

4.3

**ERF 121, 51 THE CRESCENT, FISHERHAVEN, OVERSTRAND MUNICIPAL AREA:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION AND
CONSENT USE: INTERACTIVE TOWN AND REGIONAL PLANNING ON BEHALF OF R &
BA HAGGARD**

121 HFH (4609/2024)

H Olivier

7 August 2024

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 14 March 2024 from Interactive Town and Regional Planning on behalf of R & BA Haggard on Erf 121, 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 condition E.4.(c) as contained in Title Deed T28893/2021 of the property to accommodate additions to the existing dwelling on the property.

The restrictive title condition read as follows:

*“E. **SUBJECT FURTHER** to the following special conditions newly imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance No 33 of 1934 when approving the establishment of Fisherhaven Township, as contained in Deed of Transfer No. T36503/1982.*

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:*

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

- ❖ **Consent use** in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to accommodate a proposed dwelling unit on the ground floor.

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 516m² in extent and is developed with a double storey dwelling with double garage. The erf is located in a business area and is zoned Business Zone III.

The Title Deed however shows that the property may only be developed for dwelling purposes. The Title Deed also stipulated that a 30% coverage is applicable, but the business zoning allows a 75% coverage. Application is made to remove the restrictive Title Deed restriction.

The dwelling is historic, but since the owner now proposes to extend the dwelling, application is also made for a consent use to allow the dwelling on ground floor level in terms of the Business Zone III zoning.

4. SUMMARY OF APPLICANT'S MOTIVATION

THE MOTIVATION CAN BE SUMMARIZED AS FOLLOWS:

- ❖ The new proposed coverage will be 34%; therefore application is made to remove the restriction in the Title Deed of 30%.
- ❖ There are three (3) erven in The Crescent that is developed with dwellings; five (5) for business purposes and six (6) are vacant.
- ❖ In terms of the Land Use Scheme the property is zoned Business Zone III: Local Business.
- ❖ The proposal is compatible with the Overstrand municipal Spatial Development framework, 2020, as no change in land use is proposed.
- ❖ The proposal is in line with the Overstrand Municipality Growth Management Strategy, 2020, as the area is identified for residential development with a density of up to 30 units per ha, and an economic opportunity area.
- ❖ The existing zoning allows for a 75% coverage, and the proposed coverage will only be 34%.
- ❖ Building plans approved already show the dwelling on ground and first floors.
- ❖ The application is in a sense to legalize the existing dwelling portion on ground floor level in terms of the zoning of the property, and to allow further extensions on ground floor level.
- ❖ The dwelling extension will be on ground- and first floors.
- ❖ The application will improve the functionality of the building.
- ❖ Coverage will be consistent with the Land Use Scheme.
- ❖ No views, privacy or light of neighbours will be affected.
- ❖ Consistent with the character of the area.
- ❖ Consistent with policy documents.

PLANNING PRINCIPLES

- ❖ **Spatial Justice**
No impact.
- ❖ **Spatial Sustainability**
Application will not impact valuable agricultural land or environmentally sensitive areas.

- ❖ **Efficiency**
No impact on spatial efficiency.
- ❖ **Spatial Resilience**
Consistent with spatial efficiency.
- ❖ **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	05/04/2024	10/05/2024
Local newspaper	Yes	04/05/2024	10/05/2024
Notices per e-mail and on-site notice	Yes	05/04/2024	10/05/2024
Ward councillor	Yes	05/04/2024	10/05/2024
Total comments	TWO (2)		
Total letters of support	ONE (1)		
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	11/04/2024	No objection.
Building Control	05/04/2024	No objection.
Telkom	07/04/2024	See Annexure G.
Eskom	24/04/2024	See Annexure H.
Engineering Services	09/04/2024	See Annexure I.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

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

Two (2) letters of objection were received as well as one (1) letter of support from the following individuals:

-  D Wadley
-  N Petersen
-  L Wagner

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

Objection against a bottle store being developed and the establishment of a business hub and the impact thereof.

APPLICANT'S RESPONSE

The application is to allow a dwelling on ground floor and to have a coverage of more than 30%. For a bottle store a specific consent use application is required, and this application does not include such an application.

The objection is not applicable to the application.

TOWN PLANNER'S RESPONSE

The applicants' response is supported.

OBJECTION 2

The restriction should remain in place as additional developments will create a business hub depleting the quiet and open spacious environment.

APPLICANT'S RESPONSE

The objector is not aware that the property already has business rights and is in an approved business zone in terms of the Zoning Scheme and Overstrand Spatial Development Framework. The property owner will also use the property for residential purposes.

The objection is considered irrelevant.

TOWN PLANNER'S RESPONSE

The applicant's opinion is supported.

The property is situated in the only business node in Fisherhaven. The property also still has a restriction in its Title Deed which indicates that only a dwelling can be constructed on the property. Should the property owner ever want to utilize the property for business purposes in line with the zoning, such condition will firstly have to be removed.

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 larger dwelling and utilize his property more efficiently. This will also help to work against the phenomena of urban sprawl.

Spatial Resilience

The application is in line with spatial planning policies which promotes densification.

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.

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 accrue to the holder of rights in terms of the restrictive condition:

It will have no impact.

The personal benefits which accrue to the person seeking the removal of the restrictive condition:

It will only have a personal benefit for the applicant who wants to remove the restriction to be able to enlarge his dwelling.

The social benefit of the restrictive condition remaining in place

The restrictive condition for coverage was inserted in Title Deeds to control development prior to the approval of Zoning/Land Use Schemes. The Land Use Scheme now protects the rights of other property owners.

The social benefit of the removal of the restrictive condition

The benefit is that it will allow property owners to develop properties to its full potential. The property is situated in a business area and most surrounding properties can develop it to 75% coverage, in terms of the Land Use Scheme. The property however also still has stricter building lines in its Title Deed than surrounding Business zoned erven, and it would never be able to develop even a dwelling of close to such coverage. The application is to develop a dwelling with 34% coverage.

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

Application is made to only remove the restriction regarding coverage.

12. THE DESIRABILITY OF THE PROPOSAL

The erf measures 516m² in extent and is developed with a double storey dwelling with double garage. The erf is in a business area and is zoned Business Zone III.

The Title Deed however shows that the property may only be developed for dwelling purposes. The Title Deed also stipulated that a 30% coverage is applicable, but the business zoning allows a 75% coverage. Application is made to remove the restrictive Title Deed restriction.

The dwelling is historic, but since the owner now proposes to extend the dwelling, application is also made for a consent use to allow the dwelling on ground floor level in terms of the Business Zone III zoning. The original dwelling was approved in 2004; at that stage it was considered a right to construct one dwelling on any property. The new Land Use Scheme however requires an application. This is also the reason why no application for administrative penalty fee is included, since the dwelling was approved previously. This part of the application is supported as it will have no impact on the character of the area or have no impact on neighbours.

The second part of the application is to remove the Title Deed restriction limiting coverage on the property to 30%. The property is situated in a business area and most surrounding properties have a 75% coverage. The property however also still has stricter building lines (a 4,72m street building line and 1,57m lateral building lines) in its Title Deed than surrounding Business zoned erven, and it would never be able to develop even a dwelling of close to such coverage. The applicant's intention is to only extend the dwelling to a coverage of 34%. This part of the application will have no impact on the character of the area with some dwellings on some of the business zoned erven and some others developed with businesses.

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

The application was advertised, and two (2) objections were received. The applicant addressed the objections and his opinion that the objections are not relevant is supported. The objections were discussed in detail under Paragraph 7 in this report.

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 121, Fisherhaven for the removal of restrictive title deed condition E.4.(c) as contained in Title Deed T28893/2021 of the property to accommodate additions to the existing dwelling on the property, **be approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 121, Fisherhaven for a consent use to accommodate a proposed dwelling unit on the ground floor level, **be approved**, in terms of the provisions of Section 61 of the By-Law;
4. that the approvals in Points 2 and 3 above be subject to the following conditions:
 - (a) that this approval is only for the removal of restriction and a consent use for a dwelling house on ground floor, and is not an approval in terms of any other legislation;
 - (b) that the approval is only for the development as indicated on plan number LKN 161/2023 – Rev 1 dated 29 November 2023, submitted with the application;
 - (c) 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;
 - (d) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (e) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with;
 - (f) that the conditions of Eskom (attached as Annexure H) be complied with, and
 - (g) that all the conditions in the Services Report (attached as Annexure I), be complied with.
5. that the applicant and persons who commented 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 Departments and State or other institutions.
- ❖ The objections received are not relevant as no application was submitted for a bottle store and the property is already situated in an approved business node and therefore the application cannot impact the character of Fisherhaven.
- ❖ No Municipal services are affected.
- ❖ The original dwelling was approved in line with the Title Deed restrictions which allow a dwelling on ground floor, and the application for a consent use to allow the dwelling extensions on ground floor is only to address the conflict with the existing Land Use Scheme regulations for Business Zone 3 erven.
- ❖ The coverage allowed for Business Zone 3 erven in this area is 75%, and an existing dwelling enlarged to a 34% coverage will not have an impact on the character of this area.
- ❖ The application will not have a negative impact on neighbours.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Building Plan
Annexure D:	Title Deed T28893/2021
Annexure E:	Objections and support letter received
Annexure F:	Applicant's response to objection
Annexure G:	Comment: Telkom
Annexure H:	Comment: Eskom
Annexure I:	Services Report

