of the owners.

Services:

There is a difference to the amount of service required for a single dwelling to that of multiple dwellings on the property for this mixed-use development.

Survey:

Has a survey been done in Fisherhaven to discover whether residents require the need for additional office space and employment opportunities. Since Covid there has been a total change in the way business is conducted. Many people work from their own homes and have done so for several years now.

There is mention of several proposed businesses. One such – but not specified as being part of the development yet -- is a liquor off sales. This definitely will impact residents in the area.

Employment opportunities in Fisherhaven:

The Mall being built between Fisherhaven and Hawston is on our doorstep. It's sure to provide a wide range of business sites and possible employment opportunities. We have become comfortable travelling to Whale Coast for our weekly requirements or for any private banking. The new Mall will be conveniently close.

General:

This request is a major deviation from the zoning criteria – that of a single dwelling (with access for possibly two vehicles from the Service Road) to mixed premises for commercial and residential purposes. These will certainly take up the greater proportion of the plot as well as the impact of the additional vehicle traffic on the service road.

25 MAR 2024

17/19

Apart from my concerns mentioned above, I'm also concerned that it may create a precedent for future developments on private land in the future.

Personal Details:

I'm a pensioner and owner of 85 Broadway Road, Fisherhaven. My email address is thesparrows@mweb.co.za and telephone number is

Kind regards.

Isabel Sparrow

From: josiahm@iatrp.co.za <josiahm@iatrp.co.za>
Sent: Friday, March 8, 2024 4:58 PM
To: josiahm@iatrp.co.za
Subject: Erf 124 Fisherhaven: Removal of Restrictive Title Deed Conditions

Good day Sir / Madam

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) of an application received for a **removal of restrictive title deed conditions** in terms of Section 16(2)(f) of the By-Law to remove conditions D.4.(a), D.4.(b), D.4.(c), D.4.(d) and D.4.(e) as contained in Title Deed T34078/23 of the property to accommodate the proposed development.

Please find attached the motivational report and proposal plan.

Any comments must be in writing and reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before **12 April 2024**, with your name, address, contact details, interest in the application and the reasons for comment. Telephonic inquiries can be made to the Town Planner, Mr. H. Olivier at 028-3138900. The Municipality may refuse to accept comments after the closing date. Any person who cannot read or write can visit the Town Planning Department where they will be assisted by a municipal official in formulating their comments.

Regards,
Josiah Mos
InterActive Town & Regional Planning
Telephone: 028 312 1668
Mobile: 072 729 7193



18/19

Loretta Gillion

From: Briony < >
Sent: Sunday, 10 March 2024 12:26
To: Loretta Gillion
Subject: PROPOSED REMOVAL OF RESTRICTIONS OF ERF 124 FISHERHAVEN

Importance: High

TP. N. Theak
(11. Olivia)

FISHERHAVEN OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
12 MAR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Good day

I fully oppose the proposed development of erf 124 and the lifting of restrictions which are in place for good reason.

Objections :

This structure will attract a great deal of additional traffic to a mostly residential area.

There is a noise increase component which I do not believe is to the benefit of the residents who value their space, privacy and peace.

Fisherhaven already has structures ie in Broadway Road which consist of a business with (mostly empty) flats on the 2nd floor so the need for "additional office space" is a moot point. Furthermore, besides the café operating there, there is an empty office alongside this development which is also desolate.

Truthfully, there is no need for such a development at this time other than the greed behind such a monstrosity being built there.

Regards
Briony Luttig
Erf 58 Fisherhaven

FILE NO. <u>Of 124</u>
<u>Fisherhaven</u>
SCAN NO.
COLLABORATOR NO.
<u>2013707</u>

TP
11 MAR 2024

Loretta Gillion

From: dennis wadley < >
Sent: Friday, 05 April 2024 19:33
To: Loretta Gillion
Subject: I am completely opposed to anything that will allow a bottleshop in Fisherhaven.

I am completely opposed to anything that will allow a bottleshop in Fisherhaven.

I was told by Mr. Willnough and his wife that one of the reasons crime is low in Fisherhaven is because we don't have a bottleshop.

Please don't allow that as one of the potential businesses in this proposal.

Dennis
denniswadley@gmail.com

"Charity provides crumbs from the table; justice offers a place at the table."
Bill Moyers

From: <josiahm@iatrp.co.za>
Date: Fri, 08 Mar 2024, 16:49
Subject: Erf 124 Fisherhaven: Removal of Restrictive Title Deed Conditions
To: <josiahm@iatrp.co.za>

Good day Sir / Madam

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) of an application received for a removal of restrictive title deed conditions in terms of Section 16(2)(f) of the By-Law to remove conditions D.4.(a), D.4.(b), D.4.(c), D.4.(d) and D.4.(e) as contained in Title Deed T34078/23 of the property to accommodate the proposed development.

Please find attached the motivational report and proposal plan.

Any comments must be in writing and reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before 12 April 2024, with your name, address, contact details, interest in the application and the reasons for comment. Telephonic inquiries can be made to the Town Planner, Mr. H. Olivier at 028-3138900. The Municipality may refuse to accept comments after the closing date. Any person who cannot read or write can visit the Town Planning Department where they will be assisted by a municipal official in formulating their comments.

Josiah Mos

InterActive Town & Regional Planning

**InterActive Town & Regional Planning****PO Box 980****Overstrand****7200****Reference: Erf 124 Fisherhaven****Date: 14 October 2024****ERF 124, 20 SERVICE ROAD, FISHERHAVEN: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION: INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF AD WOOLNOUGH**

With reference to your request dated 26 April 2024 please find my response to the objections for the application for the removal of restrictive title deed conditions as well as the conditions of approval for the establishment of the Fisherhaven township.

Should you have any questions in this regard please do not hesitate to contact me.

It would be appreciated if you can confirm receipt of this letter of response.

Kind Regards

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

1. Introduction

a. Background

An application was submitted on 22 January 2024 for a removal of restrictive title conditions.

Eight objections were received being the following objectors:

1. N Evans
2. W Louw
3. B Bintley
4. L Wagner
5. S Ballantyne
6. A Hoffmeyer
7. I Sparrow and
8. B Luttig
9. D Waldey

In terms of the statutory legislation, the Overstrand Municipality requested via a letter dated 26 April 2024 for a response to objections.

