

OVERSTRAND MUNISIPALITEIT

ERF 869, HOOFWEG 100, SANDBAAI: OVERSTRAND MUNISIPALE AREA: AANSOEK OM OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDES, HERSONERING, VERGUNNINGSGEBRUIK, AFWYKINGS, EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: MNRE WRAP PROJECT OFFICE NAMENS MD & MD PRETORIUS

Kragtens Artikels 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die volgende aansoeke van toepassing op Erf 869, Sandbaai (die eiendom), naamlik:

Opheffing van Beperkende Titelaktevoorwaardes

Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelaktevoorwaardes B.(a), B.(c), en B.(d) soos vervat in Titelakte T5658/2024 van die eiendom, om die eiendom vir besigheidsdoeleindes aan te wend.

Hersonering

Aansoek ingevolge Artikel 16(2)(a) van die Verordening vir die hersonering van die eiendom vanaf Residensiële Sone 1: Enkelwoonsone na Sakesone 3: Plaaslike Sake, om 'n eiendomsagentskap vanaf die eiendom te bedryf.

Vergunningsgebruik

Aansoek ingevolge Artikel 16(2)(o) van die Verordening om 'n enkel-woonstel op grondvlak te akkommodeer.

Afwyking

Aansoek om afwyking ingevolge Artikel 16(2)(b) van die Verordening vir die volgende:

- Verslapping van die noordelike laterale boulyn vanaf 3m na 0.9m en 1.5m om 'n braai en onderdak stoep te akkommodeer, en die
- Verslapping van die suidelike laterale boulyn vanaf 3m na 1.5m om 'n enkel-woonstel op grondvlak te akkommodeer.

Administratiewe boete

Aansoek ingevolge Artikel 16(2)(q) van die Verordening vir die bepaling van 'n administratiewe boete.

Besonderhede aangaande die voorstel lê ter insae gedurende weksdae tussen 08:00 and 16:30 by die Departement: Stadsbeplanning te Patersonstraat 16, Hermanus.

Enige kommentaar moet skriftelik wees in ooreenstemming met Artikels 51 en 52 van die Verordening en die Munisipaliteit (Patersonstraat 16, Hermanus / (e) alida@overstrand.gov.za) bereik voor of op Vrydag, **06 September 2024** met u naam, adres en kontakbesonderhede, belang in die aansoek, asook die redes vir kommentaar. Telefoniese navrae kan gerig word aan die **Stadsbeplanner, Mr. H Boshoff** by 028-3138900. Die Munisipaliteit mag weier om kommentare wat na die sluitingsdatum ontvang word, te aanvaar. 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.

Munisipale Bestuurder, Overstrand Munisipaliteit, Posbus 20, **HERMANUS, 7200**

Munisipale Kennisgewing Nr. 114/2024

OVERSTRAND MUNICIPALITY

ERF 869, 100 MAIN ROAD, SANDBAAI: OVERSTRAND MUNICIPAL AREA: APPLICATION FOR THE REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, REZONING, CONSENT USE, DEPARTURES, AND THE DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS WRAP PROJECT OFFICE ON BEHALF OF MD & MD PRETORIUS

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 869, Sandbaai (the property), namely:

Removal of Restrictive Title Deed Conditions

Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions B.(a), B.(c), and B.(d) as contained in Title Deed T5658/2024 of the property, to utilize the property for business purposes.

Rezoning

Application in terms of Section 16(2)(a) of the By-Law for the rezoning of the property from Residential Zone 1: Single Residential to Business Zone 3: Local Business, to conduct an estate agency from the property.

Consent use

Application in terms of Section 16(2)(o) of the By-Law to accommodate a single flat at ground floor level.

Departure

Application for departure in terms of Section 16(2)(b) of the By-Law for the following:

- Relaxation of the northern lateral building line from 3m to 0.9m and 1.5m to accommodate a braai and a covered veranda, and the
- Relaxation of the southern lateral building line from 3m to 1.5m to accommodate a single flat on the ground floor level.

Administrative penalty

Application in terms of Section 16(2)(q) of the By-Law for the determination of an administrative penalty.

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.

Any comments must be in writing in accordance with Sections 51 and 52 of the By-Law to reach the Municipality (16 Paterson Street, Hermanus / (e) alida@overstrand.gov.za) on or before Friday, **06 September 2024** quoting your name, address and contact details, interest in the application, as well as the reasons for comment. Telephonic enquiries can be made to the **Town Planner, Mr. H. Boshoff** at 028-313 8900. The Municipality may refuse to accept comments 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.