SIGNATURES**AUTHOR:**

Name: **HENK OLIVIER**

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

Signature: _____

Date: _____

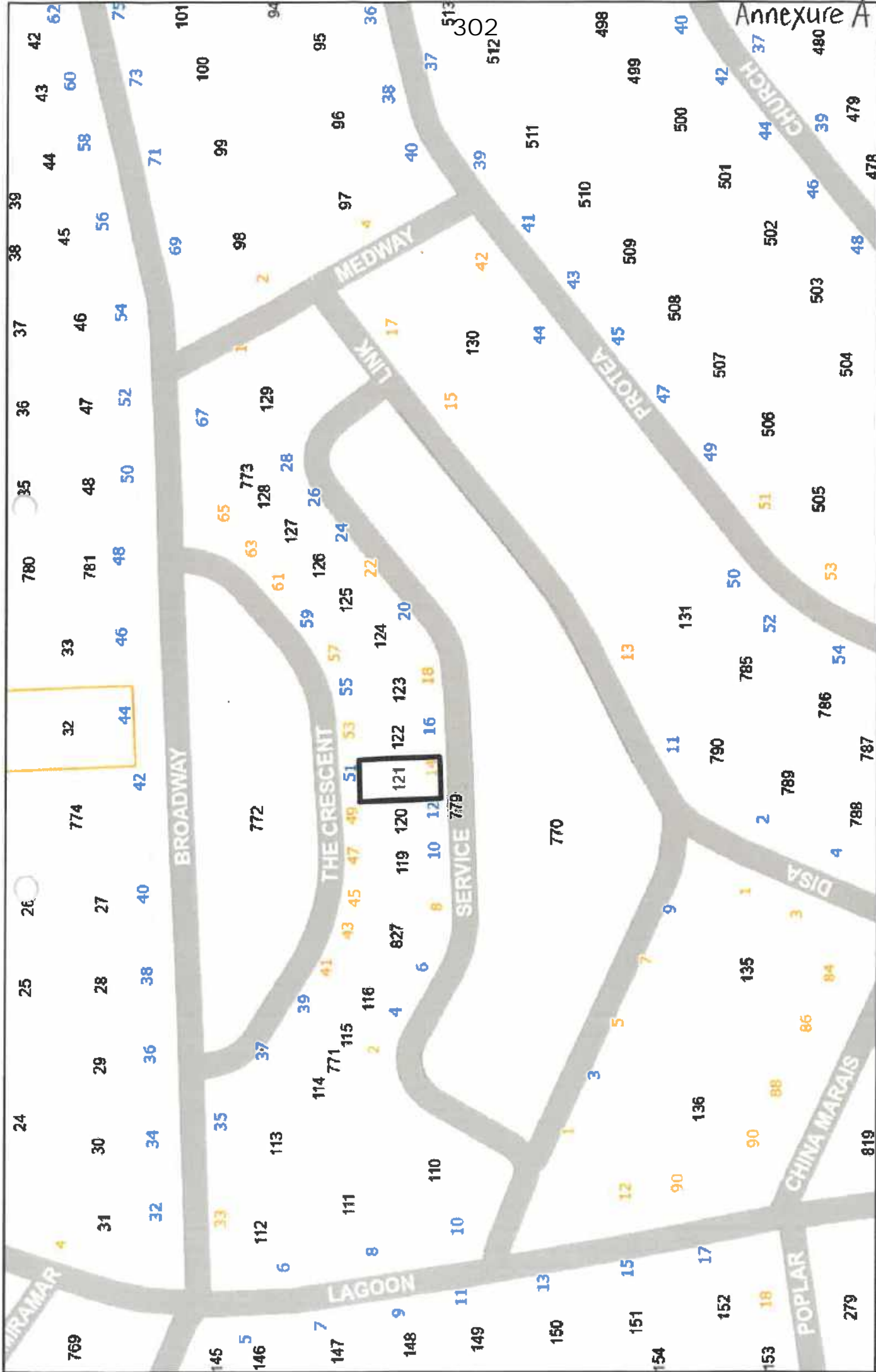
REGISTERED PLANNER

Name: **H VAN DER STOEP**

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

Signature: _____

Date: _____

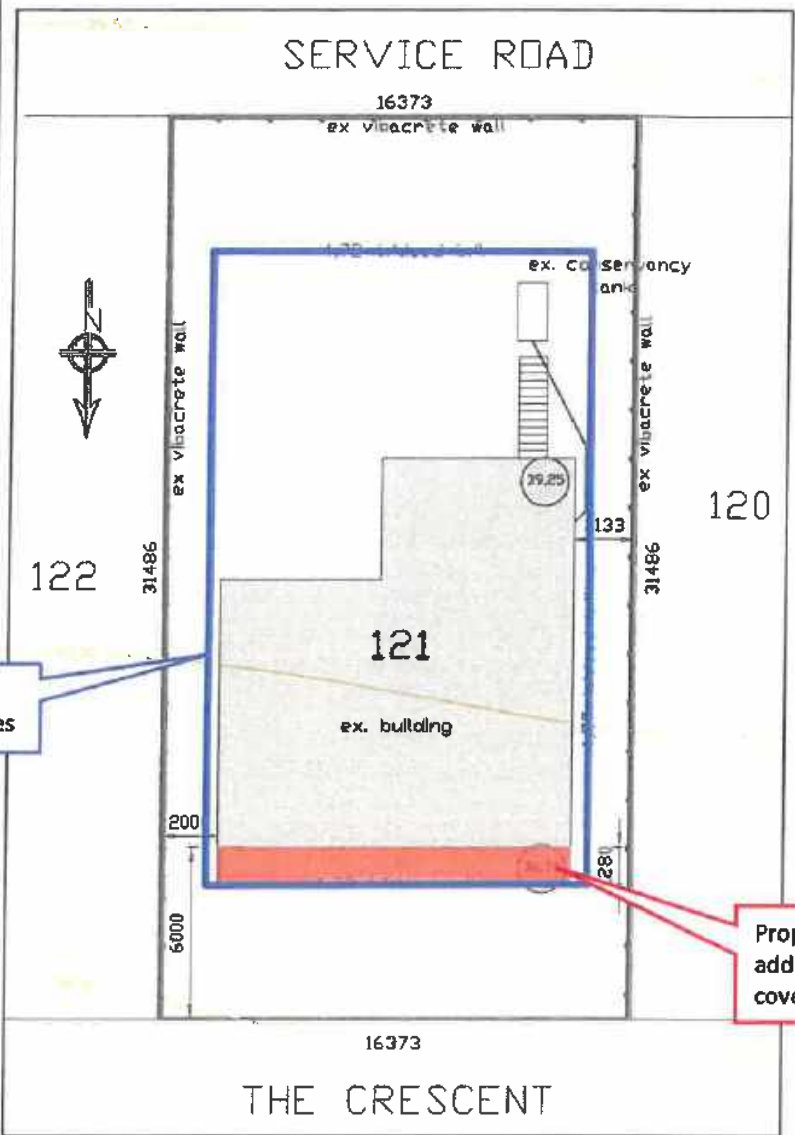


Annexure A

1. Introduction

a. Brief
 Refer to Annexure B for the Power of Attorney.
 Interactive Town and Regional Planning was appointed by the owner of the property Raymond and Belinda Haggard to prepare and submit an application for the removal of a restrictive title deed condition and a consent use for a dwelling unit on the ground floor of Erf 121, Fisherhaven in terms of the relevant legislation.

b. Background, Development Objective & Application Proposal
 The development objective is to legalise an existing double storey dwelling and the proposed addition of more than 30% coverage in terms of the title deed restriction to be aligned with the Overstrand Municipal Zoning Scheme.
 The zoning scheme does not allow for a dwelling on the ground floor as a primary right in terms of the existing zoning scheme.
 The title deed contains a title deed condition that restricts coverage to 30%. Additions are proposed which will exceeds in a coverage of 30%.
 As a result, application is made to remove title deed Condition E.4.(c) from Title Deed 28893/2021 as also application is made for a consent-use for a dwelling unit on the ground floor.