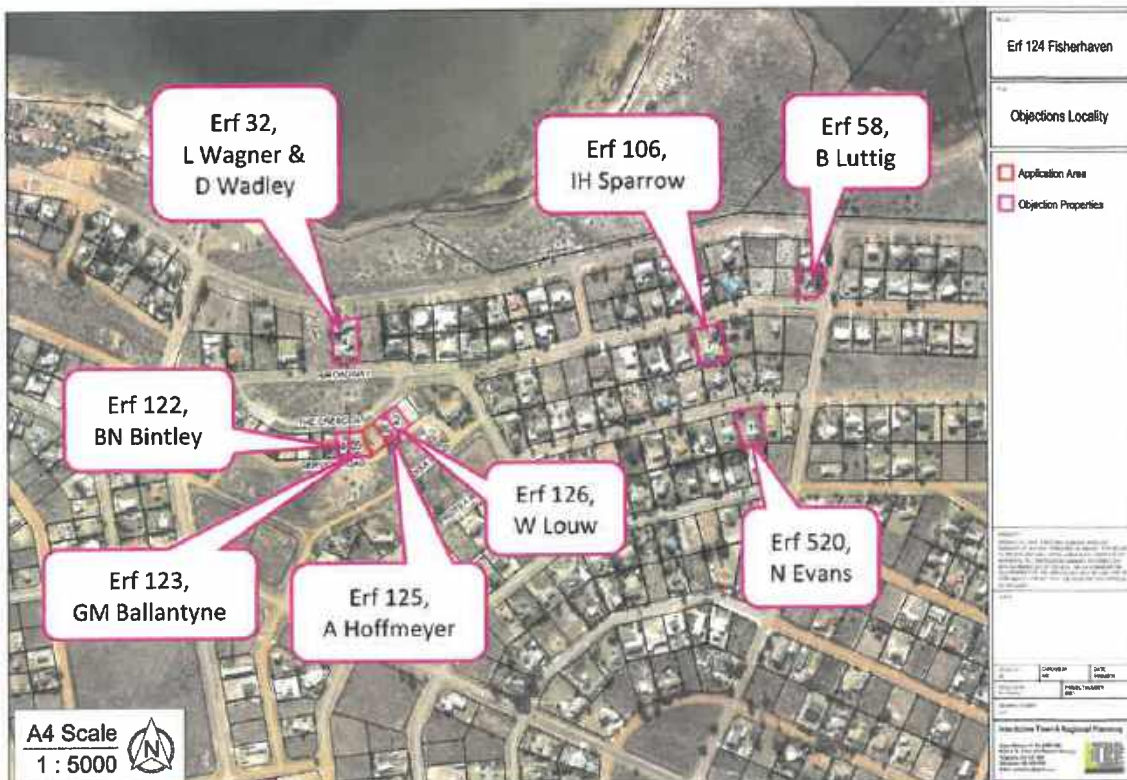
b. Application Objective

The title deed of the application site does not allow the property to be developed in accordance with its zoning.

Subsequently the application objective is to remove relevant restrictive title deed conditions to allow for the property to be developed in terms of its current zoning.

c. The Objection

The location of the objector's premises as well as their location and orientation in relation to the application area is shown in the following aerial extracts from the Overstrand Public Viewer:



2. Summary of the objections and the application

It is evident from the eight letters of objection that most of the objectors did not familiarize themselves with the background and content of the application, specifically also that they do not understand that the statutory zoning rights as well as the spatial policies relevant to the application site, is in conflict with the subject title deed restrictions, in other words that the zoning for business use is already in place, but the title deed conditions does not allow business. This is likely the result of an oversight in the transfer of the original township establishment conditions to the title deed conditions (**refer to the attached original township conditions**).

It is furthermore evident that most of the objectors are (understandingly) not familiar with and do not understand the Overstrand Municipality Planning By-Law Zoning Scheme and the processes involved.

The following title deed conditions restricting the utilization of the zoning rights are:

Title Deed 34078/2023

"D. SUBJECT FURTHER to the following special conditions contained in Deed of Transfer No. T35689/1970 imposed by the Administrator of the Province of the Cape Good Hope in terms of Ordinance 33 of 1934 when approving the establishment of Fisherhaven Township, namely:-

4. *This erf shall be subject to the following further conditions provided especially that where in the opinion of the Administrator, after consultation with the Township Board and the Local Authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation, subject to compliance with such conditions as he may impose:-*
 - (a) *it shall not be subdivided;*
 - (b) *it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;*
 - (c) *not more than 30% of the area thereof shall be built upon;*
 - (d) *no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the said street line which forms a boundary of this erf, nor within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf, provided that with the consent of the Local Authority an outbuilding not exceeding 1,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space. On consolidation of any two or more erven this condition shall apply to the consolidated area as one erf;*
 - (e) *in the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above, then the provision of such scheme shall apply."*

Subsequent to the above, application is made in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020, Section 16(2)(f) from title deed T34078/2023 for the following:

- The removal of restrictive title deed condition D.4.(a)
- The removal of restrictive title deed condition D.4.(b)
- The removal of restrictive title deed condition D.4.(c)
- The removal of restrictive title deed condition D.4.(d)
- The removal of restrictive title deed condition D.4.(e)

In summary, the current zoning of the application site is in conflict with the title deed development conditions resulting from a historic error and therefore the application area cannot be developed in accordance with its zoning.

The application area is zoned Business Zone 3: Local Business, but the title deed only allows for the land use of a single dwelling with associated outbuildings and with other title deed restrictions limiting for the business zoned erf to be developed viably.

3. Methodology

Subsequent to the nature of the objections received each letter of objection will be dealt with individually followed by a conclusion.

4. Response to the objections

a. Objection from Ninette Evans, Erf 520 Fisherhaven

i. Summary of the objection

As background to the objection the objector appeal that the charming character of Fisherhaven be retained.

The objector expresses her concern about a conference centre, a bottle store, hotel, tourist accommodation, place of worship, entertainment, a service station etc which potentially will change the character of the area.

She also questions the number of offices that can be built and the type of shops allowed as well as the number of parking.

She however, support the increase of the coverage from 30% but not exceeding 50%.

Furthermore her concern is expressed in questions relating parking, the subdivision of the erf, noise and horse and wildlife assessments and requests more information.

ii. Response to the objection

It is evident that the objector does not understand the application as the zoning of the property for Business Zone 3: Local Business is already in place and supported by relevant spatial policies (SDF, 2020 and Overstrand Municipal Growth Strategy, 2010) for such business uses but is restricted by the title deed, which is likely the result of a historic mistake by the attorneys who compiled the title deeds and the deeds office and was transferred over time from one owner to the other without noticing.

In essence the land-use rights the owner requires, as an outcome of the application is for Business Zone 3: Local business with the purpose of accommodating an office on the ground floor and flats on the first floor in accordance with the statutory zoning rights of the property.

The concerns of the objector about bottle stores, hotels etc is not relevant or permitted without a new consent use application which will require specific information and a valid motivation. Therefore the point of objection / concern is not considered relevant or valid.

Secondly, the extent of the development is restricted by the zoning parameters and therefore the extent of the offices and flats are restricted by the number of parking required, the coverage allowed and the floor factor. In the application report the owner's proposal (subject to change) indicate that only 155m² offices with 2 flats with a total area of 214m² and 11 parking bays can be accommodated on this erf of 699m².

It must furthermore be acknowledged that the application site is located within an area identified and approved for local business purposes to which this application is fully compliant.

Subsequently, the application will not change the existing character of the Fisherhaven as it was planned for.

In conclusion, the comment / objection is considered irrelevant and should therefore be disregarded.

b. Objection from Wihan Louw, owner of Erf 126 Fisherhaven

i. Summary of the objection

The objector analyses all of the conditions proposed to be removed, individually.

In terms of conditions D.4.(a)(c)(d), the objector requests that the local authority treat all applications within the subject area the same, hence if this application is approved for the removal of this condition, it should be applicable for all other applications within this area to be treated similarly.

The application for the proposed removal of Condition D.4.(b) and (e) is supported by the objector.

ii. Response to the objection

The comments of the objector is acknowledged of the support of conditions D.4.(b) and (e).

With regards to the objectors statement that applications for the removal of conditions D.4.(a)(c)(d), within the same areas be treated the same, it is considered to be the prerogative of the applicable deciding authority and to evaluate them accordingly.

Nevertheless, these comments are not interpreted as objections and also not specific relevant to the content of the application; and therefore for the purposes of this application can thus be ignored.

c. Objection from Bruce Bintley, owner of Erf 122 Fisherhaven

i. Summary of the objection

The introductory comment made by the objector reads “having a large hideous development in the Crescent in Fisherhaven is abhorrent and beyond the scope of what is expected in the exquisite village comprising greenbelts as well as being a Fish and Bird Sanctuary”