Municipal Manager, Overstrand Municipality, P.O. Box 20, **HERMANUS, 7200**

Municipal Notice No. 114/2024

UMASIPALA WASE-OVERSTRAND

ISIZA 869, 100 MAIN ROAD, E-SANDBAAI: INDAWO KAMASIPALA OVERSTRAND: ISICELO SOKUSUSWA KWEEEMKO ZETAYITILE EZITHINTELWEYO, UKUCANDWA NGOKUTSHA, UKUSETYENZISWA KWEMVUME, UKUTENXA, KUNYE NOKUMISELWA KWESOHLWAYO SOLAWULO: WRAP PROJECT OFFICE EGAMENI MD & MD PRETORIUS

Kukhutshwa isaziso ngokumayela neCandelo 47 nele 48 loMthetho Otshintshiweyo woMasipala waseOverstrand ongokuSetyenziswa koMhlaba kaMasipala, 2020 (uMthetho kaMasipala), ukuba kufunyenwe isicelo esimayela neSiza 869, Sandbaai (ipropati) ukuze kwenziwe ezi zinto zilandelayo:

Ukususwa kweMiqathango yeSivumelwano soBunini esiThintelweyo

Isicelo ngokuhambelana neCandelo le-16(2)(f) loMthetho kaMasipala sokususa imiqathango yesithintelo setayitile yobunini B.(a), B.(c), kunye B.(d) njengoko iqulethwe kwiSivumelwano soBuniniMhlaba esinguNombolo T5658/2024 ukusebenzisa ipropati ngeenjongo zoshishino.

Ukucandwa ngokutsha

Isicelo ngokweCandelo le-16 (2) (a) loMthetho kaMasipala wocando ngokutsha lwepropati ukusuka kuMmandla wokuHlala woku-1: Indawo yokuhlala eNye ukuya kuMmandla woShishino wesi-3: uShishino lweNgingqi, ukuqhuba i-arhente yezindlu kwipropati.

Sokusetyenziswa imvume

Isicelo ngokweCandelo le-16(2)(o) loMthetho kaMasipala ukuze kulungiselelwe iflethi enye kumgangatho ophantsi.

Ukutenxa ngokuhambelana

Isicelo sokutenxa ngokusesikweni ngokwemigaqo yeCandelo 16(2)(b) loMthetho kaMasipala koku kulandelayo:

- Ukucuthwa komda wesakhiwo osecaleni ongasentla ukusuka kwi-3m ukuya ku-0.9m kunye ne-1.5m ukuze kulungiselelwe ibraai kunye neveranda egqunyiweyo, kunye
- Ukucuthwa komda wesakhiwo osecaleni osemazantsi ukusuka kwisi-3m ukuya kwisi-1.5m ukulungiselela ukuhlalisa iflethi enye kumgangatho ophantsi.

Ukumiselwa kwesohlwayo solawulo

Ukwenziwa kwesicelo ngokweCandelo le-16(2)(q) loMthetho kaMasipala wokumiselwa isohlwayo solawulo.

Linkcukacha ngesi sindululo ziyafumaneka ukuze zihlole ngeentsuku zokusebenza ngamaxesha eveki phakathi kwentsimbi ye-08:00 neye-16:30 kwiSebe: Zicwangiso ngeDolophu kwa-16 Paterson Street, Hermanus.

Nawaphi na amagaqabaza okuhlomla amele abhalwe aze afike kwaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za ngomhla okanye ngaphambi komhla **06 EyoMsintsi 2024**, ubhale igama lakho, idilesi neenkukacha zoqhagamshelwano, umdla kwisicelo nezizathu zokuhlomla. Imibuzo ngefowuni ingabhekiswa ku**Mnu. H Boshoff** ku 028-313 8900. UMasipala angangavumi ukwamkela amagaqabaza okuhlomla afunyenwe emva komhla wokuvala. Nabani na ongakwazi kufunda okanye ukubhala angatyelela iSebe loYilo Dolophu apho igosa lakwamasipala liya kumnceda afake amagaqabaza okuhlomla.

UMphathi kaMasipala, uMasipala waseOverstrand, P.O. Ibhokisi 20, **HERMANUS, 7200**

Inombolo yesaziso No. 114/2024

1. Locality Plan

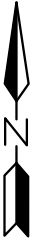
Erf 869 - SANDBAAI

Plan prepared by: Veronica Jansen

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Unit B, Standard House,
Corner of Royal and Dirkie Uys
Street Hermanus, 7200



2069
RE/1459

1909

1908

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1. ABBREVIATIONS

OM	Overstrand Municipality
OMLUS	Overstrand Municipality Land Use Scheme, 2020
BY-LAW	Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020
PSDF	Western Cape Provincial Spatial Development Framework, 2014
LUPA	Western Cape Land Use Planning Act, 2014.
OMSDF	Overstrand Municipality Spatial Development Framework, 2020
B3	Business Zone 3: Local Business
GLA	Gross Leasable Area

2. PROPERTY DETAILS

Erf Number	Erf 869 Sandbaai
Extent	595m ²
Zoning	Residential Zone 1: Single Residential

3. BACKGROUND AND INTENT

The subject property, Erf 869 Sandbaai, occupies a distinctive location, situated on the Main Road in Sandbaai with a mix of business- and residential properties. (refer to **Plan 1 - Locality Plan**).

