



| OVERSTRAND MUNICIPALITY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            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| <p><b><u>ERF 128, 28 SERVICE ROAD, FISHERHAVEN: APPLICATION FOR REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION AND CONSENT USE: INTERACTIVE TOWN &amp; REGIONAL PLANNING ON BEHALF OF SAMANDKOL PROPRIETARY LIMITED</u></b></p> <p>Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), of the following applications applicable to Erf 128, Fisherhaven (the property), namely:</p> <p><b><u>Removal of a Restrictive Title Deed Condition</u></b><br/>Application in terms of Section 16(2)(f) of the By-Law for the removal of a restrictive title deed condition E.4.(b) as contained in Title Deed T3499/2026 of the property to accommodate the proposed land use development.</p> <p><b><u>Consent Use</u></b><br/>Application in terms of Section 16(2)(o) of the By-Law to accommodate the sale of alcoholic beverages in an internet café on the ground floor.</p> <p>Full details regarding the proposals above are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town and Spatial Planning, 16 Paterson Street, Hermanus and on the municipal webpage at the following link <a href="https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/">https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/</a></p> <p>Any comments must be in writing and reach the Municipality (16 Paterson Street, Hermanus / (e) <a href="mailto:landuse@overstrand.gov.za">landuse@overstrand.gov.za</a>) on or before <b>28 August 2026</b>, with your name, address, contact details, interest in the application and the reasons for comment. Telephonic inquiries can be made to the <b>Town Planner, Mr. H. Olivier</b> 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 and Spatial Planning Department where they will be assisted by a municipal official in formulating their comments.</p> <p><i>Please note that in terms of the Protection of Personal Information Act (POPIA), you will be entering into a public process and as such agree and consent to your name, surname, contact details and comment(s) may be disclosed / used in the (application) process.</i></p> | <p><b><u>ERF 128, SERVICEWEG 28, FISHERHAVEN : AANSOEK OM OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDE EN VERGUNNINGSGEBRUIK: INTERACTIVE STADS- EN STREEKSBEPLANNING NAMENS SAMANDKOL PROPRIETARY LIMITED</u></b></p> <p>Kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die onderstaande aansoek van toepassing op Erf 128, Fisherhaven (die eiendom), naamlik:</p> <p><b><u>Opheffing van 'n Beperkende Titelaktevoorwaarde</u></b><br/>Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van 'n beperkende titelaktevoorwaarde E.4.(b) soos vervat in Titelakte T3499/2026 van die eiendom om die voorgestelde grondgebruiksontwikkeling te akkommodeer .</p> <p><b><u>Vergunningsgebruik</u></b><br/>Aansoek ingevolge Artikel 16(2)(o) van die Verordening om die verkoop van alkoholiese drankies in 'n internetkafé op die grondvloer te akkommodeer.</p> <p>Besonderhede aangaande die voorstel lê ter insae gedurende weekdae tussen 08:00 en 16:30 by die Departement: Stads- en Streekbeplanning te Patersonstraat 16, Hermanus en op die munisipale webtuiste by die volgende skakel <a href="https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/">https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/</a></p> <p>Enige kommentaar moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (e) <a href="mailto:landuse@overstrand.gov.za">landuse@overstrand.gov.za</a>) voor of op <b>28 Augustus 2026</b>, met u naam, adres, kontak besonderhede, belang in die aansoek en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die <b>Stadsbeplanner, Mnr. H. Olivier</b> by 028-3138900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Afdeling: Stads- en Streekbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer.</p> <p><i>U aandag word gevestig op die Bepalinge van die "POPI" Wet, en aangesien u opmerking deel sal uitmaak van 'n openbare deelname proses, u derhalwe toestem dat u naam, van en kontakbesonderhede openbaar gemaak mag word.</i></p> | <p><b><u>ISIZA 128, 28 SERVICE ROAD, FISHERHAVEN: ISICELO SOKUSUSWA KOMQATHANGO ONESITHINTELO KWITAYITILE KUNYE NESICELO SEMVUME YOKUSEBENZISA: ABAKWA-INTERACTIVE TOWN &amp; REGIONAL PLANNING EGAMENI LABAKWA-SAMANDKOL PROPRIETARY LIMITED</u></b></p> <p>Kukhutshwa isaziso ngokumayela neCandelo 47 neCandelo 48 loMthetho ka-2020 Ohlonyelweyo woMasipala waseOverstrand ongokuSetyenziswa nokuCetywa koMhlaba kaMasipala (uMthetho kaMasipala) ukuba kufunyenwe ezi zicelo zilandelayo zimalunga neSiza 128 eFisherhaven (ipropathi), ukuba:</p> <p><b><u>Kususwe Umqathango Onesithintelo Kwitayitile</u></b><br/>Isicelo ngokumayela neCandelo 16(2)(f) loMthetho kaMasipala ukuba kususwe imiqathango enezithintelo kwitayitile, Umiqathango E.4.(b) njengoko Uqulathwe kwiTayitile T3499/2026 yepropathi ukulungiselela ukusetyenziswa komhlaba ukuze kuphuhlise umhlaba kunye nosetyenziso.</p> <p><b><u>Imvume Yosetyenziso</u></b><br/>Isicelo ngokumayela neCandelo 16(2)(o) loMthetho kaMasipala ukuvumela ukuthengiswa kweziselo ezinotyala kwivenkile yokusebenzisa i-intanethi ekumgangatho ophantsi.</p> <p>linkcukacha ezipheleleyo mayela noku kucetywayo ziyafumaneka ukuze zihlolwe phakathi eveleni phakathi ko-08:00 no-16:30 kwiSebe: Town and Spatial Planning, 16 Paterson Street, Hermanus nakwiwebhusayithi kamasipala kule linki ilandelayo <a href="https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/">https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/</a></p> <p>Naziphi na izimvo zimele zibhalwe zize zifike kuMasipala (16 Paterson Street, Hermanus / (e) <a href="mailto:landuse@overstrand.gov.za">landuse@overstrand.gov.za</a>) ngaphambi okanye ingadlulanga <b>i-28 Agasti 2026</b>, ubhale igama lakho, idilesi, iinkcukacha zohagamshelelwano, umdla wakho kwisicelo nezizathu zokubhala izimvo. Imibuzo ngefowuni ingabhekiswa ku<b>Town Planner, uMnu. H. Olivier</b> ku 028-3138900. UMasipala angangavumi ukwamkela amagqabaza okuhlomla afunyenwe emva komhla wokuvula. Nabani na ongakwazi kufunda okanye ukubhala angatyelala iSebe leTown and Spatial Planning apho igosa lakwamasipala liya kumnceda afake amagqabaza akhe okuhlomla.</p> <p><b><i>Nceda uphawule ukuba ngokumayela noMthetho Wokukhuselwa kweNkcazelo yoBuqu (POPIA), uza kungena kwinkqubo yokuthatha inxaxheba koluntu ibe ngenxa yoko uyavuma ukuba igama, ifani yakho, iinkcukacha zakho zohagamshelelwano namagqabaza akho angadizwa / asetyenziswa kwinkqubo (yokufaka isicelo).</i></b></p> |
| <p>Dr DGI O'Neill<br/>Municipal Manager / Munisipale Bestuurder / Umphathi Kamasipala<br/>PO Box / Posbus / Ibhokisi yePosi 20 HERMANUS 7200</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       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Notice no. / Kennisgewing nr. / Inothi yeNomb: 146/2026