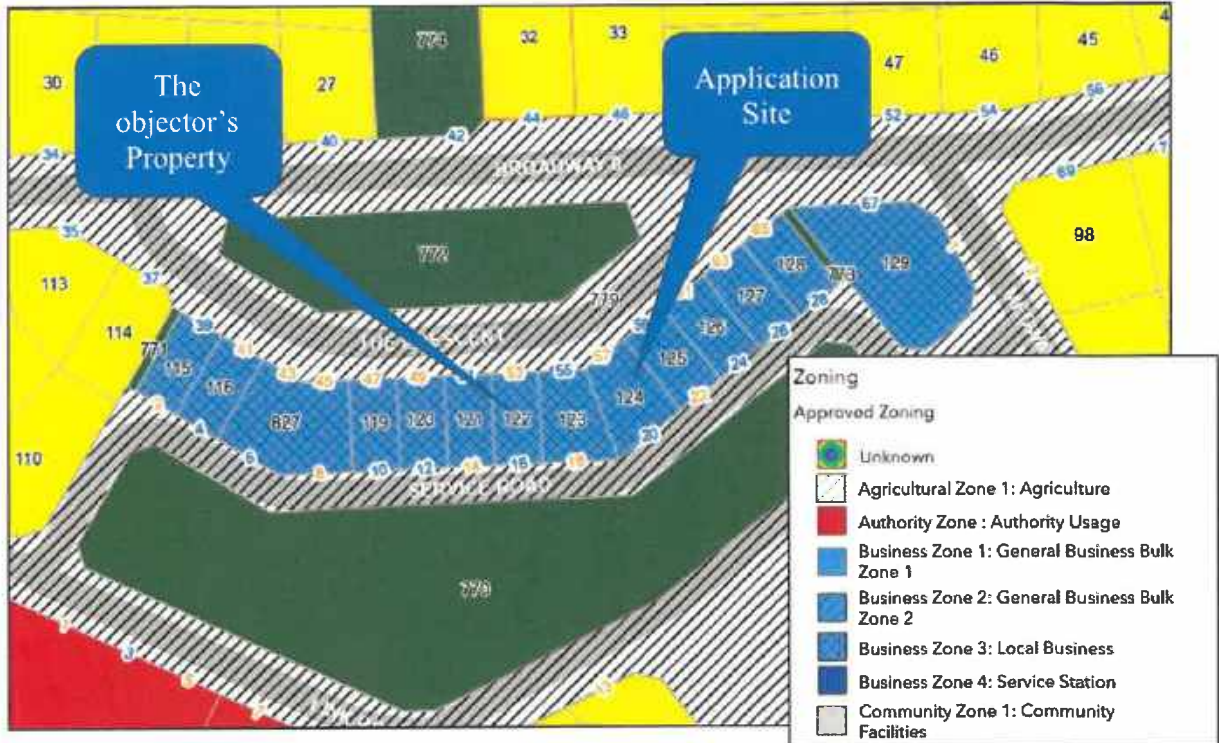
In summary, Mr Bintley, having his property located on a property with a similar zoning two properties away from the applications site objects to the street and side building line being 0m respectively and states that it is not aligned with the majority of buildings in Fisherhaven being residential buildings.

The objector objects to impact of the multiple vehicles and “less desirable people” on the “very quiet peaceful ecological sensitive area” and also that the proposed paving on the application site “will not bode well for the general drainage”.

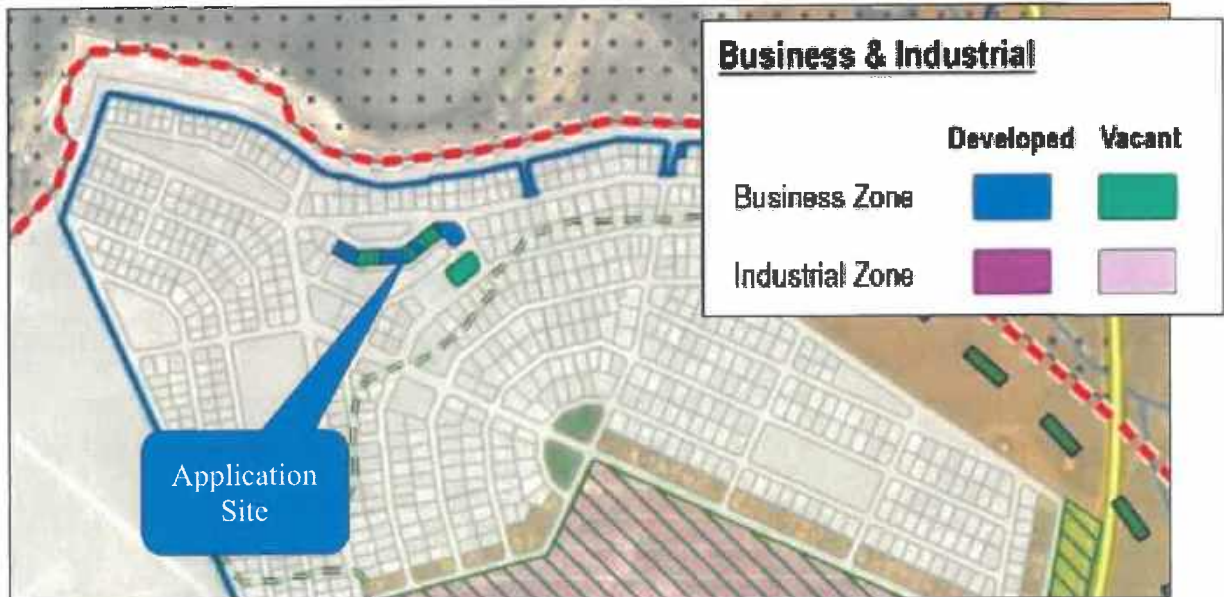
The objector concludes by stating that the current infrastructure of Fisherhaven is not suited to accommodate a building complex of this nature and the proposal is out of character with the area.

ii. Response to the objection

The objector does not take into account or possibly ignores the fact that his property has the same land-use rights and is located within an area statutory approved for business purposes.



In the following extract from the approved Overstrand Spatial Development Framework, May 2020, it is evident that both the application site as well as the objector's property forms part of the Fisherhaven's Business Zone located in the developing urban area.



The statements made by the objector are based on his own incorrect assumptions and interpretation that the proposed building will be "hideous", "abhorrent" and "entirely beyond the scope". Should the title condition removals be approved, the extent is managed by the town planning scheme parameters, which is the same parameters applicable to the objectors property.

The drainage is dealt with by the local authority as part of their responsibility and maintenance in this approved and developing township.

In conclusion, Mr Bintley's interpretation and subsequent objection is incorrect and not aligned with the past, present or future vision of this business zone, being part of an essential community facility and also part of a responsible spatial town planning principle.

d. Objection from Lothar Wagner, owner of Erf 32 Fisherhaven

i. Summary of the objection

The objector states that the proposed development will be to the detriment of all residential properties in the immediate vicinity as it will create excessive traffic and noise pollution and strongly object to another bottle store or pub and that the property should only be used for residential purposes.

ii. Response to the objection

As with the previous objections it is evident that the objector does not understand that the current zoning of the property and surrounding properties and that the application site forms part of the Overstrand Municipality's Spatial Development Framework's identified business zone as part of an essential community facility for the Fisherhaven area.

It is furthermore evident that the zoning of the property restricts the development on the property to a relatively small development of which the traffic generation will be limited due to the scale of the development.

The concern and objection regarding another potential bottle store etc., it should be noted that the current primary land use rights does not make provision for a bottle store without the approval of a separate application and which will be subjected to another public participation process. Thus, the objection and concern of the objector is not applicable.

e. Objection from Sharon Ballantyne, owner of Erf 123 Fisherhaven

i. Summary of the objection

The objector, being a direct neighbour of the of the application site, states that the changes to the title deed in terms of the coverage and the street and side building lines are inconsistent with the properties either side of the application site.

In terms of "subdivision" she also objects to the "the negative effects this proposed development will have on" their property for a reason that she is not prepared to deal with multiple owners regarding future disputes.

The objector also raised her concern about the ecological sensitive area with greenbelts located in front and at the back of the properties and movement of tortoises between them.

She also adds that parking will be a major problem as the "only place to park is on a very narrow village road".

Another point of concern raised, is that the proposed development will strain the "overstressed" sewerage collection system and tankers calling them.

She also raised concern regarding the impact of the proposed development on the drainage and that it will have on her property.

