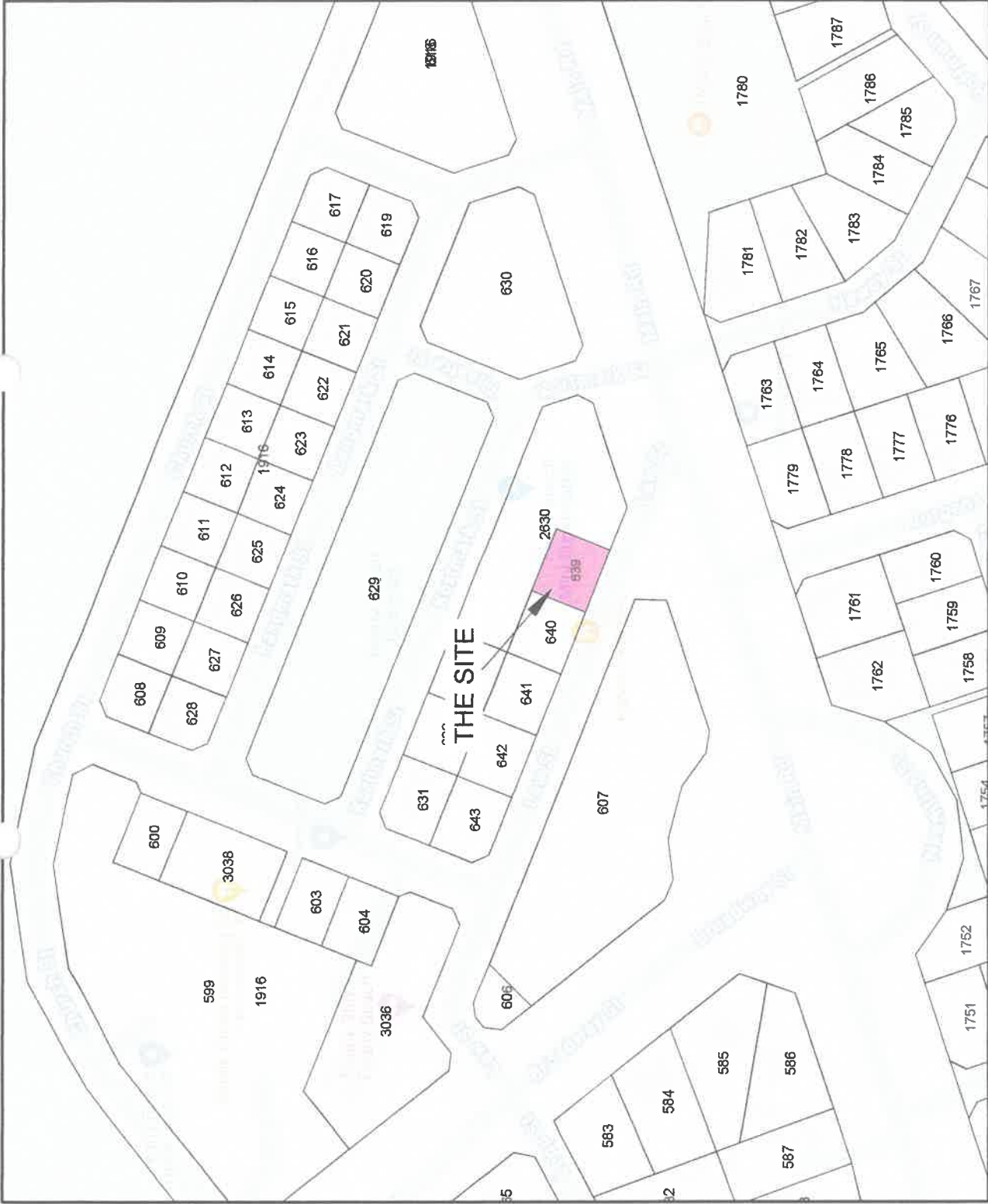


OVERSTRAND MUNICIPALITY	OVERSTRAND MUNISIPALITEIT	UMASIPALA WASE-AOVERSTRAND
<p><b>ERF 639, 9 LAW STREET, PEARLY BEACH: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE: MESSRS PLAN ACTIVE TOWN &amp; REGIONAL PLANNERS ON BEHALF OF JC KOEKEMOER</b></p> <p>Notice is hereby given 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 received applicable to the above-mentioned property, namely:</p> <p><b>Removal of restrictive title deed conditions</b> Application in terms of Section 16(2)(f) of the By-Law to remove conditions C.(4)(b) and D.(2) as contained in Title Deed No. T3644/2005 applicable to Erf 639, Pearly Beach, in order to accommodate a bottle store on the property.</p> <p><b>Consent use</b> Application in terms of Section 16(2)(o) of the By-Law, to accommodate a bottle store on the property.</p> <p>Details regarding the proposal is available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning at 16 Paterson Street, Hermanus and at Gansbaai Library, Main Road, Gansbaai. Any comments must be in writing in terms of the provisions of Sections 51 and 52 of the By-law and reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) <a href="mailto:alida@overstrand.gov.za">alida@overstrand.gov.za</a>) on or before <b>Friday, 20 December 2024</b>, quoting your name, address, contact details, interest in the application and reasons for comment. Telephonic enquiries can be made to the <b>Senior Town Planner, Mr. SW van der Merwe</b> at 028-313 8900. The Municipality may refuse to accept comment received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.</p>	<p><b>ERF 639, LAWSTRAAT 9, PEARLY BEACH: AANSOEK OM OPHEFFING VAN BEPERKENDE TITELAKTE VOORWAARDES EN VERGUNNINGSGEBRUIK: MNRE PLAN ACTIVE STAD &amp; STREEKSBEPLANNERS NAMENS JC KOEKEMOER</b></p> <p>Kennis word hiermee gegee ingevolge Artikels 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening), van die volgende aansoeke ontvang van toepassing op die bogenoemde eiendom, naamlik:</p> <p><b>Opheffing van beperkende titelaktwoorwaardes</b> Aansoek ingevolge Artikel 16(2)(f) van die Verordening om voorwaardes C.(4)(b) en D.(2) soos vervat in Titelakte Nr. T3644/2005 van toepassing op Erf 639, Pearly Beach op te hef, ten einde 'n bottelstoor op die eiendom te akkommodeer.</p> <p><b>Vergunningsgebruik</b> Aansoek ingevolge Artikel 16(2)(o) van die Verordening, om 'n bottelstoor op die eiendom te akkommodeer.</p> <p>Besonderhede aangaande die voorstel lê ter insae gedurende weksdae tussen 08:00 and 16:30 by die Departement: Stadsbeplanning te Patersonstraat 16, Hermanus en by Gansbaai Biblioteek, Hoofweg, Gansbaai. Enige kommentaar moet skriftelik wees ingevolge die bepaling van Artikels 51 en 52 van die Verordening en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) <a href="mailto:alida@overstrand.gov.za">alida@overstrand.gov.za</a>) bereik voor of op <b>Vrydag, 20 Desember 2024</b>, met u naam, adres, kontakbesonderhede, belang in die aansoek, en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die <b>Senior Stadsbeplanner, Mnr. SW van der Merwe</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 Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer.</p>	<p><b>ISIZA ESINGUERF 639, 9 LAW STREET, PEARLY BEACH: ISICELO SOKUSHENXISWA KWEEMKO EZIYIMIQOBO KWIITAYITILE ZOBUNINI NOKUVUMELA UKUSEBENZISA: ABAMNU BAKWAPLAN ACTIVE TOWN &amp; REGIONAL PLANNERS EGAMENI LIKAJC KOEKEMOER</b></p> <p>Kukhutshwe isaziso esimayela nemiba yeSoloty lama47 nelama48 likaMasipala wase-Overstrand NgoMthethwana OsisihlomeloseziCwangciso Zokusetyenziswa koMhlaba kaMasipala ku2020 (Umthethwana, isaziso esi singezi zicelo zifunyenweyo zisebenziseka kwisiza esichazwe ngentla, esibizwa:</p> <p><b>Ukushenxisa iimeko eziyimiqobo kwiitayitile zobunini</b> Isicelo sisebenzisa ngokwemiba yeSoloty le16(2)(f) loMthethwana ongokushenxisa iimeko C.(4)(b) no D.(2) njengoko ziqukathwe kwiTayitile Uobunini Nomb. T3644/2005 esebenziseka kwiSiza esing-Erf 639, Pearly Beach, ukuze kulungiselelwe indawo ethengisa utywala ekwesi siza.</p> <p><b>Ukuvumela ukusebenzisa</b> Isicelo esimayela nemiba yeSoloty16(2)(o) loMthethwana, ukulungiselela indawo ethengisa utywala kwesi siza.</p> <p>linkcukacha ezimayela nesi siphakamiso ziyafumaneka ukzue zihlolwe kwiintsuku zaphakathi evekini phakathi kwentsimbi ye08:00 neye16:30 kwiSebe: lizcwangciso zeDolophu kwa16 Paterson Street, Hermanus naseGansbaai Library, Main Road, Gansbaai. Naziphi na izimvo mazibhalwe ngokwezibonelelo zeSoloty lama-51 nelama52 loMthethwana zifike kwaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) <a href="mailto:alida@overstrand.gov.za">alida@overstrand.gov.za</a>) ngomhla okanye ngaphambi ko<b>Lwesihlanu, 20 EyoMnga 2024</b>, uchaze igama lakho, idilesi, iinkcukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zakho zokuhlomla. Imibuzo ngefowuni ingabuzwa ku<b>Mcwangcisi Omkhulu weDolophu, uMnu. SW van der Merwe</b> ku028-313 8900. UMasipala angala ukwamkela izimvo ezifike emva komhla wokuvala. Nabani na ongakwazi ukufunda nokubhala makhambeke kwiSebe Lezicwangciso ngeDolophu apho igosa likamasipala liza kumnceda ukuhlomla ngokusemthethweni.</p>
<p>Dr DGI O'Neill Municipal Manager / Munisipale Bestuurder / Umphathi Kamasipala PO Box / Posbus / Ibhokisi yePosi 20 HERMANUS 7200</p> <p style="text-align: right;">Notice No / Kennisgewing nr / Inombolo yesaziso: <b>180/24</b></p>		



Scale: NTS  
 Drawing Nr: 639 PEARLY BEACH.dwg  
 Date: 18 Oct 2024

Plan Description:  
**LOCALITY MAP**

Property Description:  
**ERF 639  
 PEARLY BEACH**

All distances approximate  
 and subject to survey.  
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 Town & Regional Planners



**PROPOSED CONSENT USE AND THE REMOVAL OF  
RESTRICTIVE TITLE DEED CONDITIONS**

**ERF 639 PEARLY BEACH**

**DIVISION: OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT**

**1. BACKGROUND**

Plan Active Town & Regional Planners has been appointed by Mrs. J.C. Koekemoer, the owner of Erf 639 in Pearly Beach, to apply for a consent use to establish a bottle store within a portion of the existing building. Notably, there are currently no bottle stores situated in Pearly Beach, making this a significant addition to the local business landscape.

Erf 639 Pearly Beach is held under Title Deed T36441/2005 and is 555m<sup>2</sup> in extent. The site currently hosts a fully operational restaurant. Additionally, the application includes the removal of restrictive Title Deed conditions that may limit the use of the property for purposes other than a restaurant.