We belong



We care



We serve





# ERF 128 FISHERHAVEN, OVERSTRAND

28 service Road

## Application for the removal of restrictive title deed conditions and a consent use



**Andre Wiehahn** Pr Pln A/927/1996  
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**May 2026**

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Notes

## 1. Introduction

|                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| <p><b>a. Brief</b></p> <p>Refer to <b>Annexure B</b> for the Power of Attorney.</p> | <p>Interactive Town and Regional Planning was appointed by the owner of the property Samandkol Pty Ltd to prepare and submit an application for the removal of restrictive title deed conditions and a consent use for Erf 128, Fisherhaven in terms of the relevant legislation.</p>                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p><b>b. Background</b></p>                                                         | <p>The application area consists of a vacant 545m<sup>2</sup> business zoned erf situated at number 28 service Road in Fisherhaven. The application area is located within the Fisherhaven local business node and both business and residential land uses and currently represented within this node.</p> <p>The title deed only allows for the use of a shop, which is significantly more restrictive than its Business Zone 3: Local Business zoning land uses which includes other business uses such as offices as well as flats on the first floor- <b><u>also refer to Paragraph 2a of this report.</u></b></p>                                                                            |
| <p><b>c. Development Objective &amp; Application Proposal</b></p>                   | <p>The <b>development objective</b> is to operate business units on the ground floor and flats on the first floor. The business land use include an internet café where it is proposed so serve alcohol for the the internet café customers. In the long term, offices can also be a potential land use. Two flats are proposed on the first floor.</p> <p>Since the title deed does not allow for offices or flats, the removal of a restrictive title deed condition will be required to allow for the development proposal.</p> <p>In order to allow for alcoholic beverages to be sold at the proposed internet café, a consent use for the sale of alcoholic beverages will be required.</p> |

Here below is a building plan extract:

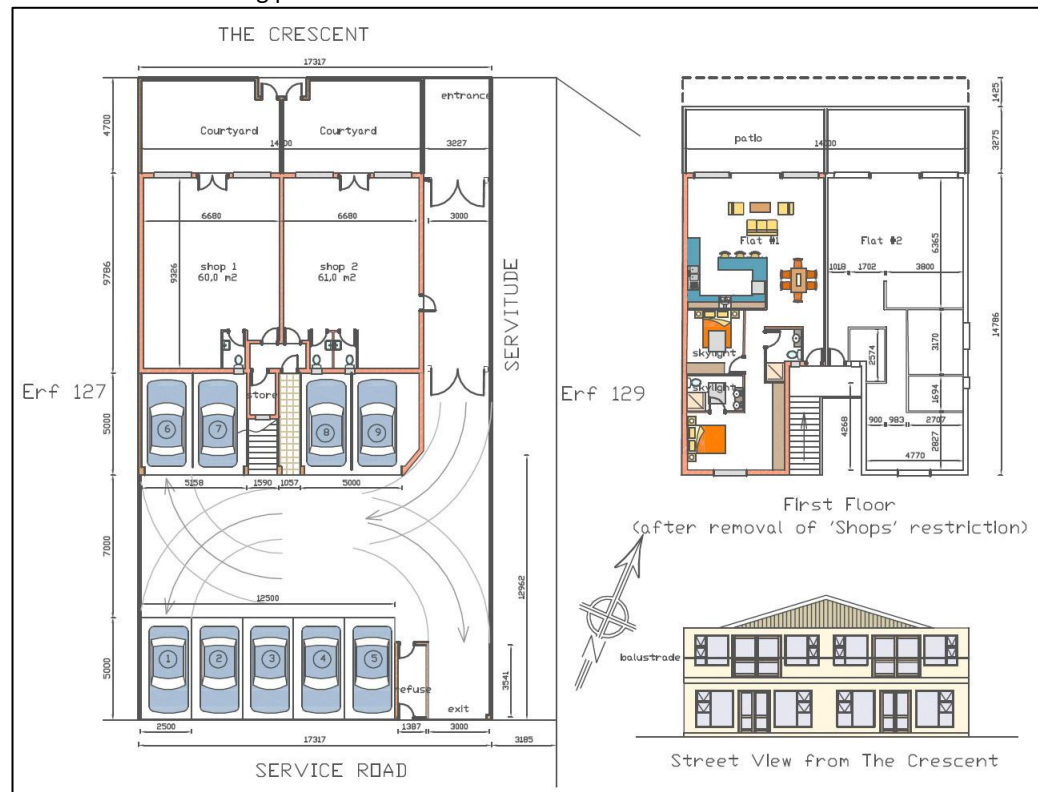


Figure 1: Building plan extracts

## 2. The Application

| <p><b>a. Analysis: Title Deed</b></p> <p>Refer to <b>Annexure D</b> 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><b><u>Title Deed T3499/2026</u></b></p> <p><i>“E. SUBJECT FURTHER to the following conditions contained in Deed of Transfer No. T 1064/1986 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:-</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><b><i>(b) it shall be used only for shop purposes only;</i></b>”</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                            |                                                    |                                           |            |  |                  |           |          |        |  |                                 |                                 |            |             |  |                                                                                                                                          |                                                    |            |              |  |                                                                                                                                                                                                                                                                                                                                                                                                            |                             |                                           |          |  |                                          |     |            |              |  |     |      |            |        |  |                   |                 |            |                |        |                                                                                                   |                                       |            |      |                                         |    |            |      |    |     |            |         |  |                                                                     |                              |            |
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| <p><b>b. Analysis: Development Criteria:</b></p> <p>The development parameters for Erf 128 Overstrand as per the Overstrand Municipality Land Use Scheme, 2020 are summarised as follows:</p> | <table> <tr> <th colspan="2">Parameters</th><th>Existing Zoning:</th><th>Proposal:</th><th>Comments</th></tr> <tr> <td colspan="2">Zoning</td><td>Business Zone 3: Local Business</td><td>Business Zone 3: Local Business</td><td>Consistent</td></tr> <tr> <td colspan="2">Primary Use</td><td>Shops, dwelling unit (above ground floor), flats (above ground floor), offices, restaurant, caretaker’s accommodation and self-catering.</td><td>Shops, offices &amp; dwelling units above ground floor</td><td>Consistent</td></tr> <tr> <td colspan="2">Consent Uses</td><td>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.</td><td>Sale of alcoholic beverages</td><td><b>Application includes a consent use</b></td></tr> <tr> <td colspan="2">Coverage</td><td>75%<br/>(66.6% in term of the title deed)</td><td>44%</td><td>Consistent</td></tr> <tr> <td colspan="2">Floor factor</td><td>1.5</td><td>0.73</td><td>Consistent</td></tr> <tr> <td colspan="2">Height</td><td>8.5m<br/>2 storeys</td><td>7m<br/>2 storeys</td><td>Consistent</td></tr> <tr> <td rowspan="3">Building lines</td><td>Street</td><td>0m<br/>(2.35m in terms of the title deed with exception for walls, fences, verandas and balconies)</td><td>1.4m for balcony<br/>4.7m for building</td><td>Consistent</td></tr> <tr> <td>Side</td><td>0m<br/>3m when abutting a different zone</td><td>0m</td><td>Consistent</td></tr> <tr> <td>Rear</td><td>3m</td><td>N/A</td><td>Consistent</td></tr> <tr> <td colspan="2">Parking</td><td>Shops or offices: 4 bays per 100m<sup>2</sup> GLA<br/>Flats: 2 bays</td><td>9 bays required and provided</td><td>Consistent</td></tr> </table> |                                                                                                                                                                                                                                                                                                                                                                                                            |                                                    |                                           | Parameters |  | Existing Zoning: | Proposal: | Comments | 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. | Sale of alcoholic beverages | <b>Application includes a consent use</b> | Coverage |  | 75%<br>(66.6% in term of the title deed) | 44% | Consistent | Floor factor |  | 1.5 | 0.73 | Consistent | Height |  | 8.5m<br>2 storeys | 7m<br>2 storeys | Consistent | Building lines | Street | 0m<br>(2.35m in terms of the title deed with exception for walls, fences, verandas and balconies) | 1.4m for balcony<br>4.7m for building | Consistent | Side | 0m<br>3m when abutting a different zone | 0m | Consistent | Rear | 3m | N/A | Consistent | Parking |  | Shops or offices: 4 bays per 100m <sup>2</sup> GLA<br>Flats: 2 bays | 9 bays required and provided | Consistent |
| Parameters                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Existing Zoning:                                                                                                                                                                                                                                                                                                                                                                                           | Proposal:                                          | Comments                                  |            |  |                  |           |          |        |  |                                 |                                 |            |             |  |                                                                                                                                          |                                                    |            |              |  |                                                                                                                                                                                                                                                                                                                                                                                                            |                             |                                           |          |  |                                          |     |            |              |  |     |      |            |        |  |                   |                 |            |                |        |                                                                                                   |                                       |            |      |                                         |    |            |      |    |     |            |         |  |                                                                     |                              |            |
| 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. | Sale of alcoholic beverages                        | <b>Application includes a consent use</b> |            |  |                  |           |          |        |  |                                 |                                 |            |             |  |                                                                                                                                          |                                                    |            |              |  |                                                                                                                                                                                                                                                                                                                                                                                                            |                             |                                           |          |  |                                          |     |            |              |  |     |      |            |        |  |                   |                 |            |                |        |                                                                                                   |                                       |            |      |                                         |    |            |      |    |     |            |         |  |                                                                     |                              |            |
| Coverage                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 75%<br>(66.6% in term of the title deed)                                                                                                                                                                                                                                                                                                                                                                   | 44%                                                | Consistent                                |            |  |                  |           |          |        |  |                                 |                                 |            |             |  |                                                                                                                                          |                                                    |            |              |  |                                                                                                                                                                                                                                                                                                                                                                                                            |                             |                                           |          |  |                                          |     |            |              |  |     |      |            |        |  |                   |                 |            |                |        |                                                                                                   |                                       |            |      |                                         |    |            |      |    |     |            |         |  |                                                                     |                              |            |