Title Deed building lines

Proposed additional coverage

Figure 1: Site Plan extract

2. The Application	
<p>a. Analysis: Title Deed Refer to Annexure D for the Conveyancer Certificate.</p>	<p>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.</p> <p><u>Title Deed 28893 /2021</u></p> <p><i>"E. SUBJECT FURTHER to the following special conditions newly imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance No 33 of 1934 when approving the establishment of Fisherhaven Township, as contained in Deed of Transfer T36503/1982."</i></p> <p><i>"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:"</i></p> <p><i>"(c) not more than 30% of the area thereof shall be built upon;"</i></p>

b. Analysis: Development Criteria:	Parameters	Existing Zoning:	Proposal:	Comments	
The development parameters for Erf 121 Overstrand as per the Overstrand Municipality Land Use Scheme, 2020 are summarised as follows:	Zoning	Business Zone 3: Local Business	Business Zone 3: Local Business	Consistent	
	Primary Use	Shops, dwelling unit (above ground floor), flats (above ground floor), offices, restaurant, caretaker's accommodation and self-catering.	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.	Dwelling unit on the ground floor	Application includes a consent use	
	Coverage	75% (30% in term of the title deed)	34%	Application includes the removal of a restrictive title deed condition	
	Floor factor	1.5	0.68	Consistent	
	Height	8.5m 2 storeys	6.8m	Consistent	
	Building lines	Street	0m (4.72m in terms of the title deed)	4.72	Consistent
		Side	0m 3m when abutting a different zone (1.57m in terms of the title deed)	2m	Consistent
		Rear	3m (3.15m in terms of the title deed)	12m	Consistent
Parking	2 bays per dwelling unit	2 bays for the dwelling unit	Consistent		
c. Application: The application form is attached as Annexure A.	<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 E.4.(c) from Title Deed 28893/2021 in terms of Section 16(2)(f). Consent Use for a dwelling unit on the ground floor in terms of Section 16(2)(o). 				

3. Contextual Site Information

a. **Property Description**

Refer to Annexure E for the SG Diagrams, Annexure C for the Title Deed of Erf 121 Fisherhaven.

Property	Extent	Title Deed	Registered Owner
Erf 121 Fisherhaven	516m ²	T28893/2021	Raymond and Belinda Haggard

The following Surveyor General Plans reflect the application site:

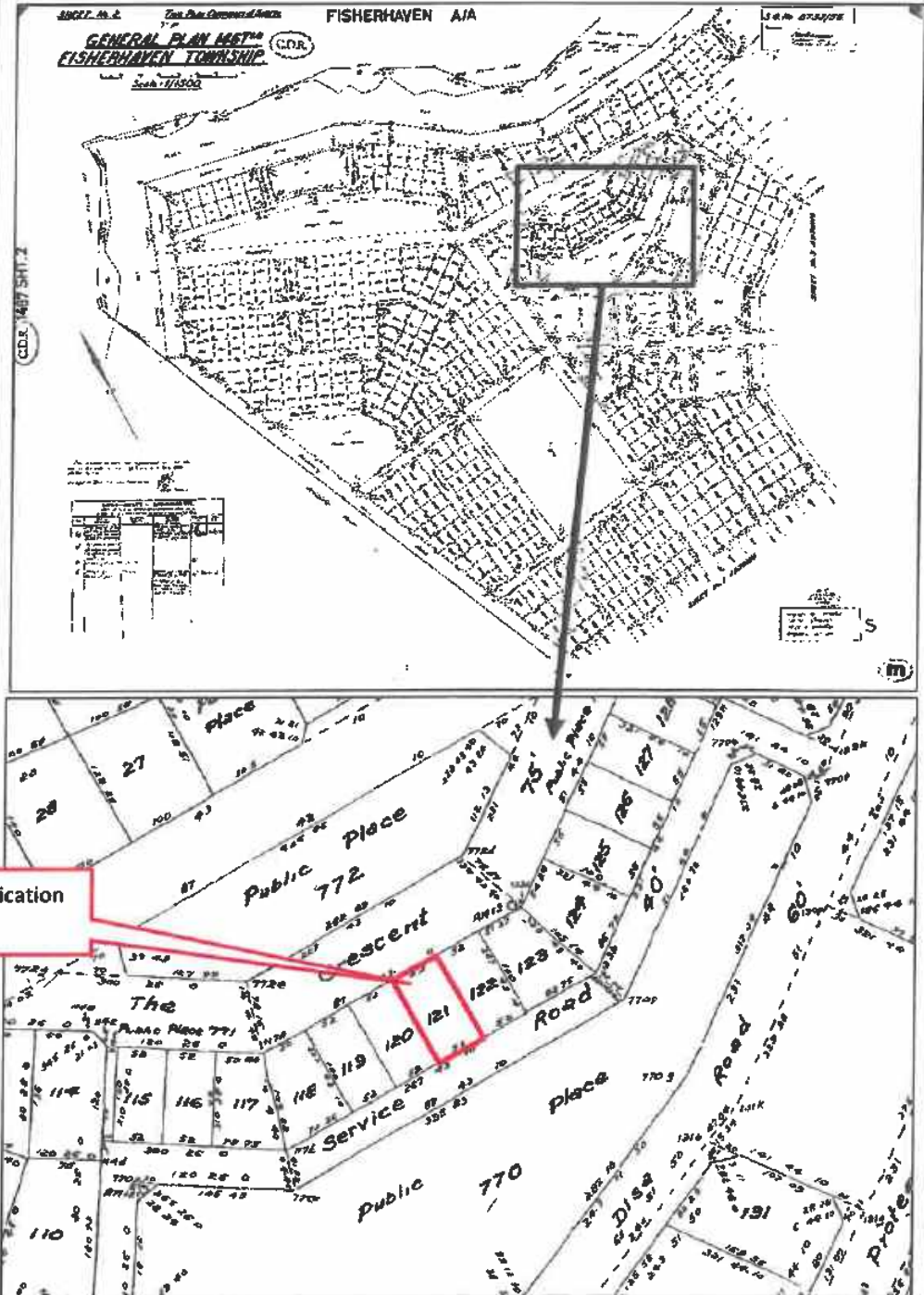


Figure 2: Extracts of the Surveyor General Plans of the application site

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.

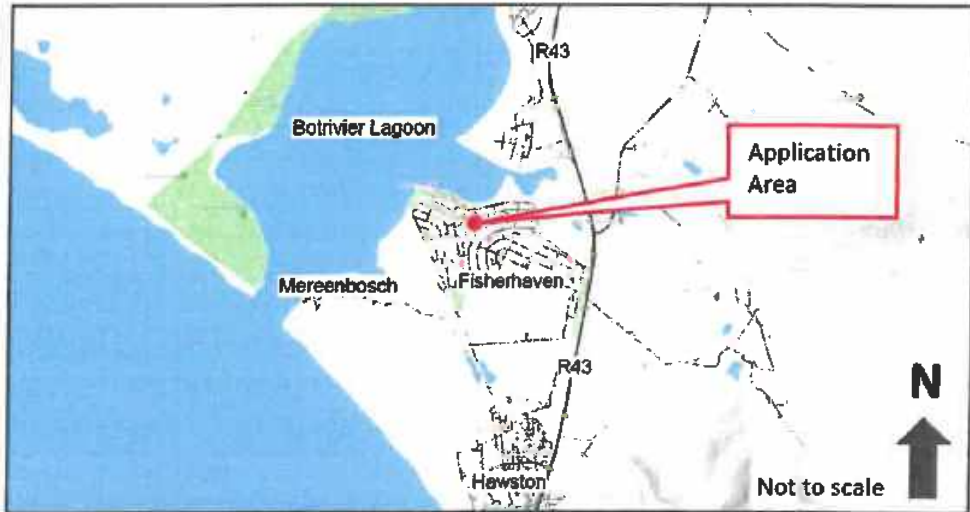


Figure 3: Locality Plan – Regional Context

Local Context:

The application area is located at number 51 The Crescent 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 single residential 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. No change in land use is proposed. The application proposal is consistent with the land use of the area.



Figure 5: Aerial 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 121, 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.