Due to its favourable position, the property presents an excellent opportunity for rezoning as it is located within the demarcated business node of Sandbaai. Therefore, the proposed rezoning is in line with the future development proposals envisioned by the OMSDF. The owners bought the property recently with the intent to use it as offices for their real estate business while maintaining the existing flat to rent out for residential purposes. The owners appointed WRAP Project Office to submit the land use application on their behalf and subsequently provided their consent (refer to **Annexure A - Power of Attorney**).

To achieve the owner's intent, approval of several applications is required, which includes removal of restrictive title deed conditions that restricts the property from being used for business purposes. The property is proposed to be rezoned with a consent use to allow the existing flat on the ground floor.

4. PROCEDURE TO ACHIEVE THE DEVELOPERS' INTENT

WRAP compiled this report to ensure the owners' vision is achieved. The following is proposed:

4.1 Removal of restrictive title deed conditions to accommodate the proposed rezoning.



There are three title deed conditions that prohibit the land use rights necessary for the proposal. The rationale for the removal of these conditions is discussed below:

Restrictive Title Deed Condition
<i>Condition B(a) – “That the above erf or erven be used for residential purposes only.”</i>

The abovementioned condition prohibits the approval of the proposal to rezone the property. It is important to note that the area in which the property is located has been identified as a business node. Therefore, this condition is not aligned with the future framework for the area.

Restrictive Title Deed Condition
<i>Condition B(c) – “That not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that more than one-half the area of any one of the above erven be built upon.”</i>

Restrictive Title Deed Condition
<i>Condition B(d) – “That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as gardens but shall not be built upon.”</i>

The owners will be using the front portion of property for more than gardening, which requires the removal of the restrictive title deed condition. The rationale for the removal of the restrictive title deed conditions is to enable the owners to achieve their intent highlighted in Section 3 of this report. The reasoning for the removal of these restrictive title deed conditions will be discussed in detail in Section 7 of this report.

4.2 Rezoning of Erf 869 Sandbaai from Residential Zone 1: Single Residential to Business Zone 3: Local Business

The proposal is to rezone the property to a business zone, which will permit the owners to operate their real estate office on the property, while allowing the flat to continue being rented out. The primary- and consent use rights (once approved) of a Business Zone 3: Local Business zoning will allow the property to be developed as envisioned.

This real estate office will operate within business hours only and will make minimum use of the parking area due to the following reasons:

Remote work: many real estate agents are able to work remotely, conducting meetings and transactions online or at client locations rather than at the office.

Flexibility: Real estate agents have flexible schedules and do not need to be in the office for fixed hours. Most meetings are scheduled directly at property sites with clients rather than at the offices.

Client visits: The real estate agents spend a significant amount of time showing properties to clients. As a result, they do not spend much time at the office, further reducing the use of the parking area.



Therefore, the tenants residing in the flat on the ground floor will not be negatively affected by the proposed offices on the property. The proposal makes provision of tandem parking for the flat situated next to the office and in front of the existing flat.

The previous owners erected a canopy across the approved stoep. Both the stoep and canopy will be removed to make space for the required parking. **Refer to Plan 4** – for the Site Plan.

The proposed use of the subject property as a real estate office can be classified as use for office purposes which is defined by OMLUS as: *'means property used for conducting an enterprise primarily concerned with administrative, clerical, financial or professional duties and includes medical consulting rooms.'*

Uses of the area inside the real estate office:

- **Reception Area** – Waiting room for clients.
- **Agent Desk Space** – Estate agents' desk space.
- **Main Office** – Office space.
- **Board Room** – Meeting room for purchasers and sellers.
- **Bathroom** – Staff use.
- **Kitchen** – Staff use.

Parking for the business area is located in front of the existing building and the flat on the ground floor will have two separate parking bays. The parking requirements according to the OMLUS are as follow:

Flats (1 bedroom)	1.5 Parking Bay
Business premises	4 bays per 100m ² Gross Leasable Area (GLA)

Taking the above into account, 2 parking bays will be provided for the flat on the ground floor. The parking is being provided in a tandem approach as the parking will only be used by the flats' tenant. Additionally, each 100m² of GLA needs to be provided with 4 parking bays. The proposed GLA is approximately ±75m² and therefore, 3 parking bays are required. This totals to 5 parking bays that are required for the proposed development.