| Floor factor                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 1.5                                                                                                                                                                                                                                                                                                                                                                                                        | 0.73                                               | Consistent                                |            |  |                  |           |          |        |  |                                 |                                 |            |             |  |                                                                                                                                          |                                                    |            |              |  |                                                                                                                                                                                                                                                                                                                                                                                                            |                             |                                           |          |  |                                          |     |            |              |  |     |      |            |        |  |                   |                 |            |                |        |                                                                                                   |                                       |            |      |                                         |    |            |      |    |     |            |         |  |                                                                     |                              |            |
| Height                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 8.5m<br>2 storeys                                                                                                                                                                                                                                                                                                                                                                                          | 7m<br>2 storeys                                    | Consistent                                |            |  |                  |           |          |        |  |                                 |                                 |            |             |  |                                                                                                                                          |                                                    |            |              |  |                                                                                                                                                                                                                                                                                                                                                                                                            |                             |                                           |          |  |                                          |     |            |              |  |     |      |            |        |  |                   |                 |            |                |        |                                                                                                   |                                       |            |      |                                         |    |            |      |    |     |            |         |  |                                                                     |                              |            |
| Building lines                                                                                                                                                                                | Street                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 0m<br>(2.35m in terms of the title deed with exception for walls, fences, verandas and balconies)                                                                                                                                                                                                                                                                                                          | 1.4m for balcony<br>4.7m for building              | Consistent                                |            |  |                  |           |          |        |  |                                 |                                 |            |             |  |                                                                                                                                          |                                                    |            |              |  |                                                                                                                                                                                                                                                                                                                                                                                                            |                             |                                           |          |  |                                          |     |            |              |  |     |      |            |        |  |                   |                 |            |                |        |                                                                                                   |                                       |            |      |                                         |    |            |      |    |     |            |         |  |                                                                     |                              |            |
|                                                                                                                                                                                               | Side                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 0m<br>3m when abutting a different zone                                                                                                                                                                                                                                                                                                                                                                    | 0m                                                 | Consistent                                |            |  |                  |           |          |        |  |                                 |                                 |            |             |  |                                                                                                                                          |                                                    |            |              |  |                                                                                                                                                                                                                                                                                                                                                                                                            |                             |                                           |          |  |                                          |     |            |              |  |     |      |            |        |  |                   |                 |            |                |        |                                                                                                   |                                       |            |      |                                         |    |            |      |    |     |            |         |  |                                                                     |                              |            |
|                                                                                                                                                                                               | Rear                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 3m                                                                                                                                                                                                                                                                                                                                                                                                         | N/A                                                | Consistent                                |            |  |                  |           |          |        |  |                                 |                                 |            |             |  |                                                                                                                                          |                                                    |            |              |  |                                                                                                                                                                                                                                                                                                                                                                                                            |                             |                                           |          |  |                                          |     |            |              |  |     |      |            |        |  |                   |                 |            |                |        |                                                                                                   |                                       |            |      |                                         |    |            |      |    |     |            |         |  |                                                                     |                              |            |
| Parking                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Shops or offices: 4 bays per 100m <sup>2</sup> GLA<br>Flats: 2 bays                                                                                                                                                                                                                                                                                                                                        | 9 bays required and provided                       | Consistent                                |            |  |                  |           |          |        |  |                                 |                                 |            |             |  |                                                                                                                                          |                                                    |            |              |  |                                                                                                                                                                                                                                                                                                                                                                                                            |                             |                                           |          |  |                                          |     |            |              |  |     |      |            |        |  |                   |                 |            |                |        |                                                                                                   |                                       |            |      |                                         |    |            |      |    |     |            |         |  |                                                                     |                              |            |