In accordance with the Overstrand Municipality Zoning Scheme, 2020, the property is zoned Business Zone 3 and is presently being used as a restaurant. The proposal for the bottle store does not require any expansion or structural changes to the building, as it will be accommodated within the existing structure through internal alterations. The bottle store is expected to cover an area of approximately 94m<sup>2</sup>, situated on the western side of the building, facing Law Street.

The parking requirements for the proposed bottle store align with those of the existing restaurant, which means that the already approved and established parking bays will remain unchanged. This ensures that the project complies with zoning regulations and minimizes disruption to the surrounding area.

The introduction of a bottle store in Pearly Beach aims to enhance the range of services available to residents and visitors, contributing to the town's local economy while maintaining the existing character of the area.

## **2. APPLICATION DETAILS**

Application is made for / in terms of:

- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the removal of restrictive Title Deed conditions.
- Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020, for a consent use of Erf 639 Pearly Beach to establish a bottle store within an existing building.

## **3. GENERAL APPLICATION INFORMATION**

### **3.1 PROPERTY DESCRIPTION**

Erf 639, Pearly Beach, is located on the eastern side of Pearly Beach, near the main entrance road, within a block designated for business purposes. Building plans for a restaurant have been approved, and the property is currently being utilized for that purpose. Parking bays are situated along the southern boundary of Erf 639, adjacent to Law Street. Please refer to the attached locality map for further details.

The application for consent use to establish a bottle store pertains to a portion of the building, approximately 94m<sup>2</sup> in size. The erf, with a total area of 555m<sup>2</sup>, is an

established business property that will continue to be used as such in accordance with the approved building plans.

### 3.2 ZONING

The subject erf is zoned Business Zone 3, Local Business Zone. The primary land use rights and consent uses in terms of the Business Zone 3 zoning are as follow:

a) **Primary uses** are: shops, dwelling unit (above ground floor, flats (above ground floor), offices, restaurant, caretaker's accommodation and self-catering.

b) **Consent uses** are: 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 (subject to the provisions of Chapter 16.10).

Surrounding zonings are Residential Zone 1, General Residential Zone 3, Business Zone 3, Utility Zone, Community Zone, Open Space Zone 2 and Transport Zone 2. Please refer to zoning plan abstract below:



### **3.3 LAND USE**

As previously noted, a restaurant was constructed on the subject property in accordance with recently approved building plans. This development aligns with the property's Business Zone 3 designation and contributes to the gradual commercial growth of the area.

The surrounding business district, however, remains relatively underdeveloped, with few commercial establishments currently in operation. Significantly, there are currently no bottle stores situated in Pearly Beach, which presents a unique opportunity for the proposed bottle store to have a positive impact on the local business node.

By introducing the first bottle store in the area, this development would fill a gap in the market, attracting both local residents and visitors who would otherwise need to travel outside Pearly Beach for such services. The additional foot traffic generated by the bottle store could complement existing businesses, including the on-site restaurant, and stimulate further commercial activity.

Given the untapped potential of the business district, the bottle store could serve as a catalyst for future growth, encouraging more investment and development in the area. Its presence would not only provide a valuable service to the community but also enhance the commercial viability of the business node, helping to transform Pearly Beach into a more dynamic and self-sufficient business environment.

### **3.4 PROPOSED APPLICATION**

- In terms of Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the removal of restrictive Title Deed conditions.

- In terms of Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020, for the consent use of Erf 639 Pearly Beach to establish a bottle store on the subject property;

In terms of the Overstrand Municipality Zoning Scheme Regulations, Business Zone 3 provides for a range of primary uses, such as shops, restaurants, and offices. However, a bottle store is not included as a primary right within this zoning. Instead, the regulations specifically allow for the establishment of a bottle store under a consent use, meaning that additional approval is required to introduce such a facility on a property zoned Business Zone 3.

The definition of a "bottle store" in the Zoning Scheme is clearly outlined as:

"An establishment where the main purpose is the retail sale of alcoholic beverages for off-site consumption."

In the context of Erf 639, Pearly Beach, applying for a consent use to introduce a bottle store would be essential, as the current zoning permits this through a regulatory process rather than as an automatic right. The approval of such a consent use would allow for the establishment of a bottle store within the existing structure, ensuring compliance with municipal regulations.

Given that Pearly Beach currently lacks a bottle store, the proposed addition would fill a notable gap in services, offering a new retail option for residents and visitors. The consent use application is crucial in enabling this development, as it ensures that the introduction of the bottle store aligns with broader planning considerations for the area, including its impact on traffic, parking, and the local community. Furthermore, by following the consent use process, the bottle store would be integrated in a manner that supports the strategic growth of Pearly Beach's commercial node while adhering to regulatory requirements.

In conclusion, while Business Zone 3 does not automatically allow for a bottle store, the provision for consent use under this zoning category opens the door for the establishment of such a facility, provided the necessary approvals are obtained. This





these internal alterations will be submitted to the Overstrand Municipality for their review and approval, ensuring compliance with all relevant building and zoning regulations.

By repurposing a portion of the restaurant into a bottle store, this proposal maximizes the efficient use of the existing structure while introducing a new and needed service to the community, without necessitating any significant structural changes or expansion.