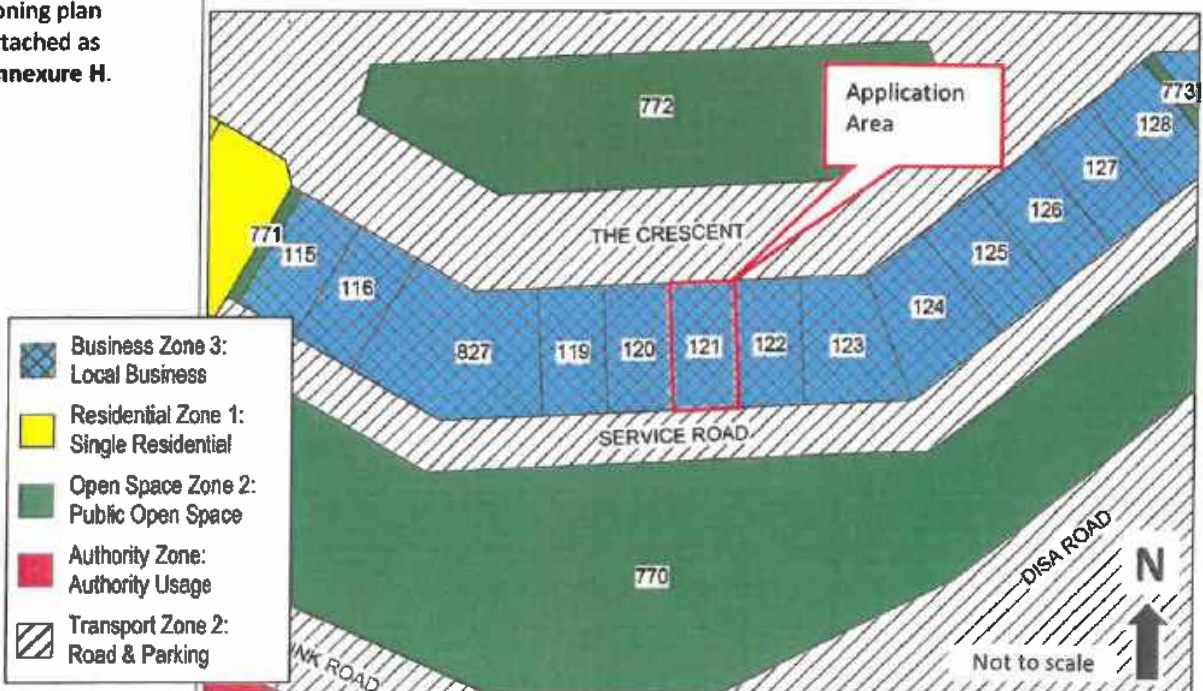


Figure 6: Extract from the Overstrand Municipality: Online zoning viewer

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 Developed Business Zone. The proposal is for additions to the existing dwelling house. No change in land use is proposed.

The application is compatible 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.

The proposal for the amendment of the existing dwelling will not impact on density and the existing land use will be retained.

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

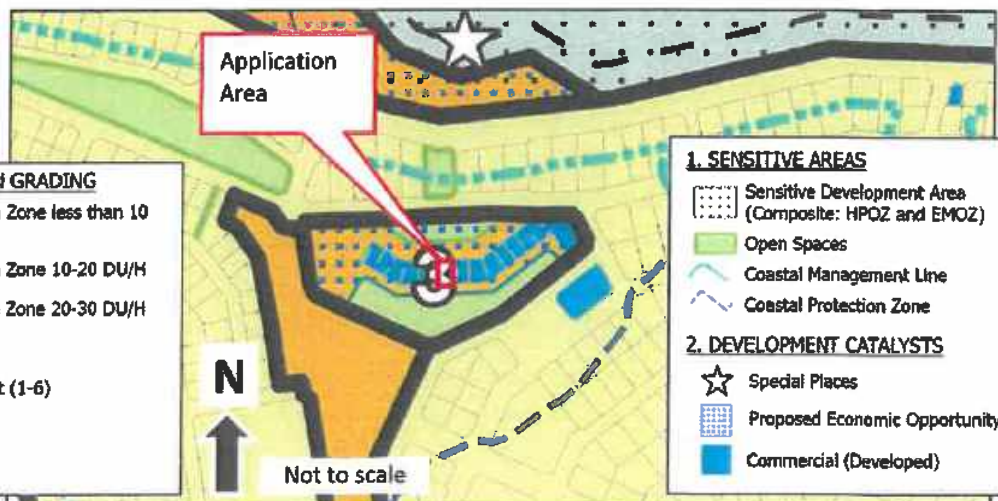
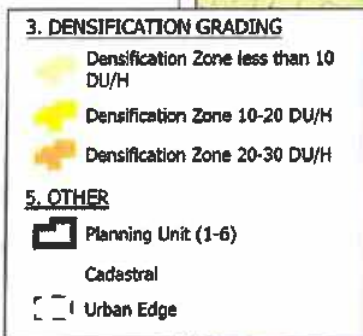


Figure 8: Extract from the Overstrand Municipality Growth Management Strategy, 2020 reflecting the envisaged land-uses for the area.

4. Motivation

Motivation for the application:

Refer to Annexure I for the Building Plan

a. Introduction and Background

The application area accommodates a dwelling house on Erf 121 Fisherhaven which is located within the existing Fisherhaven business node. The application area is zoned Business Zone 3: Local Business, which only allows for a dwelling unit on the ground floor as a consent use.

In addition to the above, the title deed contains a title deed condition that restricts the coverage of buildings to 30%. The zoning scheme allows for a coverage of up to 75%. The development proposal is for additions to the existing dwelling exceeding 34% coverage. Therefore an application is made for the removal of the restrictive title conditions as well as for a consent-use to allow the use of the property for residential purposes on the ground floor level as well.

Building plans have been approved in 2021 with a dwelling unit that is on both the ground and first floors.

The ground floor was approved with a garage, bedroom, bathrooms, store and workshop.

The first floor was approved with a living room, bedroom, bathroom and kitchen.

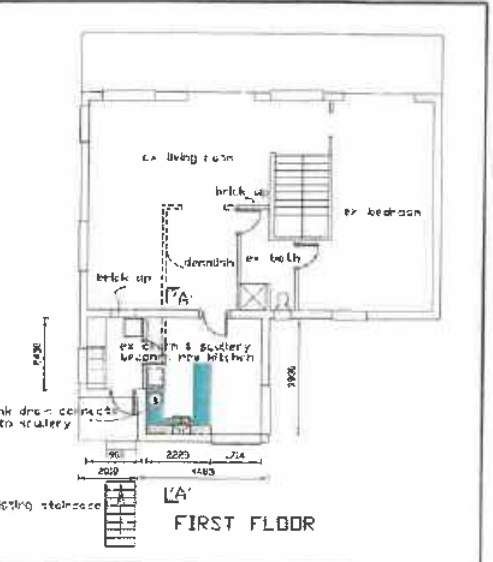
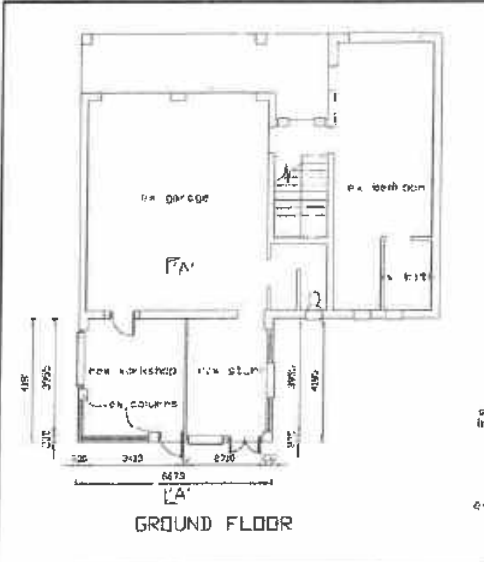
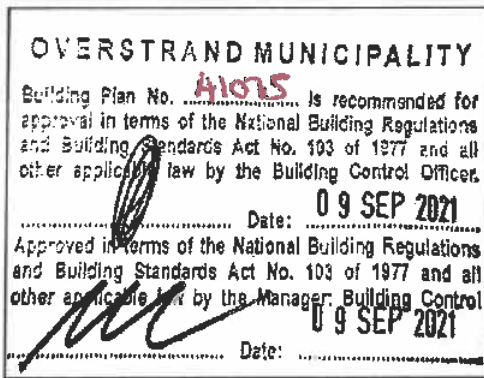
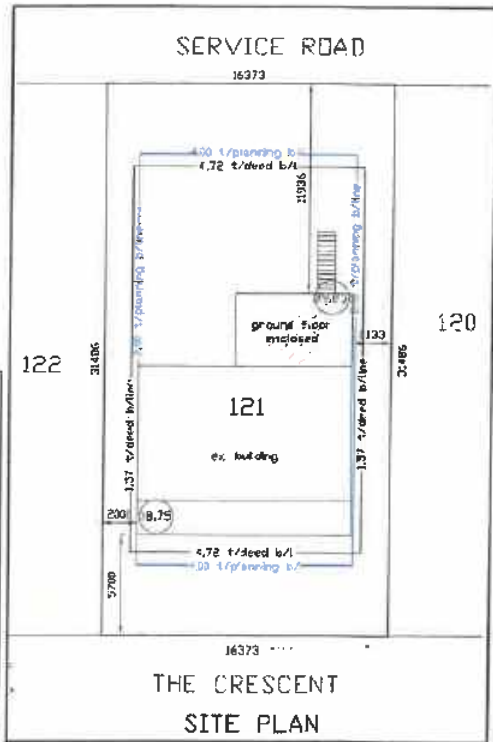


Figure 9: Screenshots of the building plans approved in 2021 and a photograph extract showing the approval stamp

Title Deed 28893/2021

"E. SUBJECT FURTHER to the following special conditions newly imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance No 33 of 1934 when approving the establishment of Fisherhaven Township, as contained in Deed of Transfer T36503/1982."

"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:"

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

b. Proposal

The **development objective** is to legalise the existing dwelling on the ground floor level and to extend the dwelling unit to enlarge two bedrooms, a garage and the addition of a sunroom. The proposal will result in a coverage of 34% which exceeds the title deed 30% coverage restriction. Application is therefore to remove the coverage restriction from the title deed and to apply to allow for residential purposes on ground floor level.