|                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>c. Application:</b></p> <p>The application form is attached as <b>Annexure A.</b></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"> <li>• The removal of restrictive title deed Condition E.4.(b) from title deed T3499/2026 in terms of Section 16(2)(f).</li> <li>• Consent use for the sale of alcoholic beverages in terms of Section 16(2)(o).</li> </ul> |
|---------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

### 3. Contextual Site Information

**a. Property Description**

Refer to **Annexure E** for the SG Diagrams,  
**Annexure C** for the Title Deed of Erf 128 Fisherhaven.

| Property            | Extent            | Title Deed | Registered Owner  |
|---------------------|-------------------|------------|-------------------|
| Erf 128 Fisherhaven | 545m <sup>2</sup> | T3499/2026 | Samandkol Pty Ltd |

The following Surveyor General Plans reflect the application site:

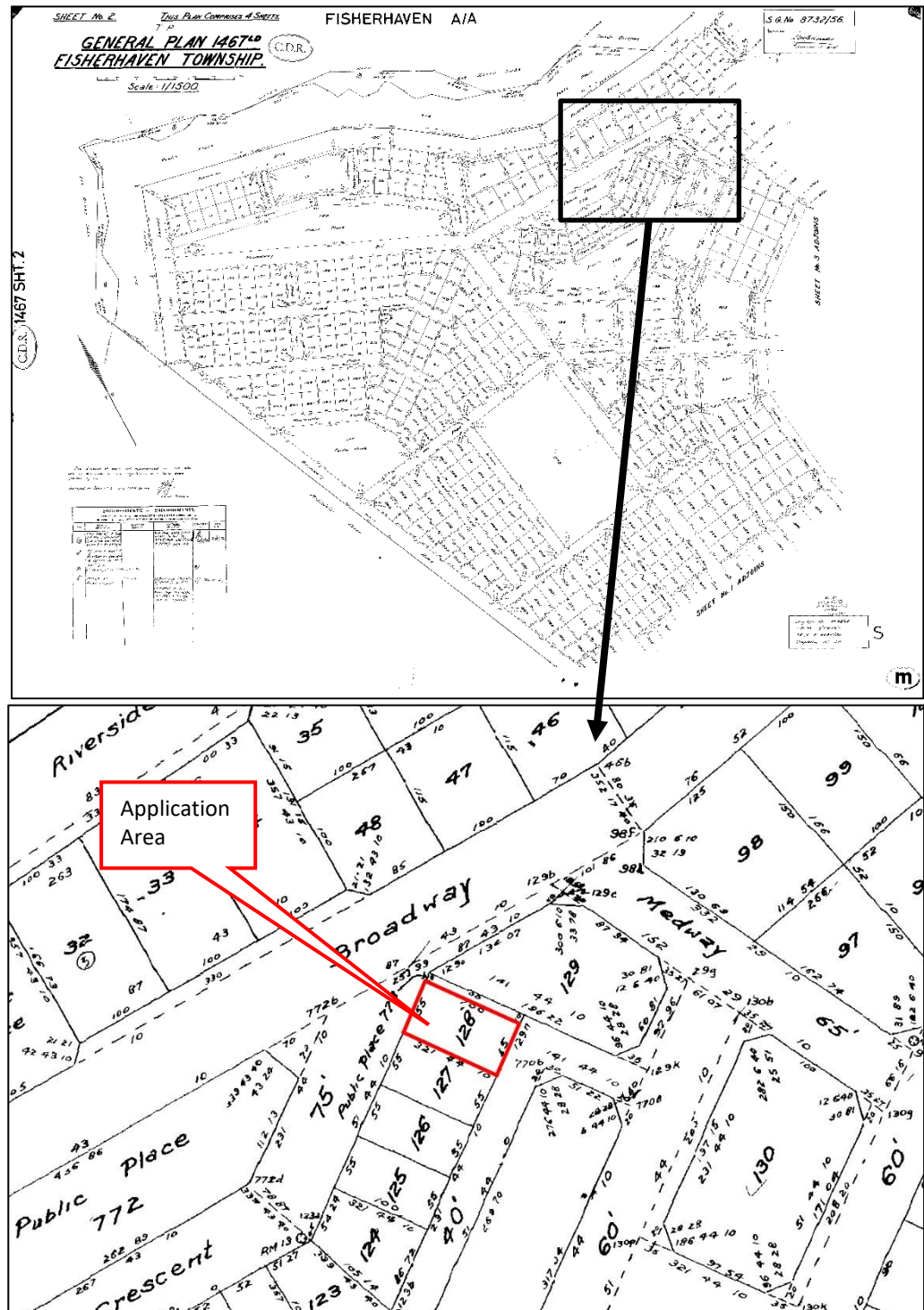


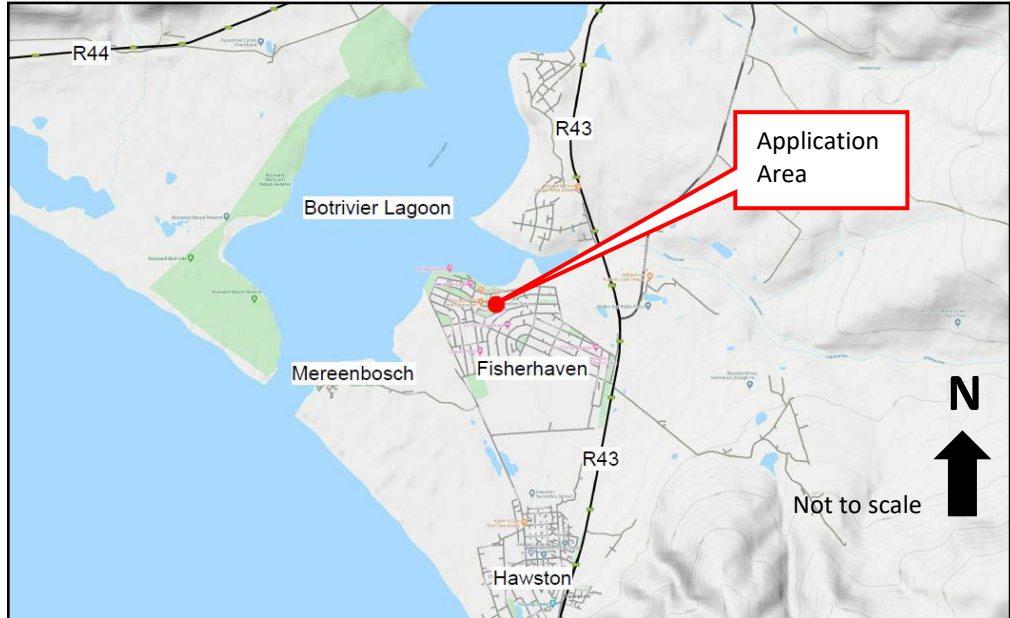
Figure 2: Extracts of the Surveyor General Plans of the application site