#### **3.4.1. Proposed Removal of Title Deed restrictions**

Van Zyl Kruger Attorneys were engaged to provide a conveyancing certificate confirming whether the Title Deed contains any restrictive conditions that need to be addressed. Upon review, the enclosed Title Deed (T36441/2005) and pivot Title Deed T833/1991 include the following restrictions:

- Page 3, paragraph C(4)(b): "It shall be **used for shop purposes only.**"
- Page 4, paragraph (D)(2): "The registered owner or any occupant of the said land shall not permit or suffer to be erected or displayed thereon any hoardings or advertisements whatsoever except only bona fide notice that the property is for sale, and **any sale or dealing in intoxicating liquor in the said land is likewise prohibited.**"

The need to address these Title Deed restrictions arises from the following:

- **Restriction on Shop Purposes:** The proposed bottle store does not fall within the definition of a "shop" and therefore requires an application for consent use. The Title Deed restricts the land use to "shop purposes only," which does not include a bottle store. To align with the primary rights set out in the Overstrand Municipal Land Use Planning Scheme, 2020, for properties zoned as Business Zone 3, we request the removal of the restriction on Page 3, paragraph C(4)(b), which states: "It shall be used for shop purposes only."

- Prohibition on the sale of intoxicating liquor: As a bottle store is being proposed, this use conflicts with the Title Deed's restriction on the sale of intoxicating liquor. The relevant clause reads: Page 4, paragraph (D)(2): "The registered owner or any occupant of the said land shall not permit or suffer to be erected or displayed thereon any hoardings or advertisements whatsoever except only bona fide notice that the property is for sale, and **any sale or dealing in intoxicating liquor in the said land is likewise prohibited.**" We are seeking the removal of this restrictive condition to permit the establishment of the bottle store.

In accordance with Chapter 4, Section 35(4) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020, and Section 39(5) of the Land Use Planning Act, 2014, the Municipality must consider certain criteria when evaluating the removal, suspension, or amendment of restrictive conditions. The municipality must consider the following:

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

The restrictive Title Deed conditions currently applicable to Erf 639 Pearly Beach limit the property to "shop purposes only" and prohibit the sale of intoxicating liquor. These restrictions may have originally been intended to regulate the nature of businesses and maintain a particular character within the area. However, given the evolving needs of the community and the current underdeveloped business node, these conditions now inhibit the full economic potential of the property.

There is no significant financial or personal value associated with these restrictive conditions for any surrounding property owners or the community at large. In fact, the current restrictions limit the viability of the proposed bottle store, which would not only add to the commercial diversity of the area but also meet the local demand for such services, especially considering that Pearly Beach currently lacks a bottle store. The

removal of these conditions would enhance the economic opportunities for the property owner and contribute to the growth and development of the broader business zone.

From a financial perspective, the restrictive conditions act as a constraint on the utilization of the property, potentially reducing its market value by restricting permissible uses. By allowing the establishment of a bottle store, the value of the property is likely to increase, benefiting both the owner and the local economy. Furthermore, the removal of these conditions will not negatively impact surrounding properties, as the proposed bottle store will be located within an existing building and carefully managed to avoid any undesirable effects.

Therefore, while the restrictive conditions may have had some historical value, they no longer serve the best interests of the property owner, the community, or the business development of Pearly Beach. Their removal is expected to positively impact the financial and commercial dynamics of the area without infringing on the rights or values of neighbouring properties.

- **The personal benefit which accrues to the holder of rights in terms of the restrictive conditions.**

The restrictive conditions placed on Erf 639 Pearly Beach, which limit its use to "shop purposes only" and prohibit the sale of intoxicating liquor, offer little to no personal benefit to any individual or entity. These restrictions, which may have once aimed to preserve a specific land use character, are now outdated and serve as a hindrance to the optimal use of the property in the current context of Pearly Beach's development.

The property owner, Mrs. J.C. Koekemoer, does not personally benefit from these restrictions. Instead, the restrictions prevent the establishment of a bottle store, a business that is in demand within the area, where no such service currently exists. Allowing the bottle store would not only meet community needs but also enhance the commercial viability of the property, thus directly benefiting the owner.

As for the surrounding property owners, any personal benefit they may have once derived from the restrictive conditions is minimal. The area is evolving with mixed-use development, including residential, business, and utility properties. The restrictions no longer provide meaningful protection or enhancement to the value or character of neighbouring properties. In fact, the removal of these conditions would likely benefit the wider community by introducing a well-managed commercial service, without negative impacts on the area's character or appeal.

In summary, the restrictive conditions offer no substantial personal benefit to the property owner or surrounding property holders. Removing them will enable the property to reach its full potential while supporting local economic growth, without compromising the integrity of the surrounding environment.

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

The removal of the restrictive conditions on Erf 639 Pearly Beach will directly benefit the property owner, Mrs. J.C. Koekemoer, by unlocking the full commercial potential of the property. Currently, the restrictions limit the use of the property to "shop purposes only" and prohibit the sale of alcoholic beverages. These limitations prevent the establishment of a bottle store, which would otherwise capitalize on an untapped market in Pearly Beach, where there are currently no such stores.

By removing the restrictive conditions, Mrs. Koekemoer will gain the ability to utilize a portion of the existing building ( $\pm 94\text{m}^2$ ) for a bottle store, increasing the property's utility and revenue potential. The conversion of part of the building into a bottle store will diversify the business offerings on-site, thereby creating an additional income stream without the need for further construction or development. This will enhance the financial sustainability of the property while meeting local demand.

Moreover, the approval to establish a bottle store will increase the market value of Erf 639 Pearly Beach, making it a more attractive asset both as a functioning business

and in future resale opportunities. The change in land use aligns with the current zoning (Business Zone 3) and community needs, providing a responsible way to develop the property further.

In summary, the personal benefit to Mrs. Koekemoer from the removal of these restrictive conditions is clear, it allows her to enhance the profitability and market value of her property by introducing a sought-after commercial service, all within the existing business framework and infrastructure.