Construction of the proposed development is another matter the objector raised her concern about namely the potential road damage and maintenance

Lastly she raised her concern that the proposed development will not have sufficient demand resulting to a consent use application lodged which she considers as “totally unacceptable.”

ii. Response to the objection

The objection made by the objector, Sharron Ballantyne, namely that changes in terms of the title deed is inconsistent with the coverage and street and side building lines are factually incorrect with reference to the zoning scheme as it will ensure that the zoning parameters within the street block are all the same. Within the street block between The Crescent and Service Roads, (i.e. Erven 115 up to 129), all have the same zoning and are subjected to the same zoning scheme parameters.

The objection that the change of the building line from 4.72m to 0m being inconsistent with the building lines on either side is not explained or reasons provided why it is of concern to the objector, and is therefore not considered as a valid reason for objection.

Regarding the objector’s objection to the side building line being “unacceptable” and will impinge on the quality of life of the residents on either side, it is evident that the objector’s interprets the area as being a residential area. As previously stated, the area has been identified as a business zone in terms of the Overstrand Municipality’s Spatial Development Framework, 2020 as well as the zoning of the properties along this development block. Therefore the point of objection is considered invalid.

The objector’s concern regarding the subdivision of the property is also considered invalid as the application is not for the subdivision of the property. It is also clearly evident from the development proposal that the applicant is not planning to subdivide the property. The reason for the removal of the condition is to align the land-use rights with the relevant zoning scheme parameter and should the owner however decide in future to subdivide the property a new application will have to be lodged and will be subjected to a public participation process where the residents will have the opportunity to comment or object. Therefore it is considered that this point of objection is not applicable to this application and should therefore be omitted.

In terms of the ecology and traffic, the objector does not accept and acknowledge that, even though Fisherhaven is currently a peaceful predominant residential area, Fisherhaven is a formal and legal urban area with residential, businesses but also open space areas. In essence the objector advocates that the development of existing properties do not take place. This is subsequently considered inappropriate and practically fostering the deprivation of the owners land rights.

The objector’s objection / concern that parking will be a major problem as the only place to park is on a very narrow village is incorrect. In terms of the Overstrand Municipality Land Use Scheme, 2020 and the strict application thereof, requires that all parking must be provided on site. This municipal planning by-law is considered also as one of the main contributors to restricted development of business zoned erven, especially on relatively small erven. It is therefore considered that this point of objection / concern is incorrect and should be ignored by the deciding authority.

The assumption of Me Sharon Ballantyne regarding the number of residents and daily office workers will result that the sewerage tankers will be called in at the neighbouring properties on short intervals is unverified and considered merely a way of painting a negative picture of the application. As mentioned, this application is meant to correct an error of the past and to

allowed to exercise its zoning rights in accordance with the Overstrand Municipality's Land Use Scheme, 2020. These are matters which can be controlled and managed by the local authority and subsequently considered an invalid point of objection.

As with the point of discussion regarding sewerage management, the same applies with regards to the drainage; it is a matter that is the responsibility of the local authority and can be dealt with through engineering solutions.

The objector's objection / concern regarding the utilisation of the property is another assumption without motivation, reason or verified context made by the objector and should be rejected by the deciding authority.

In conclusion, the objection is considered to be an attempt by a neighbour to prevent the development of a neighbouring property as a matter of self-interest and not in the interest of a township requiring essential community services and providing employment opportunities in an area that has legally been identified for many years already as a business zone in terms of an approved spatial development policy.

f. Objection from Almut Hoffmeyer, owner of Erf 125 Fisherhaven

i. Summary of the objection

The objector opposes the removal of the restrictions and the proposed building plans for Erf 124 as the objector insists that the property only be used for business purposes and not residential purposes on the first floor within the prescribed title deed building lines of 4.73m street building lines and 1,57m side building lines given that the residential component will take away light and sun and cause undesirable noise and smells from the four flats in the building.

ii. Response to the objection

The extent of objection is confusing and unclear; as the objective of the application is to remove the conditions that restrict the owner from exercising the existing statutory Business 3: Local Business zoning of the property.

The objector opposes the removal of the restrictions to allow Business Zone 3: Local Business but on the other hand supports business use by stating that "These erven were registered as business and should be used just for this purpose. There are no others in Fisherhaven."

In addition to the above the objector states that the building lines (assumed the building lines referred to in the title deed) must be adhered to on the one hand and then on the other hand argues that the erven are so small. The title deed building lines restrict the development extent even more and inhibits the feasibility of a business building.

Another contradiction of this objection is that the objector, being the adjacent property owner, has similar land-use rights to what the application is for on Erf 124 Fisherhaven (refer to the **attached** title deed for Erf 125 Fisherhaven). This is considered to be unreasonable of the objector to object to the neighbouring property what seems to be an attempt to prevent his neighbour to allow similar rights as his.

In the light of the above this objection should be rejected.

g. Objection from Isabel Sparrow, owner of Erf 106 Fisherhaven

i. Summary of the objection

In essence the objector is concerned about the peace and tranquillity being compromised as a result of an approval of the application. As part of the objector's concern, includes the matter of traffic generation by the proposed use and the accommodation of sufficient parking on the application site resulting to additional maintenance to the roads. She questions the function of The Crescent road not being an access road but rather a only a service road. Most prominent of her objection is that the application for the removal of the restrictive title conditions will allow business rights in the place of single residential rights with the possibility of liquor sales. In support of the objection she questions whether the need for business rights exist and the impact of the business rights on traffic.

ii. Response to the objection

The application area is within an identified business zone and the zoning of the property is already zoned for business, however in terms the title deed, it restricts business use and allows residential use, which is conflicting and evident of an error. In the conditions of establishment of the Fisherhaven township (Clause 18- see conditions attached) Erf 124 Fisherhaven was approved for business purposes, hence it can be derived that the conditions were not correctly transferred into the title deed by the Deeds Office.

Thus, the objection is considered invalid given that the application site is located within an approved business zone and the correct existing zoning rights should allow for business use.

Furthermore, the objector is incorrect that The Crescent road is a service road, as the actual service road is located parallel and behind The Crescent Road. The Overstrand Zoning Scheme also insists that parking for the relevant land uses be provided on the premises, thus the objection that the road will be used for parking purposes is an incorrect assumption of the objector. The proposed development on the property will have to provide sufficient and functional parking aligned with the business zoning's parking requirements.

Subsequently it is requested that the deciding authority decline this objection accordingly.

h. Objection from Briony Luttig, owner of Erf 58 Fisherhaven

i. Summary of the objection

Mr Luttig, the objector, opposes the development and the removal of the restrictive title conditions as he considers that it is there for a good reason. He is of the opinion that the removal of the restrictive title conditions and the subsequent development of the property will result to increased noise and further questions the need for additional office space, stating in conclusion that "there is no need for such development at this time other than the greed behind such monstrosity being built there."

ii. Response to the objection

Fisherhaven is not fully developed resulting that it is still a tranquil, and low density residential township. However, increasing development is taking place in Fisherhaven and it is expected to increase especially now that a school has been built in the township. Fisherhaven is a township which has been designed responsibly by inter alia making provision for community facilities, including a business zone of which the application site forms part of. As previously mentioned (paragraph h) it is evident that the deeds office did not correctly transfer the conditions of approval into the title deed of the application site.

Therefore, the point of objection that the restrictive condition, not allowing business on the approved business zoned er, is incorrect.

A township of this nature does require community facilities such as offices in terms of the town planning guidelines for the provision of community facilities. The additional noise created through the proposed development is considered minimal. The size of development proposed is aligned with the Overstrand Municipal Planning By-Law and the comment of the objector is considered to be exaggeration to justify his objection.

Subsequently, the objection of Mr. Luttig should be rejected.

i. Objection from D Wadley, owner of Erf 32 Fisherhaven

The objection from Mr Dennis Wadley is about not supporting a “bottle shop”.

i. Summary of the objection

The application rights being applied for does not make provision for a bottle store or the selling of alcoholic beverages as a primary right and therefore this point of objection is considered irrelevant and should be omitted.