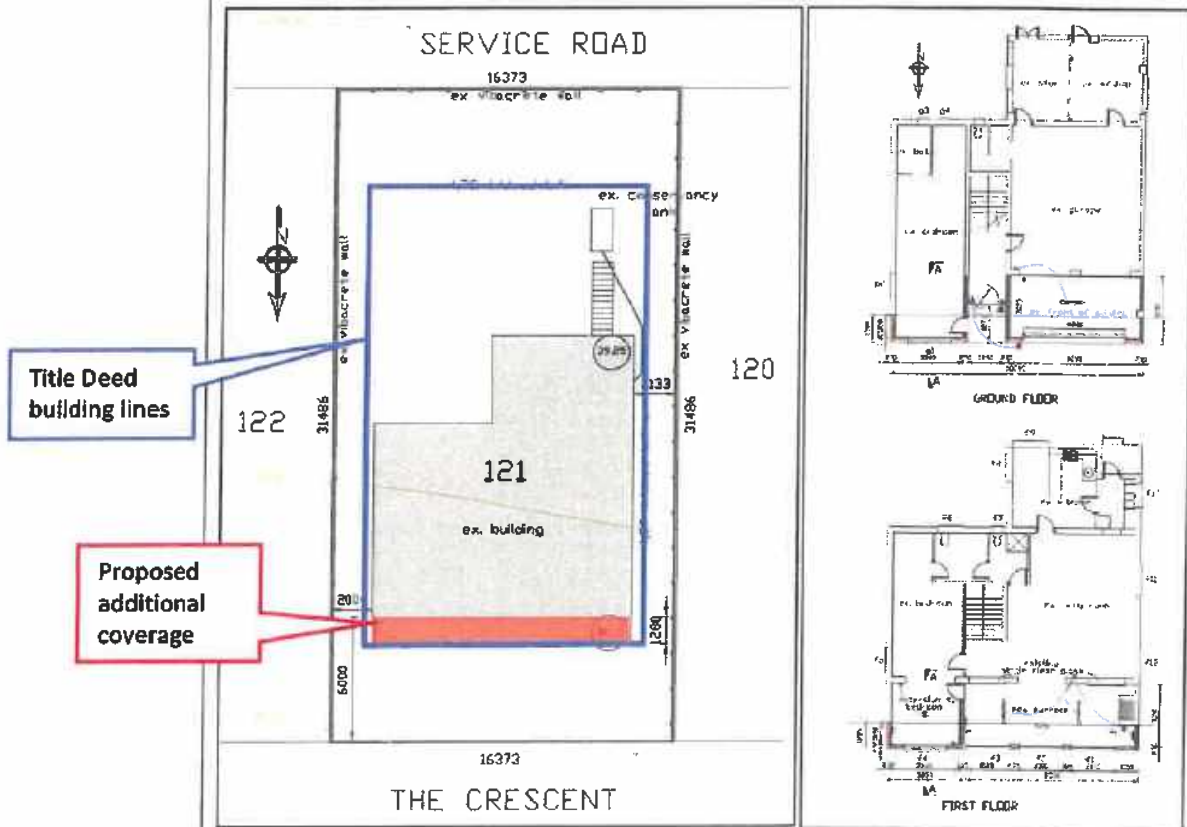



Figure 10: Site Plan extract & Floor Plan extracts

	 <p>Figure 11: Elevations</p> <p>The dwelling unit is proposed to be extended 1.28m towards The Crescent from 6m to 4.72m resulting to a coverage of 34%. The proposal is consistent with both the title deed and zoning scheme building lines and will not negatively impact on views, privacy, light, safety or the character of the area.</p> <p>The existing building was approved and built as a double storey dwelling, however the zoning scheme restriction only allowing a dwelling unit above ground floor level was not prohibited during the time when the building plans were submitted and accordingly approved. Therefore this application serves as legalisation of the dwelling unit on ground floor level. Evident from the Land-Use Plan (Figure 5) two adjacent properties are also developed as residential properties, hence aligned with the general character of the area. The residential use is not considered to have a negative impact on the business earmarked area and has the potential to be used for business purposes in future.</p> <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 improve the functionality of the dwelling unit. • The proposed coverage is consistent with the Overstrand Municipality Land Use Scheme, 2020. • The proposal will not affect views, privacy or light of neighbouring properties. • The proposal is consistent with the character of the area. • The proposal is consistent with the relevant policy documents. • Sufficient space is still available around the property for access for services, maintenance, emergency services and so forth.
	<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> <ol style="list-style-type: none"> 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>Possible results of the development The development proposal will allow for the amendment of the existing dwelling and will not impact on spatial justice.</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 proposal will result in the amendment of the existing dwelling and will not impact on valuable agricultural land, environmentally sensitive areas, biodiversity rich areas or scenic or cultural landscapes.</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 not impact on the design of Fisherhaven and will not impact on spatial efficiency.</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 Approval of the application will allow for the existing dwelling, thus avoiding a potential economic shock, that will occur should the application not be approved.</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>
--	---

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 E.4.(c) from Title Deed 28893/2021 in terms of Section 16(2)(f).
- Consent Use for a dwelling unit on the ground floor in terms of Section 16(2)(o).

340

DYKES VAN HEERDEN SLABBERT
 HOPKINS
 Unit E4/2
 Edward IV
 120-122 Edward Road
 Bellville 7530
 South Africa

Prepared by me

[Signature]
 CONVEYANCER
 LISE COETZEE (85098)

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 1 999 000,00	R. 283,00
Reason for exemption	Category Exemption	Exemption i t o. Sec/Reg. Act/Proc.

DATA / VERIFY
 15 -06- 2021
 LINDA NCAPAI

DATA / CAPTURE
 15 -06- 2021
 NOLUVO MTYATYAMBA

T 000028893 / 2021

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

~~LISE COETZEE (85098)~~

JACOBUS PETRUS VAN ZYL

LPCM 79800

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

ALBERTHA ADRIANA MOSTERT
 Identity Number 520311 0050 08 0
 Unmarried

which said Power of Attorney was signed at FISHERHAVEN on 14 MAY 2021

And the appearer declared that his/her said principal had, on 24 April 2021, truly and legally sold by Private Treaty, 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:

1. **RAYMOND HAGGARD**
Identity Number 460208 5035 08 6
Married out of community of property
2. **BELINDA ANN HAGGARD**
Identity Number 540106 0101 08 1
Married out of community of property

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

ERF 121 FISHERHAVEN
IN THE OVERSTRAND MUNICIPALITY
DIVISION CALEDON
PROVINCE OF THE WESTERN CAPE

IN EXTENT 516 (FIVE HUNDRED AND SIXTEEN) Square metres

FIRST TRANSFERRED by Deed of Transfer Number T36503/1982 with Diagram No. 7433/1976 relating thereto and held by Deed of Transfer Number T10065/2015

- A. **SUBJECT** to the conditions referred to in Deed of Transfer No T10065/2015.
- B. **SUBJECT FURTHER** to the conditions mentioned in Deed of Partition Transfer No T8000 dated 22 October 1931 in favour of Josias Servaas Delport, that Petrus Johannes Delport and his successors in title of the property called ROOI SAND, part of AFDAKS RIVIER, transferred to him on 22nd October 1931 No 7998 shall have the right of trekking with his sheep twelve times a year over the property indicated by the said Transferee and his aforesaid.
- C. **SUBJECT FURTHER** as set forth in Certificate of Uniform Title No T5659/1959, namely:-
 - (2) To the right to take land and remove materials for making and repairing public roads.
- D. **SUBJECT FURTHER** to the condition referred to in the Endorsement dated 11th May 1970 on said Deed of Transfer No T11975 dated 6 June 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 11/1964) dated 1st February 1965 as will more fully appear on reference to the copy of the said Order annexed to Deed of Transfer No T11190/1960."

E. SUBJECT FURTHER to the following special conditions newly imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance No 33 of 1934 when approving the establishment of Fisherhaven Township, as contained in Deed of Transfer T36503/1982.

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 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 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 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 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 3,05 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 provision 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.

F. **SUBJECT FURTHER** to the condition imposed by the Transferor Company in its favour of owner of the remainder of Fisherhaven Township and its successors in title, and held by it by said Deed of Transfer dated 6 June 1967, No 11975 to wit:

Page 5

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

In the foregoing condition the expressions "the Company" shall mean LAKE MARINA PROPERTIES PROPRIETARY LIMITED and its successors in title"

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

ALBERTHA ADRIANA MOSTERT, Unmarried

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

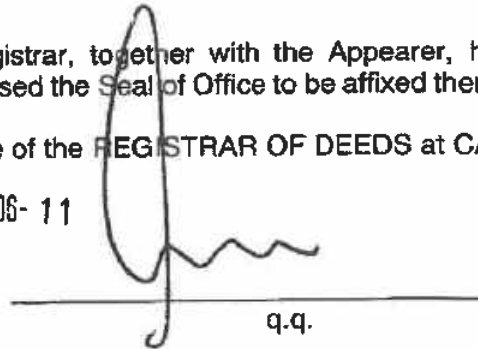
1. **RAYMOND HAGGARD, Married as aforesaid**
2. **BELINDA ANN HAGGARD, Married as aforesaid**

their Heirs, Executors, Administrators or Assigns, now are 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 R1 999 500,00 (ONE MILLION NINE HUNDRED AND NINETY NINE THOUSAND FIVE HUNDRED 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

2021-06-11



q.q.