The proposal is to provide 5 parking bays which complies with the requirement as calculated above. A mixed-use development offers numerous benefits that contribute to the overall enhancement of an area and its community. Firstly, such developments foster a vibrant and dynamic urban environment by combining residential and commercial spaces within a single area. This diversity of land use encourages pedestrian activity, reduces reliance on cars, and promotes a more walkable and socially engaged neighbourhood.

From an economic standpoint, mixed-use developments may catalyse local economies by attracting businesses, residents, and visitors. The presence of commercial spaces such as offices generate foot traffic, that supports local businesses, and creates job



opportunities. This economic vitality not only benefits the immediate area but also has a ripple effect, positively impacting surrounding neighbourhoods and businesses.

Furthermore, mixed-use developments promote sustainability and environmental consciousness. By consolidating various activities in one area, they reduce the need for long commutes and encourage a more efficient use of resources. Additionally, these developments often incorporate sustainable design principles such as green spaces, energy-efficient buildings, and alternative transportation options, contributing to overall environmental health and resilience.

From a social perspective, mixed-use developments foster a sense of community and connectivity. The co-existence of residential and commercial spaces encourages interaction among residents, workers, and visitors, fostering a diverse and inclusive environment.

4.3 Permanent Departure of the northern side building line from 3m to 0,9m to accommodate the existing veranda and braai.

4.4 Permanent Departure of the southern side building line from 3m to 1,5m to accommodate the existing flat.

The existing dwelling unit and flat were historically approved and constructed in their current position. However, the proposed zoning entails more restrictive building lines than the current zoning, which necessitates a departure application. This requirement stems from situations where a Business Zone 3: Local Business zoning abuts any other zoning and, in such cases, the side building lines are set at 3m. As the status quo zoning plan annexed as **Plan 2** indicates, the subject property abuts Residential zone 1 properties on each side, thus the side and rear building lines are required to be 3m.

The existing buildings encroaching on the northern and southern building lines do so only marginally.

The area of the building that encroaches on the northern side building line will be used as a covered veranda and braai area. Refer to **Figure 1** which illustrates the northern building line encroachment.

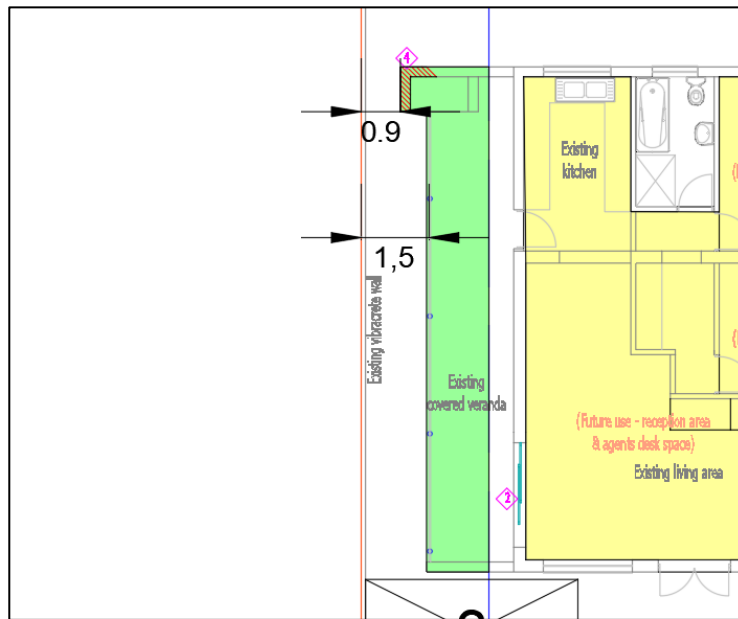


Figure 1: Northern building line encroachment area

The area of the building that encroaches on the southern side building line will be used as a flat on the ground floor. Refer to **Figure 2** which illustrates the building line encroachment:

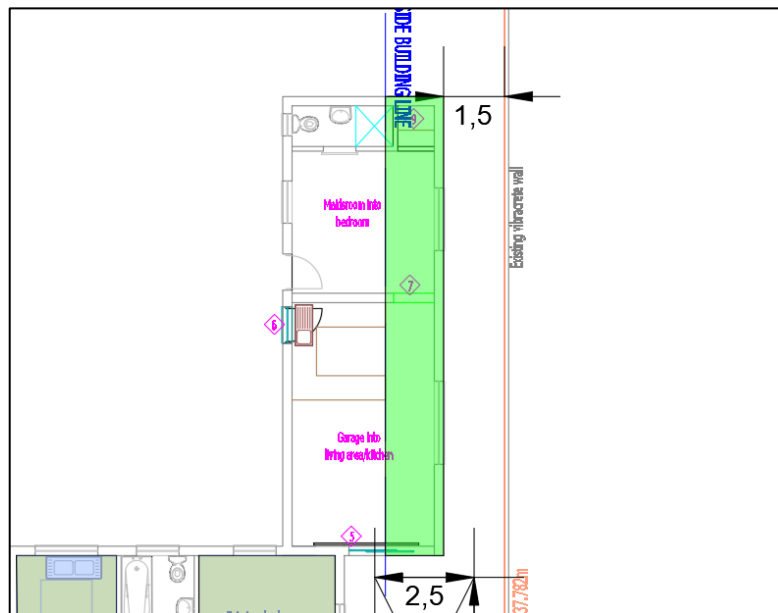


Figure 2: Southern Building line encroachment area

Partial demolition of the encroaching areas would pose financial challenges for the owners. Therefore, both areas are intended to be preserved in their current state. Moreover, the anticipated uses are not foreseen to negatively impact neighbouring properties. While the existing buildings conform to the present residential zoning regulations, the proposed rezoning necessitates a departure from the new development parameters outlined for B3 zoning.



It is therefore motivated that the approval of this application would not affect the built environment of the Sandbaai area, and it is not out of place within the urban nature of the area.

4.5 Consent Use to allow a flat (on the ground floor).

The subject property has an existing flat on the premises, which the owners want to retain when the property is rezoned to Business Zone 3. The proposed zoning permits a flat on the ground floor with consent from the OM.

A flat is defined as: *'a unit containing one or more inter-leading rooms with adequate sanitary facilities and a kitchen, used for the accommodation and housing of a single family, and may be included in or separate from the main building on the property'*.

This inclusion of a flat will enhance the property's value by preserving its residential character within the area.

4.6 Determination of an administrative penalty

The property owners are in the process of rectifying the contravention that was done by the previous owners by submitting this application. The contravention is related to the garage and staff quarters that were turned into a flat by the previous owners. The current owners were unaware that the flat was a contravention when buying the property.

With commencement of this application, it was discovered that the existing flat does not have building plan approval and that the Title deed does not allow for a flat. In addition to this, there have been no complaints from neighbouring property owners regarding the existing flat. This indicates that the violation is not causing any significant harm or disruption to the surrounding community.

To ensure compliance with the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, it is of importance to include an application for the determination of an administrative penalty. However, it is requested that the administrative penalty be reduced. The current property owners are actively engaged in rectifying the contravention that occurred under the previous ownership. Their proactive approach demonstrates a commitment to compliance with regulations and rectifying any issues promptly. Reducing the penalty would acknowledge and encourage such responsible behaviour.

Furthermore, as previously mentioned, it is not predicted to have a negative impact on the surrounding properties as their owners have become accustomed to the placement and position of the flat, and the flat will ensure the property obtains its residential character while also being used for offices.

Section 90(3) of the By-law requires the following information:

The nature, duration, gravity and extent of the contravention

Section 4.1 indicates the nature and gravity of the additions that were constructed without prior approval. The total extent of the building line encroachments is:



Existing flat	±39,74m ²
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The conduct of the person (allegedly) involved in the contravention

The previous owners were responsible for ensuring that there were no contraventions in terms of the By-Law; however, it is important to note that no malicious intent was found in their actions and the current owners aim to rectify the contravention to be able to use their property as intended.

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

Due to the small-scale nature of the encroachment, no quantity surveyor was involved.

Whether the unlawful conduct was stopped

The structures have already been constructed.

Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.

To the knowledge of this office, the property owners have not previously contravened the By-Law.

5. LAND USE ENVIRONMENT

The surrounding area of the subject property may be considered as a mixed-use area as depicted in **Plan 2** (Status Quo Zoning Plan), showcasing various types of land uses coexisting within the area where the subject property is situated.

This indicates that the proposal for a B3 zoning within the area would align with the existing character, considering that the subject property is situated within the Sandbaai Development node as outlined in the MSDP. For a detailed in-depth review of how the application aligns with regulating policies, refer to *Section 10* of this report.

6. TITLE DEED

6.1	<p><u>Title deed restriction</u> Condition B(a) – <i>“That the above erf or erven be used for residential purposes only.”</i></p> <hr/> <p><u>Motivation</u> The rationale for the proposed removal The subject property was used for residential purposes of a single-family. The property has seen a shift in owners' intent towards a scale and nature of use that exceeds current zoning regulations. The sought-after business use is incongruent with the existing condition, necessitating its removal.</p> <p>Title deed condition background The title deed condition was initially aimed to preserve the residential character of Sandbaai for residential purposes of a single-family.</p> <p>This title deed condition was formulated in a period of low population growth and to maintain a low-density residential environment. The cap on residential use for a single-family was intended to protect this character.</p>
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Current development trend
The current trend in Sandbaai, as depicted in **Plan 2**, portrays a shift towards mixed-use development, particularly in the central area designated as a development node. This evolving land use trend accommodates businesses along Main Road, subject to appropriate land use approvals. The once-relevant residential-only condition, conceived in 1957, now conflicts with the contemporary reality of Sandbaai's dynamic blend of residential and commercial uses, rendering it outdated.