5. Conclusion

From the objections it is evident that the objectors are in general concerned about the increase of development and the impact thereof. It is also evident that they do not support the growth of the existing township in accordance with the land-use rights that has already been approved. In the instance of this application an error in the title deed is being corrected.

In the light of the above it is requested that this application for the removal of restrictive title deed conditions be approved.

Kind Regards



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

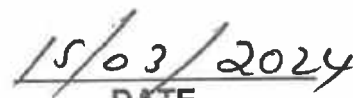
**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS:
ERF 124, FISHERHAVEN (4566/2024)**

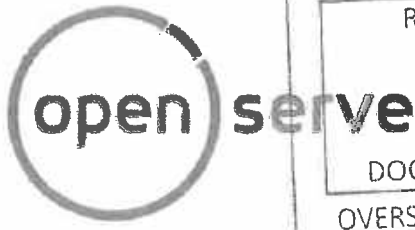
Stormwater (SW)	:	Refer to conditions
Electricity	:	Eskom Area
Water	:	Refer to conditions
Sewer	:	Refer to conditions
Roads and traffic	:	Refer to conditions

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*;
3. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Area Manager: Hermanus for written approval;
4. that any additional and / or extended vehicle entrances will be for the owner's account;
5. that no reservation of on-street parking be allowed;
6. that stormwater discharged from higher lying properties and generated in the catchment area of the property be allowed to drain freely through the property;
7. that stormwater reticulation and connection(s) to the municipal system be provided at the owners cost, if required.


DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES


DATE



Handwritten file and collaborator information: FILE NO. GF 124, Fishervlaai, SCAN NO., COLLABORATOR NO. 2028213

TP n. Theat (H. Olivier)

Linton Grange Microwave
501 Cape Road, Linton Grange
Linton Grange, Gqeberha 6025
P.O. Box 1142, Gqeberha 6000

Our reference: **WWIP_WHWS1257_24**
Your reference: **ERF 124 SERVICE ROAD**
Inquiries: Sizwe Nyengane
Cell: 081 598 3045
Email: SizweN@openserve.co.za

Overstrand Municipality

16 Paterson Street,
Hermanus,
7200

ATTENTION: Loriaan Isaacs

9 April 2024

RE: ERF 124 SERVICE ROAD FISHERHAVEN: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DED CONDITIONS: INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF AD WOOLNOUGH.

Dear Sir/Madam

CABLES ARE NOT AFFECTED

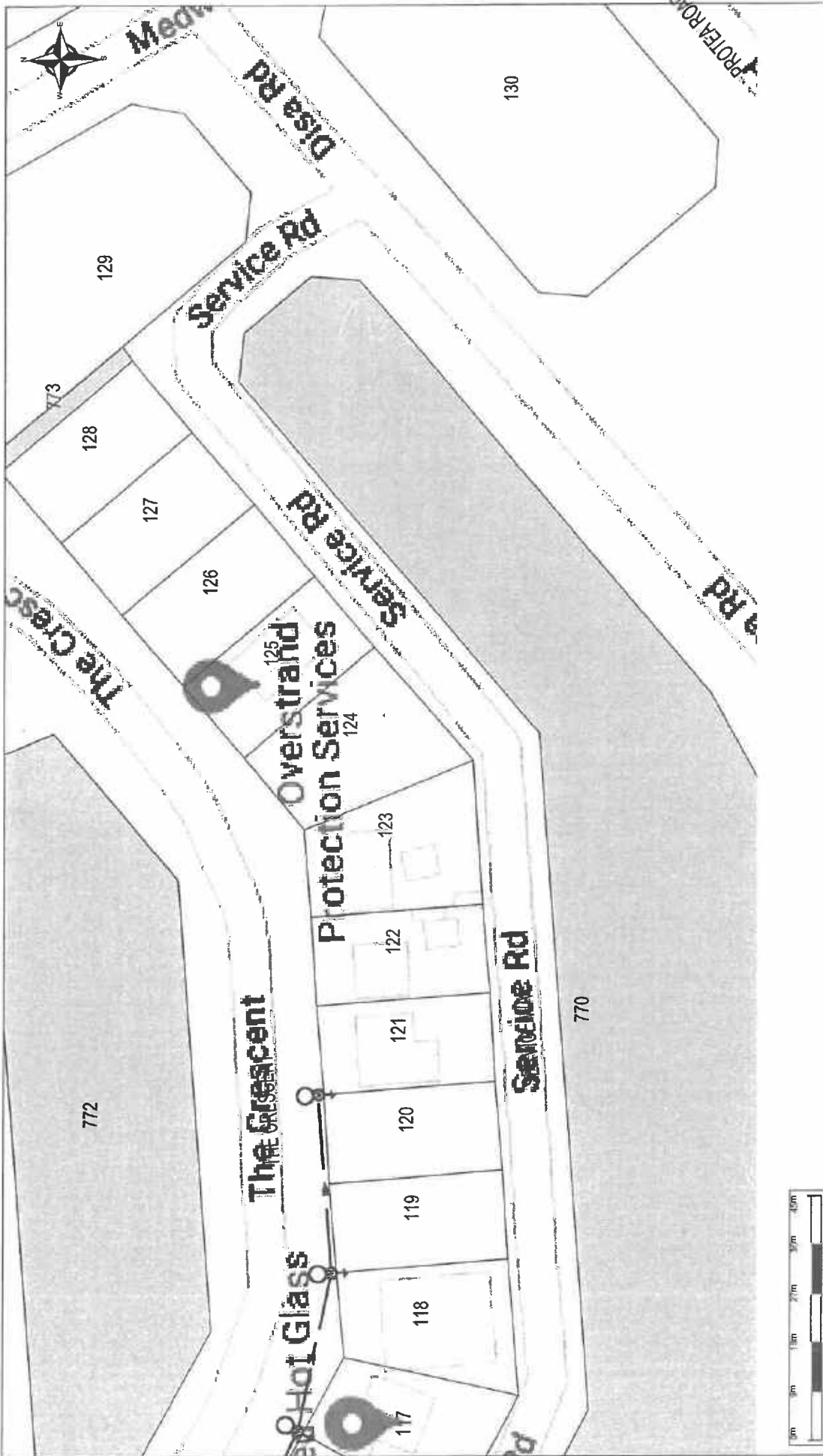
Your proposal as depicted on the attached drawing has been examined and the following are applicable:

- Openserve cables **will NOT be affected by this intended work**, but take note that there are/maybe UG Fibre cables in very close proximity, with the subject area and indicated in pink (see attached drawing).
- This approval has a validity period of 6 months. If your proposed services are not installed before the 6 months period has expired, a new approval must be obtained from this Company.
- Any deviation from the original proposal should be brought to my notice prior to any undertaking. Please do not hesitate to contact me if you have any queries concerning the above.

Yours sincerely,
Sizwe Nyengane

.....On Behalf of Selwyn Bowers (Operations Manager – Wayleaves)

TP 09 APR 2024



Symbol	Existing Manhole	Planned Manhole	To Be Recovered Manhole	Existing Jointing Pit	Planned Jointing Pit	To Be Recovered Jointing Pit	Existing P.J.B	Planned P.J.B	To Be Recovered P.J.B	Existing SDC	Planned SDC	To Be Recovered SDC	Existing DLC	Planned DLC	To Be Recovered DLC	Existing Pillar Joint	Planned Pillar Joint	To Be Recovered Pillar Joint	Existing Indoor DP	Planned Indoor DP	To Be Recovered SDC	Existing DP	Planned DP	To Be Recovered DP	Existing Pole	Planned Pole	To Be Recovered Pole	Strut	Stay	Access Point (Virtual Element)	Planned Overhead Route	To Be Recovered Overhead Route	Existing Underground Route	Planned Underground Route	Existing Overhead Route	Conduit Terminus (Virtual Element)		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Scale: 1:1000
 Date: 08/04/2024
 Created By: Nyengas1



Annexure I 1/4

Overstrand Municipality

Date: 2024/04/18

Loretta@overstrand.gov.za

Enquiries:

WayleavesWesternOU@eskom.co.za

WAYLEAVE APPLICATION: Notice is hereby given in terms of Sections 47 and 48 of the : 20 SERVICE ROAD, FISHERHAVEN : Hermanus

YOUR REF: 124 HFH

ESKOM REF: 14017-24

THIS IS NOT AN APPROVAL TO START CONSTRUCTION

I hereby inform you that Eskom has no objection to the proposed work indicated on your drawing in principle. This approval is valid for 12 months only, after which reapplication must be made if the work has not been completed.