- **The social benefit of the removal, suspension or amendment of the restrictive conditions remaining in place.**

If the restrictive conditions on Erf 639 Pearly Beach were to remain in place, the primary social benefit would likely be the continued limitation of certain commercial activities, such as the sale of alcoholic beverages, which some individuals or groups may feel could contribute to unwanted social behaviour. By prohibiting the establishment of a bottle store, the community may believe it is preserving the character of the area or maintaining a quieter, more residential environment.

The restrictive conditions could also be seen as a mechanism for controlling the type and intensity of business operations in the area, ensuring that the nature of commercial activities remains aligned with the original vision for the community. Some residents may value the restrictions for preserving a sense of order, especially in an area that includes residential, open space, and community-oriented land uses.

However, the broader social benefits of keeping these restrictive conditions in place appear limited. As Pearly Beach evolves and its commercial and residential needs change, the restrictions may hinder the area's potential to grow and meet the needs of its residents. Additionally, the underdeveloped nature of the business node suggests that retaining these restrictions could stifle opportunities for local economic and social development, especially considering the lack of services like a bottle store in the area.

In summary, while the restrictive conditions may have once been socially beneficial by maintaining a certain type of land use, their continued enforcement offers little advantage to the community in the present context and could actually restrict social and economic progress in Pearly Beach.

- **The social benefit of the removal, suspension or amendment of the restrictive conditions**

The removal or amendment of the restrictive conditions on Erf 639 Pearly Beach will bring significant social benefits to the local community, especially considering the current absence of a bottle store in Pearly Beach. The introduction of this business within a portion of the existing building will enhance access to services for residents and visitors alike, improving convenience without the need for people to travel to nearby towns to obtain alcoholic beverages.

The presence of a well-managed bottle store will contribute to the overall vitality of the business node, which is currently underdeveloped. By expanding the range of services available in the area, the establishment of a bottle store will encourage foot traffic and create a more active, vibrant local economy. This could potentially attract further investment in the area, supporting local job creation and contributing to the growth of Pearly Beach as a thriving community.

Furthermore, the integration of the bottle store within an existing structure ensures that no additional development is required, thereby preserving the existing character of the neighbourhood. The store will be carefully managed to minimize any potential negative effects on surrounding residential and business properties, ensuring that it complements rather than disrupts the social fabric of the area.

In conclusion, removing the restrictive conditions will provide a direct social benefit by enhancing local access to services, stimulating economic activity, and promoting sustainable development without negatively impacting the surrounding community.

This change will meet the evolving needs of Pearly Beach's residents while supporting the growth of a balanced, mixed-use business environment.

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

The removal or amendment of the restrictive conditions on Erf 639 Pearly Beach will not result in the complete removal of rights enjoyed by the beneficiaries of these conditions. Rather, it will only affect specific rights related to the land use restrictions that limit the property to "shop purposes" and prohibit the sale of alcoholic beverages.

The broader regulatory framework established by the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, and applicable zoning regulations, will continue to provide oversight and governance over how the property is used and developed. This ensures that beneficiaries still enjoy protections and municipal controls that guide land use in Pearly Beach, even after the restrictive conditions are removed.

In accordance with Section 47 of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA), removing these restrictions will not violate the constitutional rights of any person, including those residing or conducting business in the surrounding area. The process will not deprive any individuals or entities of their rights as contemplated under Section 25 of the Constitution of South Africa.

Furthermore, removing these restrictions would allow the property owner to fully utilize the commercial potential of the land by accommodating a bottle store within the existing structure, which currently aligns with community needs. This proposed change will not completely strip beneficiaries of their rights, but instead balance the property owner's interests with continued municipal oversight.

In summary, while some specific rights will be modified through the removal of these restrictive conditions, beneficiaries will still retain broader protections under local planning laws, ensuring that development remains responsibly managed within the community.

### **3.5 CHARACTER OF THE ENVIRONMENT**

Erf 639, Pearly Beach, is situated on the eastern side of the town within an area designated for business purposes. The immediate surroundings along Law Street reflect a mixed-use character, including developed residential flats, business erven, and a property designated for utility services. Additionally, the wider area around Erf 639 is comprised of properties zoned for residential use and public open spaces, contributing to a well-balanced community environment.

The proposed bottle store will be located within the established building on Erf 639 Pearly Beach. While no external expansions are planned, internal alterations will be required to repurpose a portion of the restaurant for the bottle store. These changes will occur within the existing structure, ensuring that the physical appearance of the building remains consistent with its current form.

The bottle store will be carefully managed to avoid attracting undesirable elements, and measures will be implemented to minimize any potential negative effects on surrounding residential, business, and utility properties.

The primary business land use rights will remain intact, and the internal changes to accommodate the bottle store within the existing building will not disrupt the character of the area. With the residential flats and other developments already in place, the bottle store is expected to integrate smoothly into the local community, enhancing the commercial activity without negatively impacting the environment or surrounding properties. This proposal supports the growth of the local economy while maintaining the area's mixed-use balance and preserving its established character.



### **3.6 POTENTIAL OF THE PROPERTY (DESIRABILITY OF THE PROPOSED UTILIZATION)**

The potential of Erf 639, Pearly Beach, is significantly enhanced by the proposed establishment of a bottle store within the existing building. Given the current lack of bottle stores in the Pearly Beach area, this proposal addresses a clear demand for such a service, making it a desirable addition to the local commercial landscape.

The strategic location of the property, situated within a mixed-use zone, positions the bottle store to attract both residents and visitors. The proximity to established residential flats and nearby businesses ensures a steady customer base, thereby increasing the likelihood of the bottle store's success. This new offering would not only fill a gap in the market but also enhance the overall appeal of the shopping precinct.

In addition, the integration of a bottle store within the existing structure minimizes the need for extensive alterations, allowing for a quicker transition from concept to operation. This efficiency contributes to the overall desirability of the proposed utilization, as it aligns with community needs without disrupting the established environment.