6.2 Title deed restriction
Condition B(c) –
“That not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that more than one-half the area of any one of the above erven be built upon.”

Motivation
The rationale for the proposed removal
The proposed business use exceeds the parameters permitted by the current zoning regulations for the subject property. Consequently, it contradicts the existing condition outlined in the title deed. Therefore, to align with the intended business activity and the evolving nature of property use, it is necessary to remove this restrictive condition.

Furthermore, the latter part of the condition stipulates that no more than half of the area of any given erf may be built upon. However, the zoning regulations outlined in the OMLUS permit a coverage of up to 75% for properties zoned as B3. Therefore, adherence to this condition would impede any future development on the property that conforms to the zoning guidelines. Hence, the removal of this condition is imperative to enable future development in accordance with the permissible coverage set by the zoning regulations.

Title deed condition background
The title deed condition intended to protect the residential character of Sandbaai for each property to exclusively be used for the accommodation of a single-family. This title deed condition was inserted in an era of low population growth and low-density development and the cap of residential use for a single-family was intended to protect this character.

6.3 Title deed restriction
Condition B(d) – “That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as gardens but shall not built upon”

Motivation
The rationale for the proposed removal
The subject property is proposed to be used for a real estate office with adequate parking in front of the property. The condition states that the area between the road boundary and the 4,72m building line may only be used for gardens which does not align with the proposal.



	<p>The area of the property that fronts the street will be used for parking bays required for a B3 zoned property that will require a paved surface. This paved surface for the parking is proposed within the building line as depicted in this condition. The area will therefore be built upon and not be considered a garden and the reason for the removal.</p> <p>Title deed condition background</p> <p>The title deed condition was established to safeguard Sandbaai's residential ambiance, ensuring that each property was designated solely for single-family accommodation. Implemented during an era marked by minimal population expansion and sparse development, this condition aimed to preserve the area's low-density residential character by limiting usage to single-family dwellings.</p>
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In terms of the requirements of LUPA, the following is addressed in terms of Section 39(5)(a-f):

LUPA, Section 39(5) (a-f)	
<i>(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;</i>	No person or entity will be affected financially by the removal of these restrictive title deed conditions.
<i>(b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;</i>	No person is personally benefitting from this condition as this condition is only restricting the owners.
<i>(c) the personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended;</i>	The owners will be gaining from the removal of the restrictive conditions as it will allow them to rezone the property and operate their business from the property.
<i>(d) the social benefit of the restrictive condition remaining in place in its existing form;</i> <i>(e) the social benefit of the removal, suspension or amendment of the restrictive condition; and</i>	These restrictive conditions do not provide social benefits.
<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>	There is no specific beneficiary of these conditions, and no person or entity will be affected if this is removed.

7. ZONING

The property is zoned as Residential Zone 1: Single Residential and requires approval of a rezoning to be able to accommodate the development. The proposal requires the zoning to be Business Zone 3: Local Business. Therefore, the following zoning parameters were assessed in conjunction with the B3 OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (q) of the OM By-Law:



BUSINESS ZONE 3: LOCAL BUSINESS (B3)			
Land Use Restrictions			
	Parameters	Proposal	Comply/ deviate
Primary use	Shops, Dwelling Unit (above ground floor) in accordance with 6.3.2, Flats (above ground floor), Offices , Restaurant, Caretaker's Accommodation and Self-Catering.	Offices	Applied for and motivated
Consent uses which may be applied for	Bottle Store, Business Premises, Clinic, Conference Facility, Dwelling Unit (on ground floor) in accordance with 6.3.2, Flats (On Ground Floor) , Town Housing in accordance with 6.3.2, 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).	Flats (On Ground Floor)	Applied for and motivated
Coverage	The maximum coverage for all buildings on the land unit is 75% .	28.74%	Comply
Floor Factor	The maximum floor factor is 1.5.	0.28	Comply
Height	<ul style="list-style-type: none"> i. The maximum height of a building, measured from the base level to the top of the structure, is 8,5 m. ii. The maximum number of storeys is 2. 	<ul style="list-style-type: none"> i. ±3.5m ii. 1 Storey 	Comply
Setback	<ul style="list-style-type: none"> i. The Municipality may require that all buildings and structures on the property are set back at least 6,5 m from the centre line of the street. ii. Where special circumstances exist, the Municipality may require a greater setback. 	<ul style="list-style-type: none"> i. Current setback is 5m. ii. This is noted. 	Comply
Building Lines	<ul style="list-style-type: none"> i. The street building line is 0 m, provided that a 5,0 m building line applies where fuel pumps are erected; ii. The side building line is 0 m, provided that where any Business Zone 3 abuts another zone, the side building line is 3,0m; 	<ul style="list-style-type: none"> i. No fuel pumps are proposed. 	<ul style="list-style-type: none"> i. Comply