1. Eskom services are affected by your proposed works and the following must be noted:

- a) Eskom has no objection to the proposed work and include a drawing indicating Eskom Overhead and underground services in close proximity.
- b) Please note that underground services indicated are only approximate and the onus is on the applicant to verify its location.
- c) There may be LV overhead services / connections not indicated on this drawing.
- d) The successful contractor must apply for the necessary agreement forms and additional cable information not indicated on included drawing, in order to start construction.

Application for Working Permit must be made to:

Customer Network Centre: Caledon

Dirk Swart / Francois Swart

028 214 5710 / 028 214 5713 / 083 502 2590

SwartDi@eskom.co.za

Include Eskom Wayleave as-built drawings and all documentation, when applying for Working Permit.

Should it be necessary to move, relocate or support any existing services for possible future needs, it will be at the developer's cost. Application for relocating services must be made to Customer Services on 08600 37566 or customerservices@eskom.co.za

FILE NO.	124
	Fisherhaven
SCAN NO.	
COLLABORATOR NO.	2033202

18 APR 2024

Distribution Division - Western Region [Land Development]
Western Region
Eskom Road Brackenfell 7560 PO Box 222 Brackenfell 7561 SA
Tel +27 86 003 7566 www.eskom.co.za

Eskom Holdings SOC Limited Reg No 2002/015527/30

2. Underground Services

The following conditions to be adhered to at all times:

- a) Works will be carried out as indicated on plans.
- b) No mechanical plant to be used within 3.0m of Eskom underground cables.
- c) All services to be verified on site.
- d) Cross trenches to be dug by hand to locate all underground services before construction work commences.
- e) If Eskom underground services cannot be located or is grossly misplaced from where the wayleave plan indicates, then all work is to be stopped and Nancy Piliso from the Land Development Office to be contacted at PilisoN@eskom.co.za, to arrange the capturing of such services.
- f) In cases where proposed services run parallel with existing underground power cables the greatest separation as possible should be maintained with a minimum of 1000mm.
- g) Where proposed services cross underground power cables the separation should be a minimum of **300mm** with protection between services and power cables. (Preferably a concrete slab)
- h) No manholes; catch- pits or any structure to be built on top of existing underground services.
- i) Only walk-behind (2 ton Bomac type) compactors to be used when compacting on top of and 1 metre either side of underground cables.
- j) If underground services cannot be located then the Customer Network Centre (CNC) should be consulted before commencement of any work.
- k) **No work can take place within the servitude of a 66kV Cable or 132kV Cable if indicated.** Should you need to undertake any work within the proximity of our 66kV or 132kV Cables please contact Nancy Piliso at PilisoN@eskom.co.za to arrange a site visit.

3. O.H. Line Services:

- a) The following building and tree restriction on **either side of centre line** of overhead power line must be observed:

Voltage	Building restriction either side of centre line
11 / 22kV	9.0 m
66kV	11.0 m
132kV	15.5 m

- b) No construction work may be executed closer than **6 (SIX) metres** from any Eskom structure or structure-supporting mechanism.
- c) No work or no machinery nearer than the following **distances from the conductors**:

Voltage	Not closer than:
11 / 22kV	3.0 m
66kV	3.2 m
132kV	3.8 m

- d) Natural ground level must be maintained within Eskom reserve areas and servitudes.
- e) That a **minimum ground clearance** of the overhead power line must be maintained to the following clearances:

Voltage	Safety clearance above road:
11 / 22kV	6.3 m
66kV	6.9 m
132kV	7.5 m

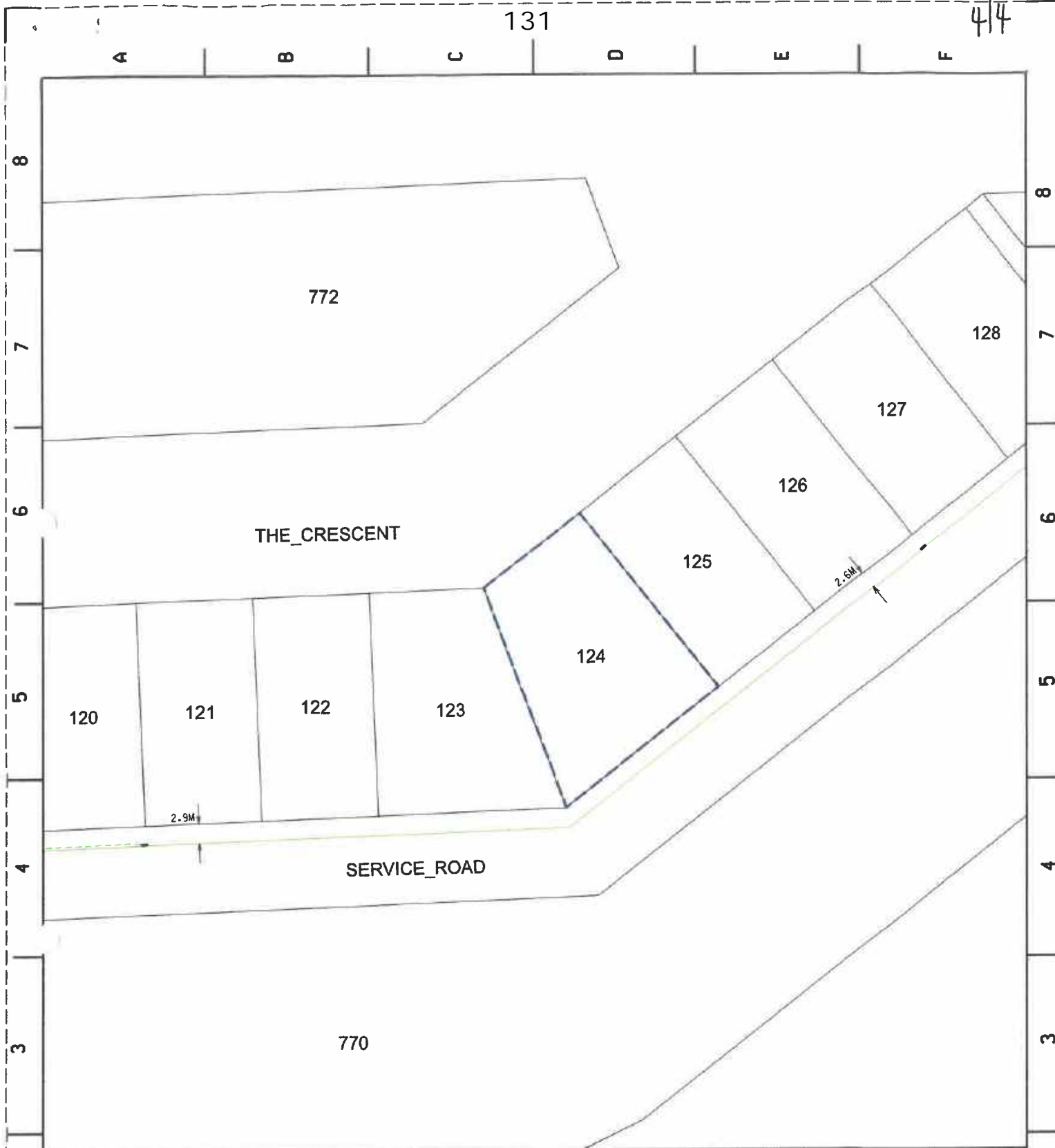
- f) That existing Eskom power lines and infrastructure are acknowledged as established infrastructure on the properties and any rerouting or relocation would be for the cost of the applicant/developer.
- g) That Eskom rights or servitudes, including agreements with any of the landowners, obtained for the operation and maintenance of these existing power lines and infrastructure be acknowledged and honoured throughout its lifecycle which include, but are not limited to:
- i. Having 24 hour access to its infrastructure according to the rights mentioned in (a) above,
 - ii. To perform maintenance (structural as well as servitude – vegetation management) on its infrastructure according to its maintenance programmes and schedules,
 - iii. To upgrade or refurbish its existing power lines and infrastructure as determined by Eskom,
 - iv. To perform any other activity not listed above to ensure the safe operation and maintenance of the Eskom power lines or infrastructure.
- h) Eskom must have at least a 10m obstruction free zone around all pylons (not just a 10m radius from the centre).
- i) Eskom shall not be liable for the death or injury of any person, or for loss of or damage to any property, whether as a result of the encroachment or use of the area where Eskom has its services, by the applicant, his/her agent, contractors, employees, successors in title and assignee.
- j) The applicant indemnifies Eskom against loss, claims or damages, including claims pertaining to interference with Eskom services, apparatus or otherwise.
- k) Eskom shall at all times have unobstructed access to and egress from its services.
- l) Any development which necessitates the relocation of Eskom's services will be to the account of the developer.
- m) Lungile Motsisi Motsisl@eskom.co.za, Eskom: Transmission must be contacted on 011 800 5734 to comment on behalf of the 400 kV OVERHEAD POWERLINES. NO WORK WITHIN THIS SERVITUDE OR UNDERNEATH POWERLINES IS ALLOWED until comment from Eskom Transmission has been obtained.