In my presence



REGISTRAR OF DEEDS

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

Erf 121 Fisher haven

Loretta Gillion

From: dennis wadley <d...>
Sent: Saturday, 06 April 2024 12:20
To: Loretta Gillion

TP-D. Aheart
(H. Olivia)

We are absolutely against having a bottle shop in Fisherhaven. It seems people keep making that one of the things they might want to do with their property...hard no!

Also, they can't say that they uses can change after the approval of the removal of the restriction...no!

Dennis Wadley

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



Good day Sir/ Madame

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), of the following application applicable to Erf 121, Fisherhaven, namely:

Removal of Restrictive Title Deed Condition: Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed condition E.4(c) as contained in Title Deed T28893/2021 of the property to accommodate the proposed additions to the existing dwelling on the property.

Consent Use: Application in terms of Section 16(2)(o) of the By-Law to accommodate a proposed dwelling unit on the ground floor.

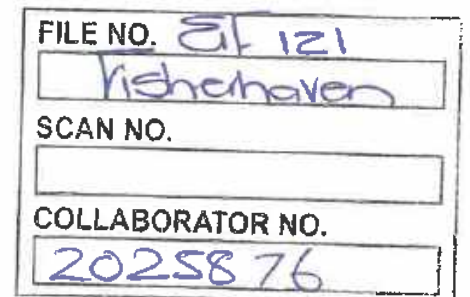
In summary, the application is for the following:

The purpose of the application is to allow for the expansion of the existing dwelling on Erf 121 Fisherhaven at No. 51, The Crescent. Application is made to remove a restrictive title deed condition which restricts the building coverage on the erf to 30% to allow for the expansion of the existing dwelling. Furthermore application is made for a consent use for a dwelling unit on the ground floor to allow for the expanded dwelling.

Please find attached the motivational report and proposal plan for additional information.

Any comments must be in writing to reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before **10 May 2024**, quoting your name, address and contact details, interest in the application, and the reasons for comment. Telephonic enquiries can be made to the Town Planner, Mr. H Olivier at 028-313 8900. The Municipality may refuse to accept comment received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comments.

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



8 APR 2024

Loretta Gillion

From: Nizar Petersen < >
Sent: Monday, 08 April 2024 07:39
To: Loretta Gillion
Subject: FW: Erf 121 Fisherhaven: Removal of a Restrictive Title Deed Condition and a Consent Use
Attachments: Public Participation Notice.pdf

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
08 APR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Morning

I object to the Restriction removal

Erf 787
56 Protea Road

*TP. n. Aheath
(H. Olivier)*

FILE NO. <i>of 121</i>
<i>Fisherhaven</i>
SCAN NO.
COLLABORATOR NO. <i>2025931</i>



NIZAR PETERSEN

EMAIL: nizarp@hiconstruction.co.za
OFFICE: +27 (0)21 976 1110
PHONE: +27 (0)65 819 0426

www.hiconstruction.co.za

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From: josiahm@iatrp.co.za <josiahm@iatrp.co.za>
Sent: Friday, 05 April 2024 16:11
To: josiahm@iatrp.co.za
Subject: Erf 121 Fisherhaven: Removal of a Restrictive Title Deed Condition and a Consent Use

Good day Sir/ Madame

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), of the following application applicable to Erf 121, Fisherhaven, namely:

Removal of Restrictive Title Deed Condition: Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed condition E.4(c) as contained in Title Deed T28893/2021 of the property to accommodate the proposed additions to the existing dwelling on the property.

Loretta Gillion

From: Nizar Petersen <
Sent: Monday, 08 April 2024 09:16
To: Loretta Gillion
Subject: RE: Erf 121 Fisherhaven: Removal of a Restrictive Title Deed Condition and a Consent Use

I object to this application, and believe the restriction must remain in place

Fisherhaven is known for its quiet and open spacious environment, all these additional developments will create a business hub setting, and remove the reason why I chose to live in the area.

When you purchase land in the area you are aware of the title deeds, if we remove restrictions for one we have to remove restrictions for all

*TP - N. Petersen
(H. Olivier)*



NIZAR PETERSEN

EMAIL:
OFFICE:
PHONE:

www.hiconstruction.co.za

FILE NO. *EF 121*
Fisherhaven
 SCAN NO.
 COLLABORATOR NO.
2026602

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From: Loretta Gillion <loretta@overstrand.gov.za>
Sent: Monday, 08 April 2024 09:01
To: Nizar Petersen <>
Subject: RE: Erf 121 Fisherhaven: Removal of a Restrictive Title Deed Condition and a Consent Use

Dear Sir

Your email below refers.

Kindly provide your reasons for your objection as prescribed in Section 52 of the By-Law.

Loretta Gillion

From: Lothar Wagner < >
Sent: Monday, 08 April 2024 14:47
To: josiahm@iatrp.co.za
Cc: Loretta Gillion
Subject: Re: Erf 121 Fisherhaven: Removal of a Restrictive Title Deed Condition and a Consent Use

No Objection

Lothar Wagner

UNIT 6, Lake View Cottages

44 Broad Way

Fisherhaven

On 2024/04/05 16:11, josiahm@iatrp.co.za wrote:

Good day Sir/ Madame

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), of the following application applicable to Erf 121, Fisherhaven, namely:

Removal of Restrictive Title Deed Condition: Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed condition E.4(c) as contained in Title Deed T28893/2021 of the property to accommodate the proposed additions to the existing dwelling on the property.

Consent Use: Application in terms of Section 16(2)(o) of the By-Law to accommodate a proposed dwelling unit on the ground floor.

In summary, the application is for the following:

The purpose of the application is to allow for the expansion of the existing dwelling on Erf 121 Fisherhaven at No. 51, The Crescent. Application is made to remove a restrictive title deed condition which restricts the building coverage on the erf to 30% to allow for the expansion of the existing dwelling. Furthermore application is made for a consent use for a dwelling unit on the ground floor to allow for the expanded dwelling.

Please find attached the motivational report and proposal plan for additional information.

Any comments must be in writing to reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before **10 May 2024**, quoting your name, address and contact details, interest in the application, and the reasons for comment. Telephonic enquiries can be made to the Town Planner, Mr. H Olivier at 028-313 8900. The Municipality may refuse to accept comment received after the closing date. Any person who



InterActive Town & Regional Planning

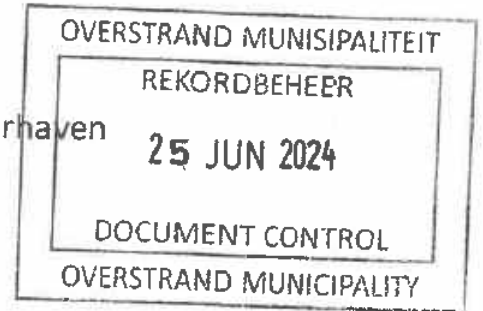
PO Box 980

Overstrand

7200

Reference: Erf 121 Fisherhaven

Date: 24 June 2024



ERF 121, 51 THE CRESCENT, FISHERHAVEN: APPLICATION FOR REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION AND CONSENT USE: INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF R & BA HAGGARD

With reference to your request dated 30 May 2024 please find my response to the objections for the application for the removal of a restrictive title deed condition and a consent use.

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)

*TP-n. Theart
(M. Olivier)*

FILE NO.	121
	Fisherhaven
SCAN NO.	
	HFH 121
COLLABORATOR NO.	
	2067199

1. Introduction

a. Background

An application was submitted on 14 March 2024 for a removal of restrictive title conditions and a consent use application to allow for a dwelling house on ground floor and exceeding the title deed coverage area.

Two objections were received from the following objectors:

1. N. Petersen
2. D. Wadley

A letter of no objection was also received from Lothar Wagner

In terms of the statutory legislation, the Overstrand Municipality requested via a letter dated 30 May 2024, for a response to the objections.

b. Application Objective

The application objective is to legalise an existing dwelling in terms of the title deed restriction and the Overstrand Municipal Zoning Scheme.