MOTIVATION

	<ul style="list-style-type: none"> iii. The rear building line is 3,0 m, provided that where any Business Zone 3 abuts another zone, the rear building line is 3,0m; and iv. Provided that the Municipality may require more restrictive building lines in the interests of public health or safety or the environment or in order to enforce any applicable law or right. 	<ul style="list-style-type: none"> ii. Permanent Departure from the northern side building line from 3,0m to 0,9m to accommodate the existing veranda and braai. Permanent Departure from the southern side building line from 3,0m to 1,5m to accommodate the existing flat. iii. Comply iv. Noted 	<ul style="list-style-type: none"> ii. Applied for and motivated. iii. Comply iv. Comply
Window and door placement	<ul style="list-style-type: none"> i. Where a 0 m building line applies and where a wall of a building is erected 1,0 m or less from the side or rear building line, no door or window shall be permitted in the wall concerned. ii. Any portion of the building which contains a door or window onto a side or rear boundary shall be at least 1,5 m away from such boundary. 	<ul style="list-style-type: none"> i. Comply ii. Comply 	Comply
Parking and access	<p>According to section 17.1 of the OMLUS:</p> <p>Four bays per 100m² GLA are required.</p> <p>Flats: 1,5 bays for a 1-bedroom flat</p>	<p>GLA = 75m²</p> <p>3 Parking bays provided.</p> <p>Flat = 2 Parking bays provided</p>	Comply
Loading Bays	The minimum off-street loading must be provided to the satisfaction of the Engineering Department.	Noted.	Comply



8. SERVICES

The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is herewith illustrated.

8.1 Electricity, Water and Solid Waste

The subject property is connected to the existing networks in the area, which include electricity, water and sewage. The proposal of this application is not anticipated to impact on existing services.

8.2 Access, egress, and parking

Vehicular access and egress to the subject property is gained from Main Road, and the approval and execution of this application will not result in any changes to this existing vehicular access and egress.

9. NEED AND DESIRABILITY

The need and desirability of the approval and implementation of this proposal in accordance with Section 66 (1) (c) of the OM By-Law can be illustrated as follow:

Need and desirability.

The need for the application arose from the vision of the owners to be able to unlock the maximum value of the property.

Socio-economic impact	<p>Business properties stimulate economic growth by generating employment opportunities. With the establishment of the real estate office on the subject property, job opportunities are created, contributing to the local economy. The creation of new jobs enhances household incomes and boosts consumer spending, further driving economic growth and prosperity within the region.</p> <p>This increased economic activity leads to higher property values and attracts more investment and development, ultimately benefiting OM through higher property taxes and potentially increasing wealth for property owners.</p>
Compatibility with surrounding uses	The proposal is deemed to be consistent with the character of the surrounding area as illustrated in Plan 3 (Proposed Zoning Plan).
Impact on the external engineering services	<p>Refer to <i>Section 8</i> of this report.</p> <p>The Overstrand Municipality’s Engineering Department will review the application to ensure that service capacities are adequate.</p>
Impact on safety, health and wellbeing of the surrounding community	It is not predicted that the proposal will have a negative effect on the safety, health, and well-being of the surrounding community.
Impact on heritage	The subject property is not listed in the OM Heritage Register.



Impact on the biophysical environment	The property is located within an established urban area and is therefore not predicted that the proposal will have an impact on the biophysical environment.
Traffic impacts, parking, access and other transport related considerations	The proposal will have sufficient parking, as indicated throughout the application. The proposed use is not expected to have a large impact on traffic, as the expected traffic generation is not substantial due to the nature of the offices.

Impact on views, sunlight and character of the area

No major physical changes to the outside of the existing building are proposed, except for the removal of the existing stoep to be able to accommodate the required parking. The inside is set to be altered to accommodate the new use. The current building as indicated above in *Section 8* proves that the subject site complies with the proposed zoning's development parameters.

All structures on the subject property are existing and are not impeding on the views, sunlight and character of the surrounding area.

Economic impact

The current residential use has no economic impact on the surrounding area, but the proposed development would allow the subject property to add economic value.

The proposed development would continue to provide several employment opportunities, which include:

- 1 Receptionist;
- Estate agents; and
- 1 Cleaner.

The proposed development of the subject property will stimulate further economic growth to occur within the surrounding area and ensure Sandbaai has an economic contribution to the greater Hermanus area.