4. **NOTE**

Wayleaves, Indemnity form (working permit) and all as-built drawings issued by Eskom to be kept on site at all times during construction period.

Yours faithfully

LAND DEVELOPMENT (BRACKENFELL)



4/4

LEGEND

- AREA OF INTEREST
- CADASTRAL BOUNDARY
- - - - EXISTING LV UNDERGROUND CABLE



ALL CABLE POSITIONS ARE APPROXIMATE AND SHOULD BE VERIFIED ON SITE
LAND DEVELOPMENT SECTION
 TEL 021-980 3129 FAX 021-980 3053

SCALE 1 : 500
 THIS DRAWING IS THE PROPERTY OF ESKOM

REV	REVISION DESCRIPTION	BY	CHKD	AUTH	DATE

Eskom
Distribution

CALEDON CNC
FISHERHAVEN - ERF 124 - SERVICE ROAD
REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS
OVERSTRAND MUNICIPALITY

WAYLEAVE 14017-24

SET	SHEET	REVISION
00	00	0

NB - ALL RETICULATION SHOULD BE VERIFIED IN THE FIELD.

AUTH: _____
DATE: _____
CHKD: _____
DATE: _____
DRAWN: Z. DYANTYI
DATE: 13/03/2024

ESTABLISHMENT CONDITIONS

RE : FISHERHAVEN TOWNSHIP : CALEDON

Condition 6(c) has been amended to read : (c) an agreement of servitude the terms of which shall have been approved by the Administrator shall have been registered in favour of the Divisional Council in terms of which there is handed over to the Divisional Council, without payment of compensation, to hold in trust for such urban local Authority as may hereafter be constituted for this township.

1. This Township shall consist of the erven and public places shown on Plan No. P. A. 13/A/1/1-C subject to such amendments as are required ~~as a result~~ as a result of Condition No. 12 below.
2. The corners of the erven at the junctions of all streets exclusive of the pedestrian lanes designated as public places meeting at any angle less than 130° shall be splayed in such a manner that the base of the isosceles triangle cut off from the corner shall be tangential to a circle of not less than 25 feet radius having its centre at not less than that distance from the street boundaries of the erf, the part cut off to form portion of the street.
3. No erf shall be sold, transferred or built upon until the street on which such erf abuts has, in the opinion of the Local Authority, been cleared, graded and roughly formed to the extent necessary to give practicable vehicular access to such erf.
4. The owner shall pay to the Divisional Council of Caledon an amount equal to 7½% of the amount on which transfer duty is payable in respect of the sale of each erf as an endowment for any urban local authority that may hereafter be established for the township provided that if there is a building on such erf at the date of sale then the amount on which 7½% shall be payable as an endowment shall be such sum as the Administrator may determine to be the value of the erf.
5. No transfer of any erf shall be registered in the Deeds Registry unless there has been produced to the Registrar of Deeds, documentary evidence that endowment moneys payable in respect of that erf have been paid.
6. No erf shall be sold, transferred or built upon until :-
 - (a) the Administrator or his nominee shall have approved of a scheme (including the reticulation system) and the specifications of such scheme, for supplying the township with a piped water supply of not less than 200 gallons per erf per day at the rate of three gallons per minute, plus such quantity of water for local authority purposes as the Administrator may deem necessary ;
 - (b) a piped water supply in accordance with such scheme is available within not more than 50 feet of such erf ;
 - (c) (Condition (c) Amended, See opposite & P/S mem dd. 28/11/57 on file.)
the owner shall have entered into an agreement of servitude and registered it in favour of the Administrator in terms of which, without payment

/of any.....

of any compensation he hands over to the Divisional Council to hold in trust for such urban local authority as may hereafter be constituted for this township :-

- (i) the right to the quantity of water as set out in baragraph (a) above ;
- (ii) the headworks, reservoirs, pipes and all other appurtenances and things constructed by him (the owner) in accordance with the scheme referred to in paragraph (a) above ;
- (iii) the right to store water and construct the necessary impounding works ;
- (iv) the right of aqueduct from the intake to the township ;
- (v) the right of access to the pipeline sertitude and the intake dam, etc., for inspection, construction and maintenance purposes ;

and in terms of which he agrees that he will maintain and administer the water supply and reticulation system referred to above until an urban local authority is established for this township or the Divisional Council takes over the maintenance and administration of such scheme after due notice in writing to the owner. The owner may during the period when the scheme is maintained and administered by him levy such charge on erfholders in respect of such service of maintenance and administration as may be approved by the Administrator.

- 7. It shall, if the owner so desires, be a condition of the agreement entered into in terms of paragraph (c) of Condition No. 6 above, that all water in excess of the quantity required in terms of paragraph (a) of Condition No. 6 shall remain the property of the owner who shall have the right to lead such excess water from the present or future headworks- reservoir by means of a conduit or pipe.
- 8. No transfer of any erf shall be registered until the Registrar of Deeds has been furnished with a certificate by the Divisional Council to the effect that :-
 - (a) the water supply system has been constructed in accordance with the scheme and specifications approved by the Administrator in terms of paragraph(a) of Condition No. 6 to the extent necessary to deliver at the boundaries of the township or if any distribution reservoir has to be provided in the township then to such reservoir, the total quantity of water required in terms of paragraph (a) of Condition No. 6 ;
 - (b) The distribution reservoirs, if any, and the reticulation pipes necessary to deliver in accordance

/with.....

(3)

with paragraphs (a) and (b) of Condition No. 6 water to such erf, and to the erven already transferred, have been constructed and installed in accordance with the scheme and specifications approved by the Administrator in terms of paragraph (a) of Condition No. 6.