The bottle store will complement the existing restaurant, creating a synergistic effect that can boost foot traffic and enhance the overall vibrancy of the area. By providing a new retail option, the proposal contributes to the local economy, supports job creation, and encourages further commercial development in Pearly Beach.

In summary, the proposed utilization of Erf 639 Pearly Beach for a bottle store is highly desirable, given the existing market gap, strategic location, and potential to enhance the local business environment. This development promises to contribute positively to the character of the area while meeting the needs of the community.

### **3.7 IMPACT ON EXTERNAL ENGINEERING SERVICES**

#### **3.7.1 PROVISION OF SERVICES**

The proposed bottle store will be established within a portion of an existing building that has been approved for use as a restaurant. The current Business Zone 3 zoning will remain unchanged; however, approximately 94m<sup>2</sup> of the building will be repurposed exclusively for the sale of alcoholic beverages.

Since the infrastructure required for retail operations is already in place, no additional services will be necessary to facilitate the change of use from a portion of the restaurant to a bottle store. This efficient use of existing resources ensures a smooth transition and minimizes disruption to the surrounding area. The bottle store will operate within the framework of the current zoning regulations, further solidifying its integration into the established business environment.

#### **3.7.2 TRAFFIC IMPACT, PARKING AND ACCESS**

As previously noted, the use of Erf 639 Pearly Beach, will continue as a business site with its primary function as a restaurant. However, a portion of the building, approximately 94m<sup>2</sup> in size, will be repurposed to establish a bottle store. Importantly, this change does not create any additional shopping space; rather, it involves a modification of the land use for part of the existing restaurant.

The bottle store will operate under the same parking bay requirements as the restaurant, meaning that the consent use will have no impact on the volume of traffic or traffic flow in the area. Additionally, there will be no need for additional parking bays, as the existing provision of 10 parking bays was previously approved in connection with the building plans for the restaurant. These parking bays are conveniently accessed from Law Street.

This continuity in parking requirements ensures that the transition to a bottle store will not disrupt the current access arrangements or worsen traffic conditions. Overall, the proposed change of use is expected to integrate smoothly into the existing traffic and parking framework, maintaining the functionality of the site while serving the needs of the community.

### **3.8 TITLE DEED**

The Title Deed T36441/2005 have restrictions that need to be removed in order for this application for consent use to be approved. Please refer Section 3.4.1 above.

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

#### **3.9.1 HERITAGE VALUE**

The proposed change of use for a portion of the existing building to a bottle store will have no impact on the heritage value of the property or the surrounding area. The outer appearance of the building will remain unchanged, aside from the branding specific to the proposed bottle store.

This minimal alteration ensures that the architectural integrity and character of the existing structure is preserved.

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

The proposed consent use to change a portion of the building to a bottle store does not trigger any listed activities as defined under the National Environmental Management Act (NEMA), 1998 (Act No. 107 of 1998).

This assessment indicates that the proposed change will not have significant adverse effects on the biophysical environment. Since the alterations involve only internal modifications within the existing structure, there will be no disruption to the surrounding ecosystem, land use, or natural resources. The proposal aligns with sustainable development principles by ensuring that existing infrastructure is utilized efficiently without necessitating new construction or environmental degradation.

### **3.10 FORWARD PLANNING**

This application constitutes the change of use of a portion of an established building used as a restaurant on a property zoned Business Zone 3 to a bottle store. Consequently, the section pertaining to forward planning and its associated subsections are not applicable to this application.

Given that the proposal involves repurposing an existing space within the current zoning framework, there are no significant implications for long-term land use planning, community development strategies, or infrastructure requirements. The focus remains on optimizing the existing business premises without necessitating additional planning considerations.

### **3.11 PLANNING PRINCIPLES**

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

Spatial Justice: Spatial justice refers to the equitable distribution of resources, opportunities, and amenities across different areas, ensuring that all communities have access to the benefits of urban development. In the context of the proposed change of use for a portion of the building on Erf 639 Pearly Beach, to a bottle store, the concept of spatial justice plays a vital role in promoting inclusive growth and community well-being.

The introduction of a bottle store addresses a specific need within the Pearly Beach community, particularly given the absence of such facilities in the area. By providing local residents and visitors with convenient access to retail options for alcoholic beverages, the proposal helps to enhance the overall quality of life and support local economic activity.

Furthermore, the integration of the bottle store within an existing business site promotes efficient land use and minimizes potential urban sprawl, aligning with principles of sustainable development. This approach not only serves the immediate community but also contributes to the broader goal of creating vibrant, mixed-use environments where various socioeconomic groups can thrive.

By facilitating access to essential services, the proposed development promotes spatial equity, ensuring that all members of the community benefit from the commercial growth of Pearly Beach. Overall, the bottle store is positioned to foster a sense of community, enhance local amenities, and contribute positively to the social fabric of the area.

#### Spatial sustainability:

Spatial sustainability refers to the responsible and equitable use of land and resources to meet present needs without compromising the ability of future generations to meet their own. In the context of the proposed change of use for a portion of the restaurant on Erf 639, Pearly Beach, to a bottle store, several key aspects of spatial sustainability are addressed.

Firstly, the proposal maximizes the use of existing infrastructure by repurposing a portion of the building, thereby minimizing the need for new construction and reducing the environmental footprint associated with development. By utilizing the current building, the project aligns with principles of sustainable urban planning that prioritize the efficient use of space and resources.

Additionally, the establishment of a bottle store within an existing business environment promotes mixed-use development, which is essential for creating vibrant, resilient communities. This integration encourages foot traffic and supports local economic activity without contributing to urban sprawl, thereby preserving open spaces and natural resources in the surrounding area.