**b. Location:**

For the Locality Plans refer to **Annexure F**

**Regional Context:**

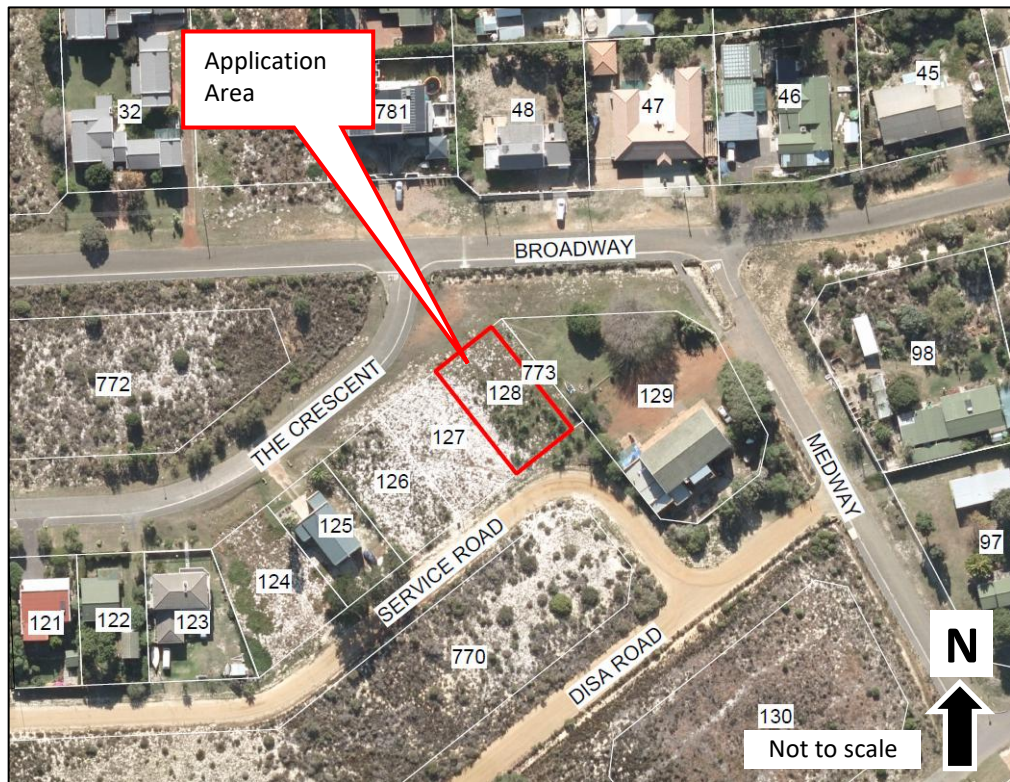
Within the regional context, the application area is located within Fisherhaven. Fisherhaven is located on the eastern bank of the Bot River estuary, 9km west of the Hermanus CBD and 8km east of Kleinmond and predominantly functions as a retirement/ residential and holiday destination with approximately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



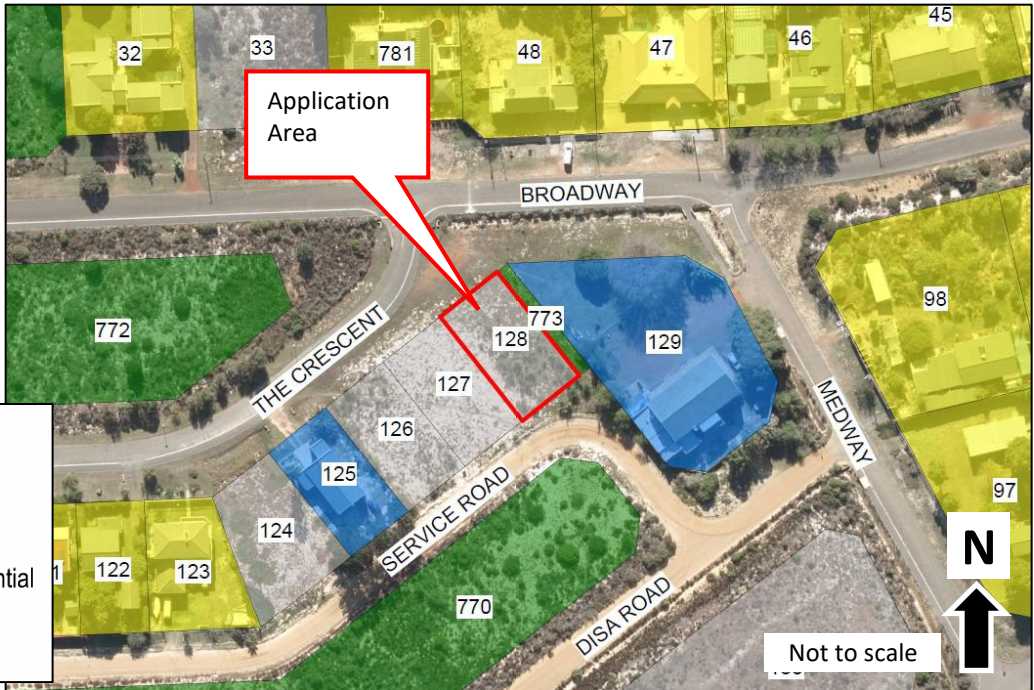
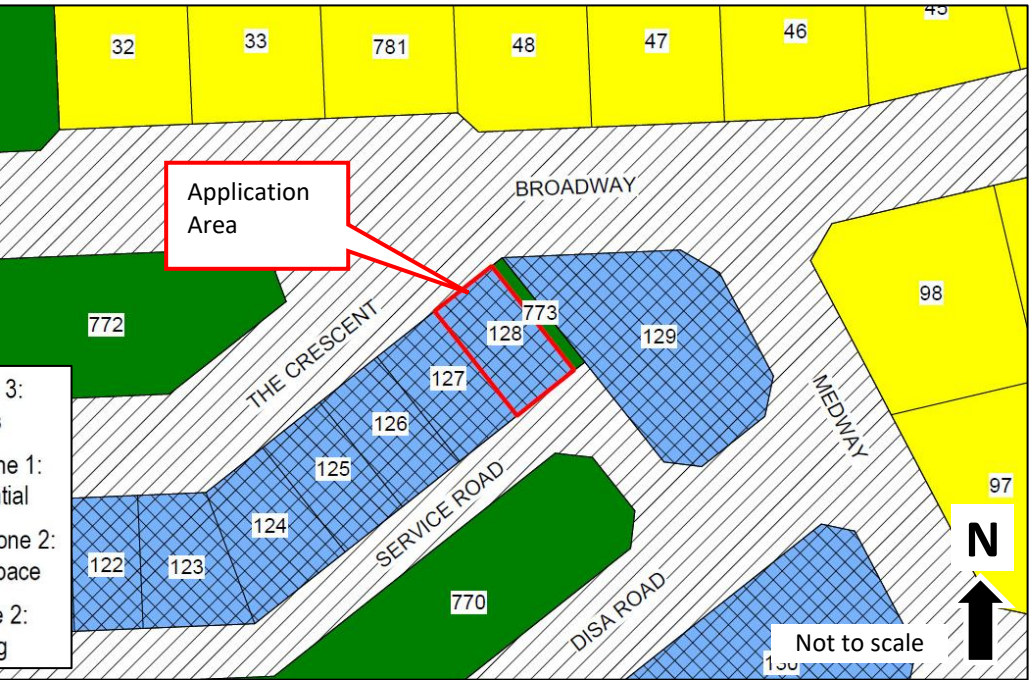
**Figure 3: Locality Plan – Regional Context**