9. The extents of all corner residential erven shall be not less than 6,500 sq. ft. each and the extents of all other residential erven shall be not less than 6,000 sq. ft. each.
10. The General Plan of this township shall not be approved by the Surveyor General until the applicant has obtained title to all the land comprised in the layout as shown on Plan No. P. A. 13/A/1/1-c
11. The eastern boundary line of erven 750 and 751 must coincide with the western edge of the Main Road as proclaimed.
12. The following erven shall be reserved for the purposes stated :-
 - (a) Erf No. 136 for local authority purposes ;
 - (b) Erven Nos. 199, 488, 777 and 778 for local authority purposes to be used as Electricity Sub-Stations sites ;
 - (c) Erven No. 279 and 634 for Educational purposes ;
 - (d) Erven Nos. 135 and 382 for Government purposes ;
 - (e) Erven Nos. 750 to 775 as public places to be indicated as such on the General Plan ;
 - (f) Erf No. 776 for recreation and sporting purposes ; this erf should be indicated as a public place on the General Plan.
 - (g) Erf No. 749 as Commonage for the Local Authority ;
 - (h) Erf No. 376 for Railway purposes to be used in connection with Motor Transport Services.
13. The Conditions under the Heading "Conditions of Title" below shall apply to the respective erven as from the date of approval of the application and each erf shall be subject to existing conditions and servitudes.

CONDITIONS OF TITLE.

14. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Administration Notice No. 401 dated 17th October, 1935, and in the memorandum which accompanied the said regulations.
15. The owner of this erf shall without compensation be obliged to allow electricity and water mains and the sewage and drainage including stormwater of any other erf or erven within or without this township to be conveyed across this erf, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order

/to.....

Re Reserved Erven. Cond. 12. For appointment of Trustees See P/S Minute AF17/1/1 dated 1/9/1959 in T'Slips File.

(4)

to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto,

16. The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build a retaining walls to the satisfaction of and within a period to be determined by the local authority.

17. Additional Conditions applying to Erven Nos. 1 to 12, 14 to 23, 25 to 31, 35 to 66, 68 to 114, 137 to 198, 200 to 278, 280 to 375, 377 to 381, 383 to 394, 396 to 487, 489 to 504, 506 to 633 635 to 728 and 730 to 748:

This erf shall be subject to the following further conditions, provided especially that where, in the opinion of the Administrator only, after consultation with the Townships Board and Local Authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation subject to compliance with such conditions as he may impose :-

- (a) it shall not be subdivided ;
- (b) it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith ;
- (c) not more than 30% of the area thereof shall be built upon;
- (d) no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 15 feet to the street line which forms a boundary of this erf, nor within 10 feet of the rear or 5 feet of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority, an outbuilding not exceeding 10 feet in height, measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space. On consolidation of any two or more erven, this condition shall apply to the consolidated areas as one erf ;
- (e) in the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more strictive than the provisions contained in the above, then the provisions of such scheme shall apply.

18. Additional Conditions applying to Erven Nos. 67 and 115 to 128:

Same as preamble of Condition No. 17 :-

- (a) It shall not be subdivided ;
- (b) it shall be used for shop purposes only ;
- (c) not more than two-thirds of the area thereof shall be built upon ;

/(d).....

(5)

(d) no building or structure or any portion thereof except boundary walls, fences, verandahs and balconies shall be nearer than $7\frac{1}{2}$ feet to the street line which forms a boundary of this erf ;

(e) Same as Condition No. 17(e)

19. Additional Conditions applying to Erf No. 129

Same as preamble of Condition No. 17 :-

(a) it shall not be subdivided ;

(b) it shall be used for the purpose of erecting thereon a garage and/or service station ;

(c) not more than two-thirds of the area thereof shall be built upon ;

(d) same as Condition No. 18(d)

(e) same as Condition No. 17(e)

20. Additional Conditions applying to Erf No. 729

Same as preamble of Condition No. 17 :-

(a) it shall not be subdivided ;

(b) it shall be used for the purpose of erecting thereon a service station only ;

(c) not more than two-thirds of the area thereof shall be built upon ;

(d) same as Condition No. 18 (d)

(e) same as Condition No. 17 (e)

21. Additional conditions applying to Erven Nos. 395 and 505

Same as preamble of Condition No. 17:

(a) it shall not be subdivided ;

(b) it shall not be used except only for the purpose of erecting thereon a place of assembly together with such outbuildings as are ordinarily required to be used therewith ;

(c) not more than one-third of the area thereof shall be built upon ;

(d) no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 30 feet from any boundary ;

(e) same as Condition No. 17(e)

22. Additional Conditions applying to Erf No. 13.

Same as preamble of Condition No. 17

(a) it shall not be subdivided ;

/(b).....

(6)

- (b) it shall be used only for the purpose of erecting thereon one hotel, together with such outbuildings as are ordinarily required to be used therewith ;
- (c) not more than one half the area thereof shall be built on;
- (d) no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 25 feet to the street line which forms a boundary of this erf.
- (e) same as Condition No. 17(e)

23. Additional Conditions applying to Erven Nos. 32 to 34 & 131 to 134

Same as preamble of Condition No. 17:-

- (a) it shall not be subdivided ;
- (b) it shall be used only for the purpose of erecting thereon a building designed for use as residential flats, together with such outbuildings as are ordinarily required to be used therewith ;
- (c) not more than half the area thereof shall be built upon ;
- (d) no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 20 feet to the street line which forms a boundary of this erf, nor within 10 feet of the lateral or rear boundary common to any adjoining erf; provided that with the consent of the local authority an outbuilding not exceeding 10 feet in height measured from the floor to the wall plate may be erected within the above prescribed rear space within the above prescribed lateral space for a distance of 30 feet reckoned from the rear boundary. On consolidation of any two or more erven, this condition shall apply to the consolidated area as one erf ;
- (e) same as Condition No. 17(e)

24. Additional Conditions applying to Erf No. 130

Same as preamble of Condition No. 17 ;-

- (a) it shall not be subdivided ;
- (b) it shall be used only for the purpose of erecting thereon a building designed for use as a cinema or theatre provided that this shall not be deemed to preclude the provision of shop premises in the same building ;
- (c) not more than 50% of the area thereof shall be built upon ;
- (d) no building or structure or any portion thereof except boundary walls, fences and verandahs shall be erected nearer than $7\frac{1}{2}$ feet to the street line which forms a boundary of this erf ;
- (e) same as Condition No. 17 (e)

25. Additional Conditions applying to Erf No. 24

Same as preamble of Condition No. 17 :-

- (a) it shall not be subdivided ;
- (b) it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith, provided that this shall not be deemed to prevent the erection of a private sporting club house ;
- (c) not more than 30% of the area thereof shall be built on ;
- (d) no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 15 feet to the street line which forms a boundary of this erf, nor within 10 feet of the rear or 5 feet of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority an outbuilding not exceeding 10 feet in height, measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space;
- (e) same as Condition No. 17(e).

26. Additional Conditions applying to Erven Nos. 135, 376 and 382.

Same as preamble to Condition No. 17 :-

- (a) it shall not be subdivided ;
- (b) it shall be used for Government purposes only ;
- (c) no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 15 feet to the street line which forms a boundary of this erf.

27. Additional Conditions applying to Erf No. 136:

Same as preamble of Condition No. 17 :-

- (a) it shall not subdivided ;
- (b) Same as condition No. 25(c)

28. Additional Conditions applying to Erven Nos. 279 and 634

Same as preamble of Condition No. 17 :-

- (a) no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 25 feet to the street line which forms a boundary of this erf.

29. Additional Conditions applying to Erven Nos. 199, 488, 777 & 778

Same as preamble of Condition No. 17

- (a) it shall not be subdivided;
- (b) it shall be used only for the erection of buildings or structures in connection with the supply of electricity.
- (c) same as Condition No. 25(b)

8/8
Doc Reg 137. GF 108
Roll

Blj 1826.

AAN : MIKRO - SEKSIE

(HIERDIE BLADSY MOET NIE VERFILM WORD NIE)

N.B. NADAT DIE AANGEHEGTE AKTE DEUR
MIKRO SEKSIE FINAAL NAGESIEN IS,
MOET HIERDIE AANGEHEGTE AKTE DEUR
DIE TOESIGHOUER VERNIETIG WORD.

A F L E W E R I N G : Indien hierdie afskrif in 'n Akte
of omslag is moet dit nie aflewer nie
maar stuur terug na Mikroseksie.

Handwritten notes:
V. 100 ene ...

Handwritten numbers:
11
16
112