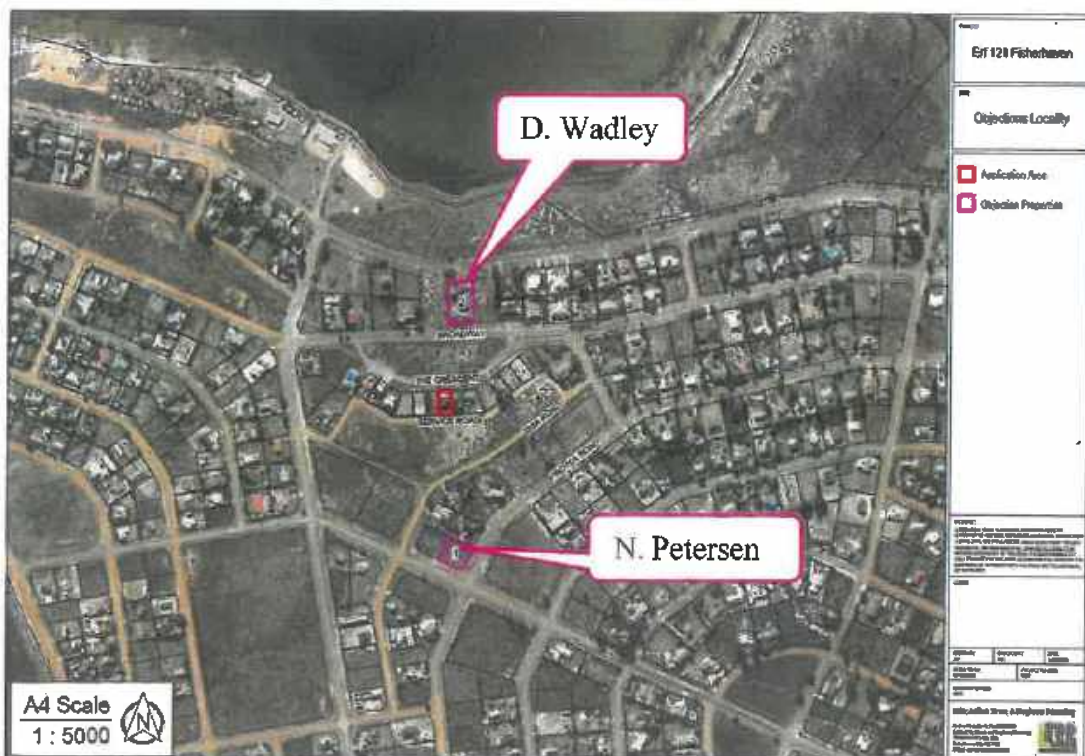
The zoning scheme does not allow for a dwelling on the ground floor as a primary right in terms of the existing zoning scheme.

The title deed contains a title deed condition that restricts coverage to 30% and the additions will exceed the said coverage.

As a result, application is made to remove title deed Condition E.4.(c) from Title Deed 28893/2021 and a consent-use to allow for a dwelling unit on the ground floor.

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

The objections are against a bottle store and the establishment of a business hub and the impact there-of.

3. The application

Application is made to remove the following title deed conditions restricting the optimal development of the property:

Title Deed 28893/2021

"E. SUBJECT FURTHER to the following special conditions newly imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance No 33 of 1934 when approving the establishment of Fisherhaven Township, as contained in Deed of Transfer T36503/1982."

"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:"

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

The owner is also applying to allow via a consent use application for a dwelling unit on the ground floor as the current zoning does only allow for residential use on the first floor in terms of it's current zoning rights Business Zone 3: Local Business.

Subsequent to the above, application is made in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020, for the following:

- The removal of restrictive title deed condition E.4.(c) from Title Deed 28893/2021.
- Consent Use for a dwelling unit on the ground floor

4. Methodology

Subsequent to the nature of the objections received both the objections will be dealt with individually.

5. Response to the objections

a. Objection from Mr. Dennis Wadley

i. Summary of the objection

The objector objects to a bottle store.

ii. Response to the objection

The objector needs to understand that this application is to allow for residential purposes on the ground floor as well as to exceed the coverage of the application area to more than 30% in order to aligned the land use rights with the Overstrand Land Use Scheme, 2020 in terms of its zoning, Business Zone 3: Local Business.

To obtain permission for a bottle store, a consent use specifically for a bottle store will have to be lodged. This application does not make provision for a bottle store.

The objection from Mr. Wadley is not applicable to the application and therefore should be rejected.

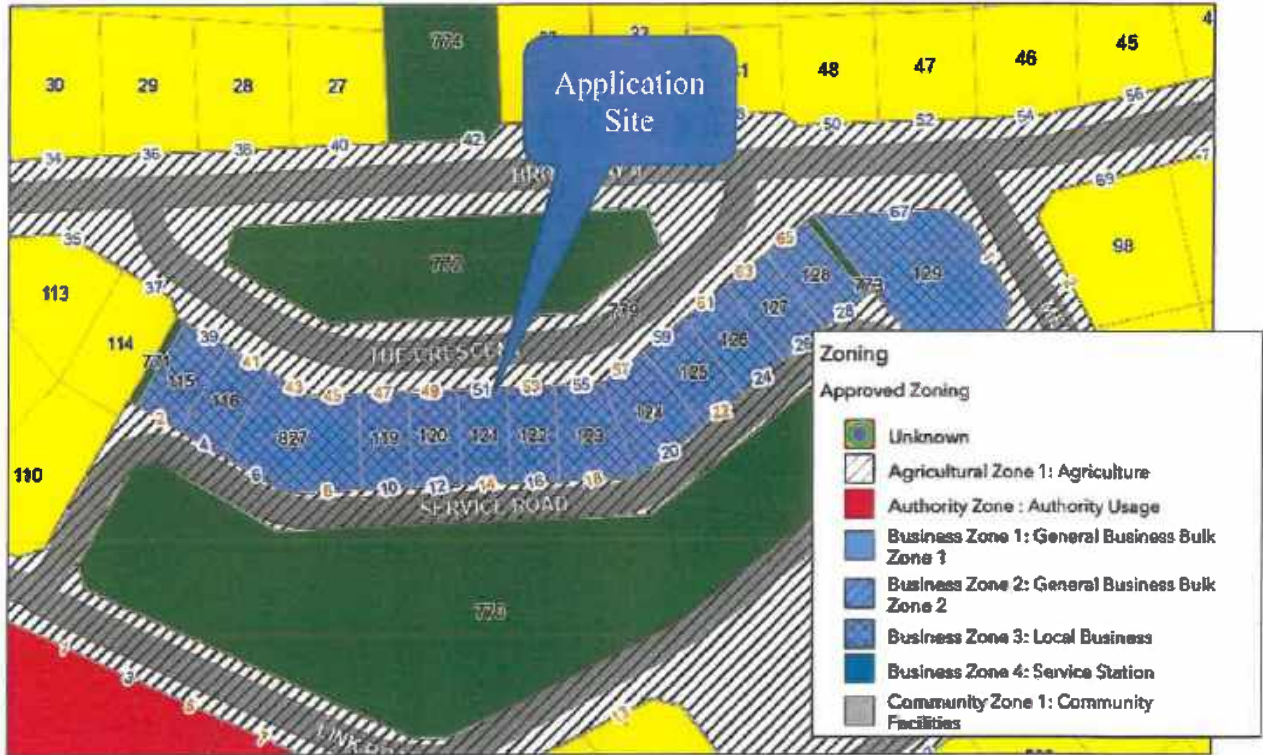
b. Objection from Mr. Nizar Petersen

i. Summary of the objection

The objector states that the restriction being applied for should remain in place as additional developments will create a business hub depleting the quiet and open spacious environment.

ii. Response to the objection

The objector does not take into account or is not aware of the fact that the property already has business rights and is located within an area approved as a business zone as shown in the following extracts from the Zoning Scheme and Overstrand Spatial Development Framework:



It also appears that the objector is not aware, as clearly spelled out in the subject application, that the applicant's intension is to use the property for residential purposes.

Given the above, the points of objection is considered irrelevant and should be omitted by the deciding authority.

6. Conclusion

It can be concluded that both the objections are irrelevant as the application is not for a bottle store or a business area as the application is to accommodate a residential dwelling within an area already approved as a business node and use in terms of spatial policy. Both objections are not considered applicable to the application.