**Local Context:**

The application area is located at number 28 service Road and forms part of the existing Fisherhaven business node.



**Figure 4: Locality Plan – Local Context**

|                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>c. Land Use:</b></p> <p>Refer to the Extract of Overstrand Zoning plan attached as <b>Annexure G.</b></p> | <p>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 <b>consistent</b> with the land use of the area.</p>  <p><b>Figure 5: Google Image illustrating the residential land-use activities of the application area and surrounding properties</b></p> |
| <p><b>d. Zoning:</b></p> <p>Refer to the Extract of Overstrand Zoning plan attached as <b>Annexure H.</b></p>   | <p>The application area, Erf 128, Fisherhaven is zoned Business Zone 3: Local Business. The surrounding erven are zoned Business Zone 3: Local Business, Residential Zone 1: Single Residential as well as Open Space Zone 2: Public Open Space. No change in zoning is proposed. The application proposal is <b>consistent</b> with the zoning of the area.</p>  <p><b>Figure 6: Extract from the Overstrand Municipality: Online zoning viewer</b></p>                                 |

|                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>e. <b>Laws and policies relevant to the consideration of the application and forward planning and land use documents</b></p> | <p>The following policy is applicable to the application area.</p> <p><b>i. Overstrand Municipal Spatial Development Framework, 2020</b></p> <p>The application area falls within a Vacant Business Zone. The proposal is for Business Zone 3: Local Business related land uses.</p> <p><u>The application is consistent with the Overstrand Municipal Spatial Development Framework, 2020.</u></p>                                                                                                                                                                                                                                                                                                                                                                                                 |
|                                                                                                                                 | <div data-bbox="443 450 1445 1115"> </div> <p><b>Figure 7: Spatial Development Framework 2020 Spatial Proposals Plan</b></p> <p><b>ii. Overstrand Municipality Growth Management Strategy, 2010</b></p> <p>The application area is within an area earmarked for a 20 to 30 Dwelling Units Per Hectare Intensification 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.</p> <p><u>The application is thus consistent with the Overstrand Municipality Growth Management Strategy, 2010.</u></p> <div data-bbox="193 1413 1473 1957"> </div> <p><b>Figure 8: Extract from the Overstrand Municipality Growth Management Strategy, 2010 reflecting the envisaged land-uses for the area.</b></p> |

## 4. Motivation

### Motivation for the application:

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

### a. Introduction and Background

The application area is located on a vacant 545m<sup>2</sup> business zoned erf situated at number 28 Service Road in Fisherhaven and within the existing Fisherhaven local business node where both business and residential land uses are currently represented.

The title deed only allows for the use of a shop, which is significantly more restrictive than its Business Zone 3: Local Business zoning land uses which includes other business uses such as offices or flats on the first floor as reflected in the following extract from the title deed.

#### Title Deed T3499/2026

*"E. SUBJECT FURTHER to the following conditions contained in Deed of Transfer No. T 1064/1986 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 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:*

**(b) it shall be used only for shop purposes only;"**

### b. Proposal

The **development objective** is for business units / shops on the ground floor, which includes an internet café where it is inter alia proposed to sell alcoholic beverages for on-site consumption to internet café customers. The business units can potentially also be used for offices in future. Flats are also proposed on the first floor.

Since the title deed does not allow for offices or flats, the removal of a restrictive title deed condition will be required to allow for the development proposal.

In order to allow for the sale of alcoholic beverages, a consent use for the sale of alcoholic beverages will be required within the proposed business units on the ground floor.

Here below is a building plan extract:

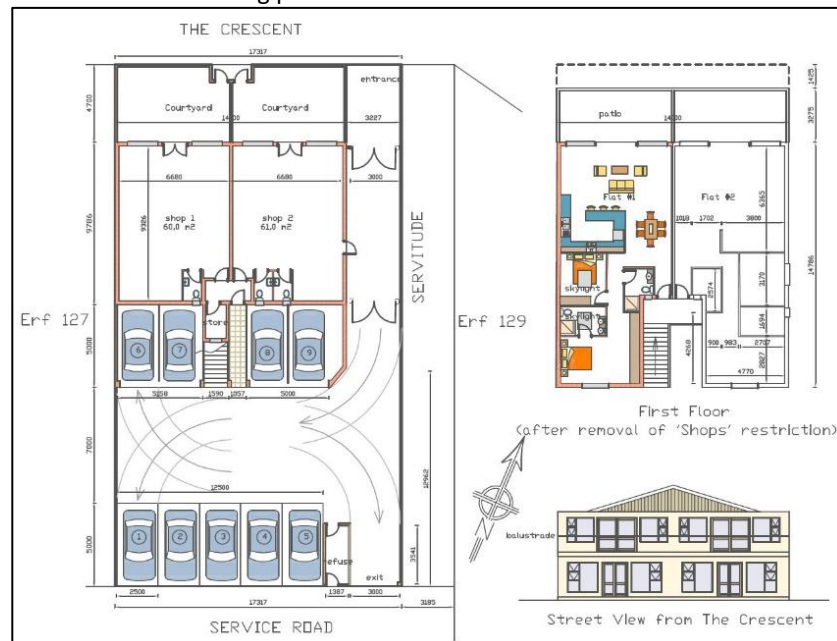


Figure 9: Building plan extracts

#### Removal of a restrictive title deed condition

Application includes the removal of Condition E.4.(b) from Title Deed T3499/2026 which reads, "it shall be used only for shop purposes only".