Furthermore, the proposed bottle store will serve a dual purpose: providing a necessary service to the community while enhancing the overall appeal of the business node. This can stimulate further investment in the area, encouraging a more diverse range of businesses and amenities that contribute to the long-term sustainability of the community.

In summary, the change of use for the portion of the restaurant to a bottle store exemplifies spatial sustainability by optimizing existing resources, promoting mixed-use development, and supporting the local economy, all while preserving the environment for future generations.

Efficiency: Efficiency in urban development refers to the optimal use of resources, infrastructure, and space to achieve maximum utility with minimal waste. The proposed change of use for a portion of the building on Erf 639 Pearly Beach, to a bottle store embodies principles of efficiency in several keyways.

Firstly, the proposal capitalizes on existing infrastructure, utilizing a portion of an already established building. This approach eliminates the need for new construction, thereby reducing both material waste and environmental impact. By repurposing an existing space, the project also minimizes the time and resources typically associated with site preparation and construction, facilitating a quicker transition to operation.

Secondly, the bottle store will share the parking and access arrangements of the restaurant, which have already been approved. This shared use of facilities ensures that no additional parking spaces or access routes are required, further enhancing the efficiency of land use. The existing provision of parking bays, accessible from Law Street, will adequately accommodate the expected customer volume without necessitating further development.

Additionally, by introducing a bottle store in an area currently lacking such a facility, the proposal improves local accessibility to essential goods, reducing the need for residents to travel outside the community for similar services. This not only supports local economic activity but also contributes to a reduction in traffic congestion and associated emissions.

In conclusion, the proposed change of use demonstrates a commitment to efficiency by making the most of existing resources, optimizing land use, and enhancing local accessibility. This efficient approach benefits both the business and the community while promoting sustainable development practices.

Spatial Resilience: Spatial resilience is not applicable to this application.

Good administration: Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process.

#### **4. RECOMMENDATION**

When this application is evaluated it is important to take note of the following:

- Addressing local needs by providing a much-needed service, filling the gap created by the absence of bottle stores in Pearly Beach.

- Efficient use of space through the conversion of a portion of an existing building, minimizing environmental impact and avoiding unnecessary construction.
- No extra parking concerns since the bottle store will utilize existing parking facilities, helping to maintain smooth traffic flow.
- No additional services required, as the bottle store will be integrated into the approved building being utilised as a restaurant.
- The floor area ratio of the building will remain unchanged, ensuring compliance with existing planning regulations.
- The bottle store will be carefully managed to avoid attracting undesirable elements, with measures implemented to minimize any potential negative effects on surrounding residential, business, and utility properties.
- Boosting the local economy with potential job creation and increased local spending.
- Conveniently located and easily accessible, enhancing the overall attractiveness of the shopping centre for residents and visitors.
- The zoning of Erf 639 Pearly Beach will remain unchanged, along with the primary use of the site. The application only represents a change of land use from a portion of the building ( $\pm 94\text{m}^2$ ) to a bottle store.
- The proposed consent use and removal of restrictive Title Deed conditions will not negatively impact Erf 639 Pearly Beach or the land uses of surrounding properties, ensuring harmony within the community.
- Proposal aligns with the existing built character of the area, maintaining aesthetic continuity and supporting the overall development goals of Pearly Beach.

Overall, supporting the application for the bottle store aligns with community needs and promotes a thriving, sustainable environment in Pearly Beach. With reference to the above is it our opinion that the proposal for a consent use and the removal of restrictive Title Deed conditions for a bottle store can be supported for your favourable evaluation.



VOORGESTELDE "SOOS GEBOU" REGSTELLINGS VIR  
J.C. KOEKEMOER  
OP ERF NO 639 GELIË TE PEARLY BEACH

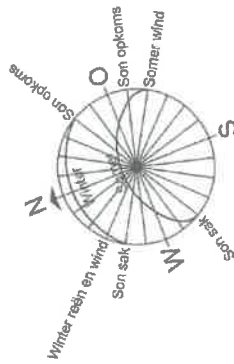
**OVERSTRAND MUNICIPALITY**

Building Plan No. 1146/2024 is recommended for approval in terms of the National Building Regulations and Building Standards Act No. 103 of 1977 and all other applicable laws by the Building Control Officer.

17 JAN 2024

Date: 17 JAN 2024  
Approved in terms of the National Building Regulations and Building Standards Act No. 103 of 1977 and all other applicable laws by the Manager: Building Control