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

Kind Regards



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

PROJECT
Erf 121 Fisherhaven

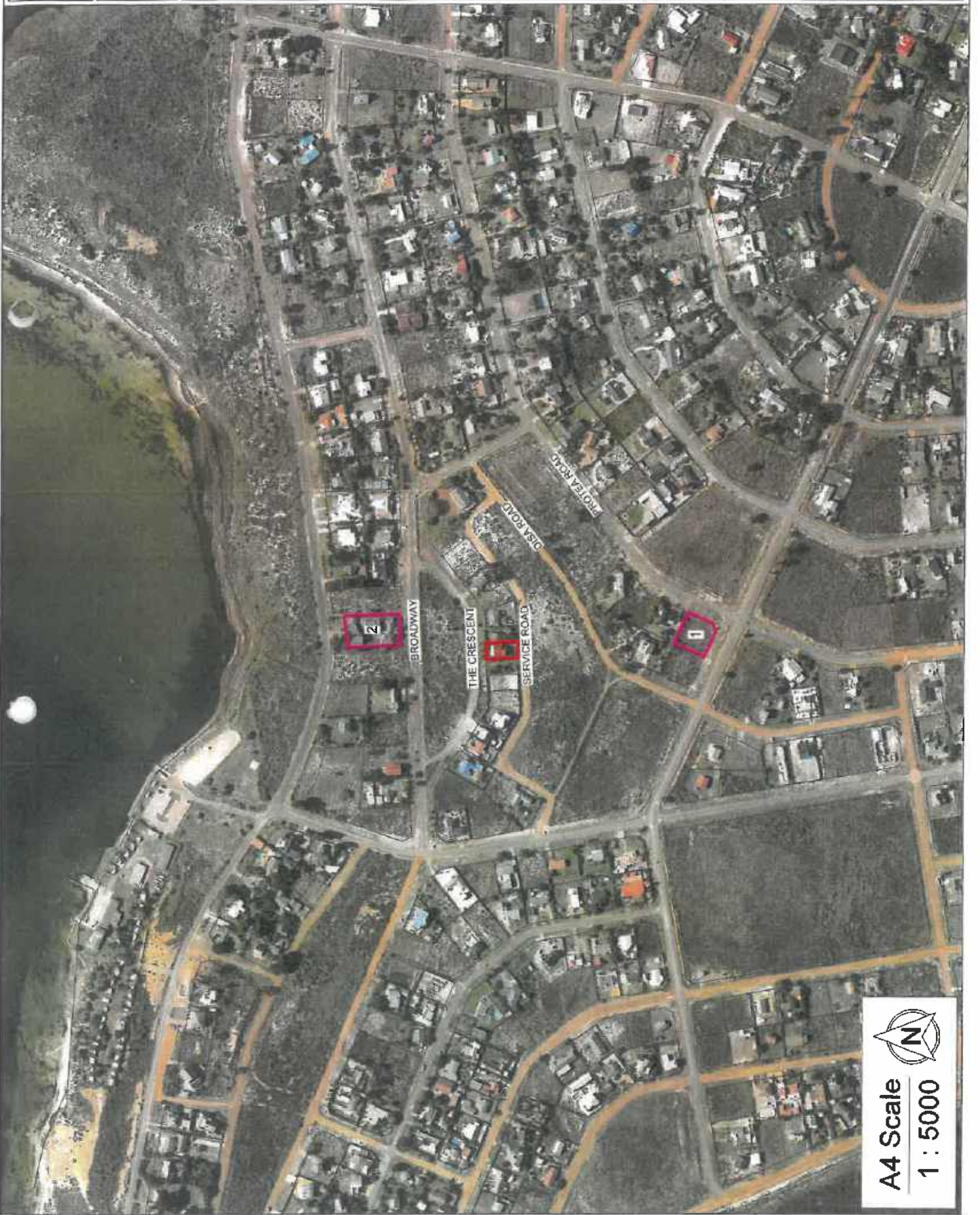
TITLE
Objections Locality

Application Area
 Objection Properties

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CLIENT

DRAWING NUMBER
A81
InterActive Town & Regional Planning
Avenue 16/16/16 No. 20777116
Tel: 08 949 4400
Fax: 08 949 4400
Email: info@inter-act.com



A4 Scale
1 : 5000
N



OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
08 MAY 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

3 Park Lane, North End, East London
East London
5201

TP-A Theart
(H Olivier)

Our reference: **WWIP_WHWS_1389_24**
Your reference: ERF 121 Fisherhaven
Enquiries: N Mali
Tel : +27 81 436 6290
Email : Ndilekam@Openserve.co.za

07 April 2024

Overstrand Municipality
P O Box 20
HERMANUS
7200

FILE NO. Erf 121- HFH
SCAN NO. 02
COLLABORATOR NO. 2043849

OPTIC FIBRE & COPPER PLANT AFFECTED

WAY LEAVE APPLICATION : ERF 121, 51 THE CRESCENT, FISHERHAVEN: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION AND CONSENT USE: INTERACTIVE TOWN AND REGIONAL PLANNING ON BEHALF OF R AND BA HAGGARD

Dear Mr S Muller

With reference to your application received 12 April 2024.

As important cables are affected, please contact our representative MELT van AS at telephone number 021 852 1717 / 081 363 7873 / MeltVA@openserve.co.za at least 48 hours prior of commencement on construction work.

I hereby inform you that Open Serve approves the proposed work indicated on your drawing in principle. This approval is valid for six (06) months only, after which reapplication must be made if the work has not been completed.

Any changes or deviations from the original planning during or prior to construction must immediately be communicated to this office.

Approval is granted, subject to the following conditions.

As per sketch attached, Open Serve infrastructure **will be affected**, consequently the conditions below and on the attached legend will apply.

Telecommunication services position is shown as accurately as possible but should be regarded as approximate only.

Should alterations or relocation of existing infrastructure be required, such work will be done at the request and cost of the applicant.

Please notify this office within 21 working days from this letter of acceptance and if any alternative proposal is available or if a recoverable work should commence.

It would be appreciated if this office can be notified within 30 days of completion of the construction work. Confirmation is required on completion of construction as per agreed requirements.

Should Open Serve infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Open Serve rights remain reserved.

Yours faithfully

W Mali

For Selwyn Bowers
Operations Manager
Wayleave Management: Southern and Western Region



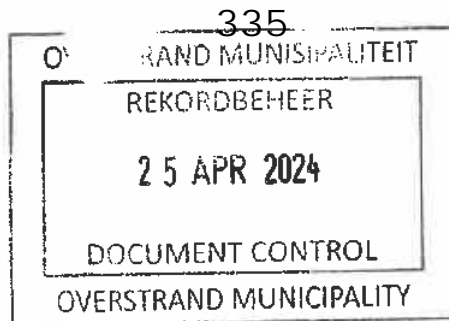
Region		Title Block	
Region	Exchange Area	Region	TELKOM
Drawn By	Checked By	Project No.	REGIONAL EXECUTIVE
Approved	Date	16/01/2024	
Details	Project No.		
Drawing No.			
Scale	1:1000	Page Size	A3
		Sheet No.	1 of 1

Legend	
	Existing Manhole
	Planned Manhole
	To be Recovered Manhole
	Existing Jointing Pit
	Planned Jointing Pit
	To be Recovered Jointing Pit
	Existing Pipe Junction Box
	Planned Pipe Junction Box
	To be Recovered Pipe Junction Box
	Existing Street Distribution Cabinet
	Planned Street Distribution Cabinet
	To be Recovered Street Distribution Cabinet
	Existing Digital Line Concentrator
	Planned Digital Line Concentrator
	To be Recovered Digital Line Concentrator
	Existing Fibre Joint
	Planned Fibre Joint
	To be Recovered Fibre Joint
	Existing Inceptor Distribution Point
	Planned Inceptor Distribution Point
	To be Recovered Inceptor Distribution Point
	Existing Underground Route
	Planned Underground Route
	To be Abandoned Underground Route
	Existing Overhead Route
	Planned Overhead Route
	To be Recovered Overhead Route
	Existing Main Optical Main Distribution Cabinet
	Planned Main Optical Main Distribution Cabinet
	To be Recovered Main Optical Main Distribution Cabinet
	Existing Street and Way



Overstrand Municipality

Loretta@overstrand.gov.za



Annexure H 1/4

Date: 2024/04/24

Enquiries:

WayleavesWesternOU@eskom.co.za

WAYLEAVE APPLICATION:

Removal of Restrictive Title Deed Condition : 51 THE CRESCENT FISHERHAVEN · Hermanus

YOUR REF: 121HFH

ESKOM REF: 14397-24

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.	AL 121 ✓
	kisherharen
SCAN NO.	
	HFH 121
COLLABORATOR NO.	
	2036493

25 APR 2024

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 MotsisiL@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)



SUBREZ
 111V - 111V - MIN F-1 = 150.0M
 220V - 111V - MIN F-2 = 150.0M
 220V - 111V - MIN F-2 = 150.0M
 220V - 111V - MIN F-2 = 150.0M
SUBREZ
 111V - 111V - MIN F-1 = 150.0M
 220V - 111V - MIN F-2 = 150.0M
 220V - 111V - MIN F-2 = 150.0M
 220V - 111V - MIN F-2 = 150.0M

LEGEND

- ESKOM 111V MV UNDERGROUND CABLE
- ESKOM LV UNDERGROUND CABLE
- CADASTRAL BOUNDARY
- - - AREA OF INTEREST

REV	REVISION DESCRIPTION	BY	DATE	DATE



**CALEDON CMC HERMANUS, 61 THE CRESCENT, FISHERHAVEN, ERF121
 REMOVAL OF RESTRICTIVE TITLE DEED CONDITION
 OVERSTRAND MUNICIPALITY
 WAYLEAVE REQUEST
 14397-24**



SCALE: 1:400
 ALL CABLE POSITIONS ARE APPROXIMATE
 AND SHOULD BE VERIFIED ON SITE
LAND DEVELOPMENT SECTION
 TEL: 021 501 1111 FAX: 021 501 1111

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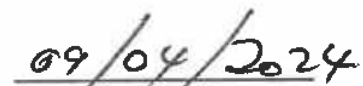
**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION &
CONSENT USE: ERF 121, FISHERHAVEN (4609/2024)**

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