Condition E.4.(b) is a township establishment condition which originated in 1986. At the time zoning criteria was managed by the Administrator which is provincial government. The regulation of zoning criteria has since been transferred to municipalities. Spatial planning theory and policy has since the establishment of the township evolved significantly, with more emphasis on mixed use development, densification and spatial efficiency.

Land use rights on the property will continue to be governed by the Overstrand Municipality Land Use Scheme, 2020. The removal of this restriction will not result in uncontrolled development, as municipal planning regulations will still provide the framework for permissible land uses.

The removal of the restrictive title deed condition will inter alia allow for flats, a typology that is presently not available in the area, serving a wider range of accommodation needs.

The removal of Condition E.4.(b) from Title Deed T3499/2026 involves the following conditions:

#### ***"35. Requirements for amendment, suspension or removal of restrictive conditions***

*(4) When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following:*

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

Condition E.4.(b) of Title Deed T3499/2026 proposed to removed does not grant any rights, but rather a land use restriction with the purpose of managing land use to the benefit of the community as a whole. Spatial planning theory and policy has evolved significantly since the origin of Condition E.4.(b) and Land uses are now managed by the Overstrand Municipality Land Use Scheme, 2020, thus Condition E.4.(b) no longer protects the character of the area, but rather hinders the application area to be developed in a way that is to the optimal benefit of the surrounding community. There is no financial or other value to the restriction.

- "(b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;"*

Restrictive Condition E.4.(b) of Title Deed T3499/2026 contains a land use restriction and does not grant any rights or benefits.

- "(c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed;"*

The proposed removal of Condition E.4.(b) from Title Deed T3499/2026 will allow for inter alia office and flat land uses on the application area.

- "(d) the social benefit of the restrictive condition remaining in place in its existing form;"*

The purpose of Condition E.4.(b) of Title Deed T3499/2026 was to manage land uses to protect the character of the town and allow for orderly development. Spatial planning theory and policy has evolved significantly since the origin of Condition E.4.(b). Land uses are now managed by the Overstrand Municipality Land Use Scheme, 2020. Condition E.4.(b) is thus now restricting the application area to be developed in a way that has optimal social benefit. There is therefore no social benefit to the restrictive title deed condition remaining in place.

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <p><i>“(e) the social benefit of the removal or amendment of the restrictive condition; and”</i></p> <p>The removal of the restrictive title deed condition will allow for more diverse products and services that can be rendered to the surrounding community and it will provide additional and more diverse housing opportunities, improving densification and spatial efficiency.</p> <p><i>“(f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.”</i></p> <p>Condition E.4.(b) of Title Deed T3499/2026 is proposed to be completely removed, but does not grant any rights and does therefore not affect any rights.</p> <p><u>Consent Use</u></p> <p>Application includes a consent use for the sale of alcoholic beverages.</p> <p>The application area is proposed to accommodate, inter alia, an internet café where alcoholic beverages are to be sold. As the internet café will not operate as a restaurant, (i.e. no preparation or sale of food on-site), a consent use application for the on-site sale and consumption of alcoholic beverages is therefore required.</p> <p>The internet café provides for a controlled central communal space from where the business will be operated.</p> <p>Within the Fisherhaven business node another business is located also selling alcoholic beverages, thus the application proposal is considered consistent with the character of the area.</p> <p>The proposed internet café, does not constitute a new business within the Fisherhaven business node, but the relocation of the existing internet café within the business node to the proposed new premises on Erf 128 Fisherhaven within the same business node and amongst similar land uses. The proposal will therefore not result in any additional impact on the business node.</p> <p>The proposed consent use will contribute towards job creation and the local economy of the area.</p> |
|  | <p><b>c. Desirability</b></p> <p>The application proposal is considered desirable for the following reasons:</p> <ul style="list-style-type: none"> <li>• The application proposal will allow for the optimal use of the property.</li> <li>• The application proposal will contribute to the provision of services to the local community, housing and employment.</li> <li>• The application proposal is more in line with improved and updated Spatial planning theory and policy. The application proposal is consistent with the municipal future planning documents.</li> <li>• The application proposal is consistent with the municipal zoning scheme.</li> <li>• The application area is within a business node and is therefore consistent with the character of the area.</li> </ul> <p><b>d. Planning Principles</b></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"> <li>1) <b>Spatial Justice</b> 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.</li> </ol> <p><b>Possible results of the development</b></p> <p>The application proposal will contribute to the provision of services to the community, housing and employment which will be equitably available.</p> <p>The application proposal is <b>consistent</b> with <b>spatial justice</b>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <p>2) <b>Spatial Sustainability</b> 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><b>Possible results of the development</b><br/>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 <b>consistent</b> with <b>spatial sustainability</b>.</p> <p>3) <b>Spatial Efficiency</b> 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><b>Possible results of the development</b><br/>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 <b>consistent</b> with the <b>efficiency principle</b>.</p> <p>4) <b>Spatial Resilience</b> 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><b>Possible results of the development</b><br/>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 <b>consistent</b> with the principle of <b>spatial resilience</b>.</p> <p>5) <b>Good Administration</b> 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><b>Possible results of the development</b><br/>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 <b>consistent</b> with the principle of <b>good administration</b>.</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.(b) from title deed T3499/2026 in terms of Section 16(2)(f).
- Consent use for the sale of alcoholic beverages in terms of Section 16(2)(o).

# THE CRESCENT

BROADWAY



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3rd April 2026