17 JAN 2024



BEST. 6000  
SEPTIESE  
TENK

ERF 2630

ERF GRENS 25.19 m

ERF GRENS 22.04 m

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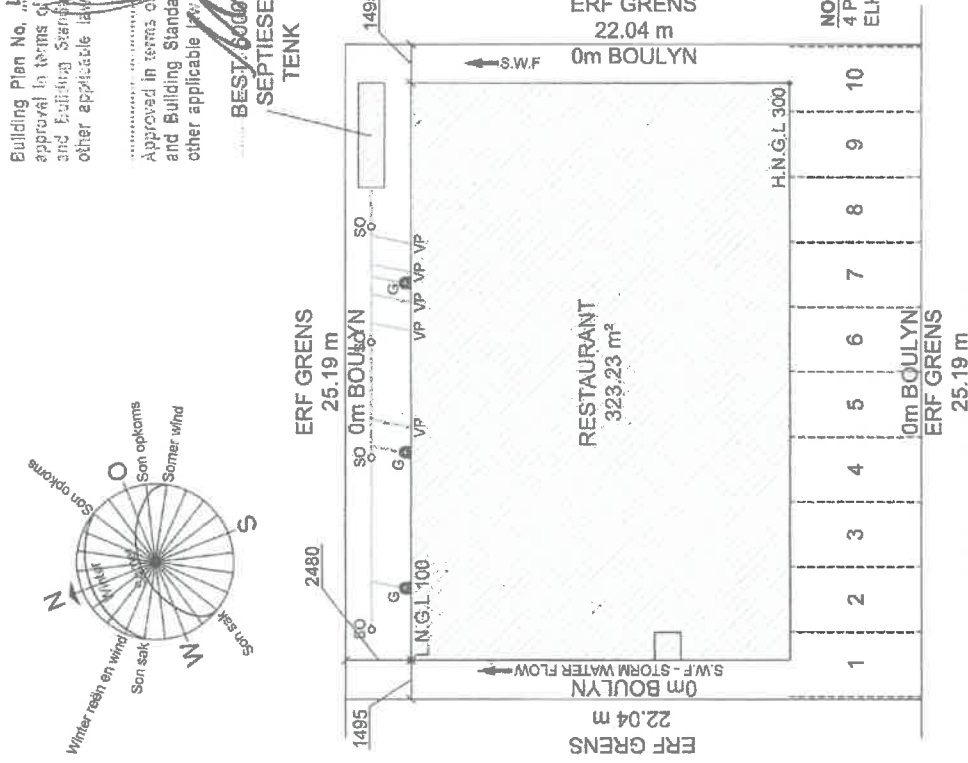
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**TERREIN PLAN**  
SCALE 1:200



9 LAW STRAAT

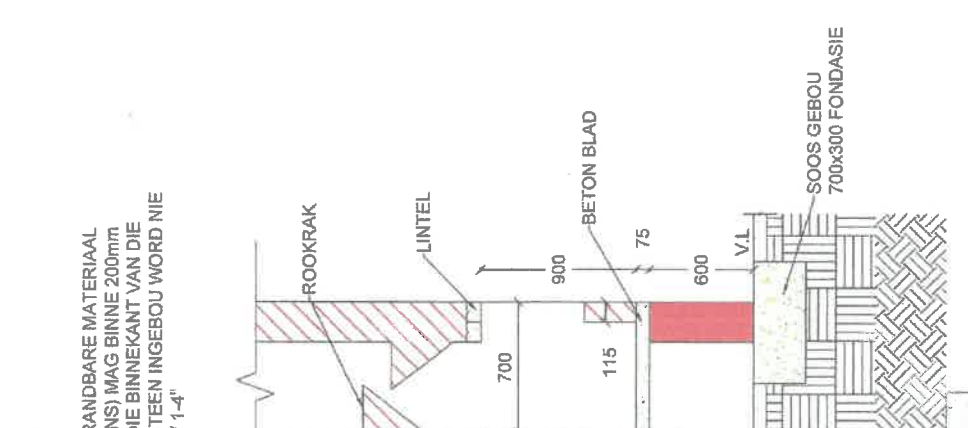
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**DETAIL KAGGEL/BRAAI**



BEST. 690x230 FONDASIE

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ERF GRENS 25.19 m

ERF GRENS 22.04 m

ERF GRENS 25.19 m

ERF GRENS 22.04 m

ERF GRENS 25.19 m

ERF GRENS 22.04 m

ERF GRENS 25.19 m

**STEENWERK**

280 Cavity muur. Buite en Binnemure gepleister en geverf volg. eienaars keuse

**DAKKONSTRUKSIE**

Big six plate op 50 x 38 mm daklatte @ 1m s/s op 300 x 75 mm laminated dakbalk @ 1.2m s-s op 114 x 38 mm muurplaat (sien snit a-a) voorsien van 32 x 1.6 mm gegalvaniseerde bouershoepel by elke balk

**PLAFONNE**

25 mm ISO-Pine op daklatte

**VENSTERS EN DEURE**

Best. hout en Soos Gebou aluminium

**RIOOLWERK**

Volgens munisipale vereistes en regulasies

**GEUTE**

PVC geute en afleipyp. Geute op 225 x 12 mm fasia board

**ELEKTRIESETEIT**

Alle elektriese werke deur spesialis. Voldoening sertifikaat moet voorsien word.

**GAS**

Alle gas deur spesialis en volgens SANS regulasies ter plan aangedui

**OPPERVLAKTE**

Restaurant : 323.23 m<sup>2</sup>

Totaal "Footprint" : 323.23 m<sup>2</sup>

ERF : 555 m<sup>2</sup>

DEKKING : 58.24 %

SKAAL IN PLAN : REG No D2730

1:20, 1:50, 1:100, 1:200 TEK NO : JJ 45/23

**ALGEMEEN**

Alle mates en hoogtes moet op terrein nagegaan word voor werk mag begin. Mates op plan geniet voorrang voor mates geskaal vanaf plan. Voervlak in alle gevalle min. 300mm bo grondvlak. Vogdigtaag moet onder alle openinge in buitemuur bouers hoepel 300mm aan beide kante van muurgevestig. Alle dak houtte wat in muur in gebou word moet met ope gedek word by gedeelte waar dit met die muur kontak maak.

ALLE BOUWERK STRENG VOLGENS NATIONALE, PROVINSIALE EN PLAASLIKE BOUREGULASIES.

J.J van der Nest

ARGITEKTONIESE DIENSTE

P.R-ARCHIDRAUGHT

SACAP REG: (D2730)

GETEKEN : JJ VAN DER NEST

Blesbokstraat 3

Kleinbaai, 7220

Sei : 082-486-8580

DATUM : 15-11-2023

MUNISIPALITEIT OVERSTRAND MUNICIPALITY  
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Fax: 031 313 1589  
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Date: 09 JAN 2024  
FIRE BRIGADE/BLANDWEER APPROVED/GOEDGEKEUR