Opportunity cost

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or forgoing valued land use rights of interested and affected parties when an application is approved. The proposed use of the subject property is not predicted to adversely affect the surrounding area as the use proposed is not a use that emanates a lot of noise or any noxious trades.

Environmental impact

No listed activities in terms of the National Environmental Management Act are triggered by this proposal.



10. POLICIES AND REGULATIONS

10.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

The property is not located within the EMOZ.

10.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The property is located not located within the HPOZ.

10.3 Spatial Planning Policies

The consistency and inconsistency of this proposal with the applicable spatial development policies will herewith be illustrated. The spatial policies which are pertinent to the submitted proposal are the following:

PSDF

The PSDF is a product of a provincial inter-departmental and inter-governmental collaboration under the guidance of the inter-departmental steering committee in collaboration with the private sector, academia, and non-governmental organisations. This broad participatory process has created a shared spatial vision that is intended to inform spatial development patterns in urban and rural areas in the province.

Throughout the PSDF economic development is a widespread term used and focussed on. Economic development is an aspect that is important to ensure the Provincial economy has a large impact on the National economy.

The continual growth of the Provincial economy means that economic activity should be stimulated in lower spheres of the government. This application to allow a business use is in line with the proposal to add value to the Sandbaai area which in turn will have a positive impact on the Overstrand Municipality.

The application relates to the development of economic activity which is in line with the PSDF.

MSDF

The MSDF's purpose is to ensure compliance with national, provincial and district legislation policies and principles. The MSDF aims to provide sufficient guidance regarding what constitutes appropriate spatial development land uses and direction within the urban edge. The MSDF was drafted after considering input from other state departments and the public and provides a shared spatial vision which the development proposal should ideally attempt to synchronise with.

To ensure compliance with the principles and objectives set out by the PSDF and the National Development Plan, the MSDF was synthesised through the influence of these policies and frameworks. Ensuring economic development take place in the OM would ensure sustainable growth of the municipal area.

The area where the subject property is located, falls within a Business/Community Node (N4) as identified within the MSDF's 2050 Vision: Greater Hermanus (West). It states that business uses, commercial, retail and offices should be concentrated within demarcated business areas as far as possible. Refer to **Figure 3** for a visual illustration of the

business/community node and a visual representation where the subject property is located.



Figure 3: Business/Community Node (N4)

The subject property is located within the demarcated business area and the proposed rezoning is therefore in line with the future development proposals envisioned by the MSDF.

11. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains 5 uncompromisable planning principles by which each development application must be guided. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

Spatial justice

Spatial justice refers to planning proposals which do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal for a business premises would encourage economic growth that in turn could employ less fortunate and not add to the perpetuate apartheid spatial development imbalances.

Spatial sustainability and Efficiency

Spatial sustainability refers to planning proposals which result in communities that are viable. This proposal is intended to increase the economic power of the Sandbaai area in the OM, this will aid that the Sandbaai area is staying in contact with the ever-changing urban character of the greater Hermanus area.

Spatial resilience

This proposal is not in conflict with any spatial planning policies or other OM regulations which is a hallmark of resilience.



Good administration

The OM has a reputation for conducting effective public participation as part of its land use planning process. This process is an essential component of land use planning, as it allows people who may be affected by the development to provide feedback and raise any concerns or suggestions for improvement. This ensures that the development is in line with the needs and desires of the community.

All comments and feedback received during the public participation process will be carefully reviewed and considered by the relevant authorities. Any issues or concerns raised will be addressed, and suggestions for improvement will be considered where possible. This approach ensures that the final outcome benefits both the community and the developers.



12. EVALUATION

The owners have enlisted the services of WRAP Project Office to determine the 'highest and best use' of the property within the provisions of the relevant policies, legislation, and development parameters of the proposed zoning.

After careful analysis and assessment of the property, it has been determined that the proposal is in line with the policies and legislation, as evaluated throughout this report. As per the OMSDF, the area has been identified as a business node that will allow smaller localized businesses, which aligns with the intent of the proposal.

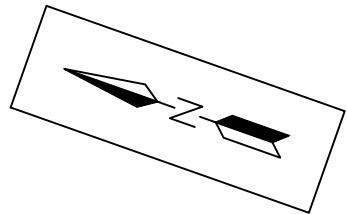
Furthermore, the proposed land use is not out of context with the surrounding area and is not seen as an undesirable proposal. The development aims to maintain the character of the area and is not expected to impede views or sunlight, as no external additions are being proposed.

In conclusion, the proposed development is a viable option that aligns with the policies and legislation of the OM. The owners have taken the necessary steps to ensure that the proposal is planned and executed in a sustainable manner, and it is expected that the vision of the owners will contribute positively to the economy of the area.

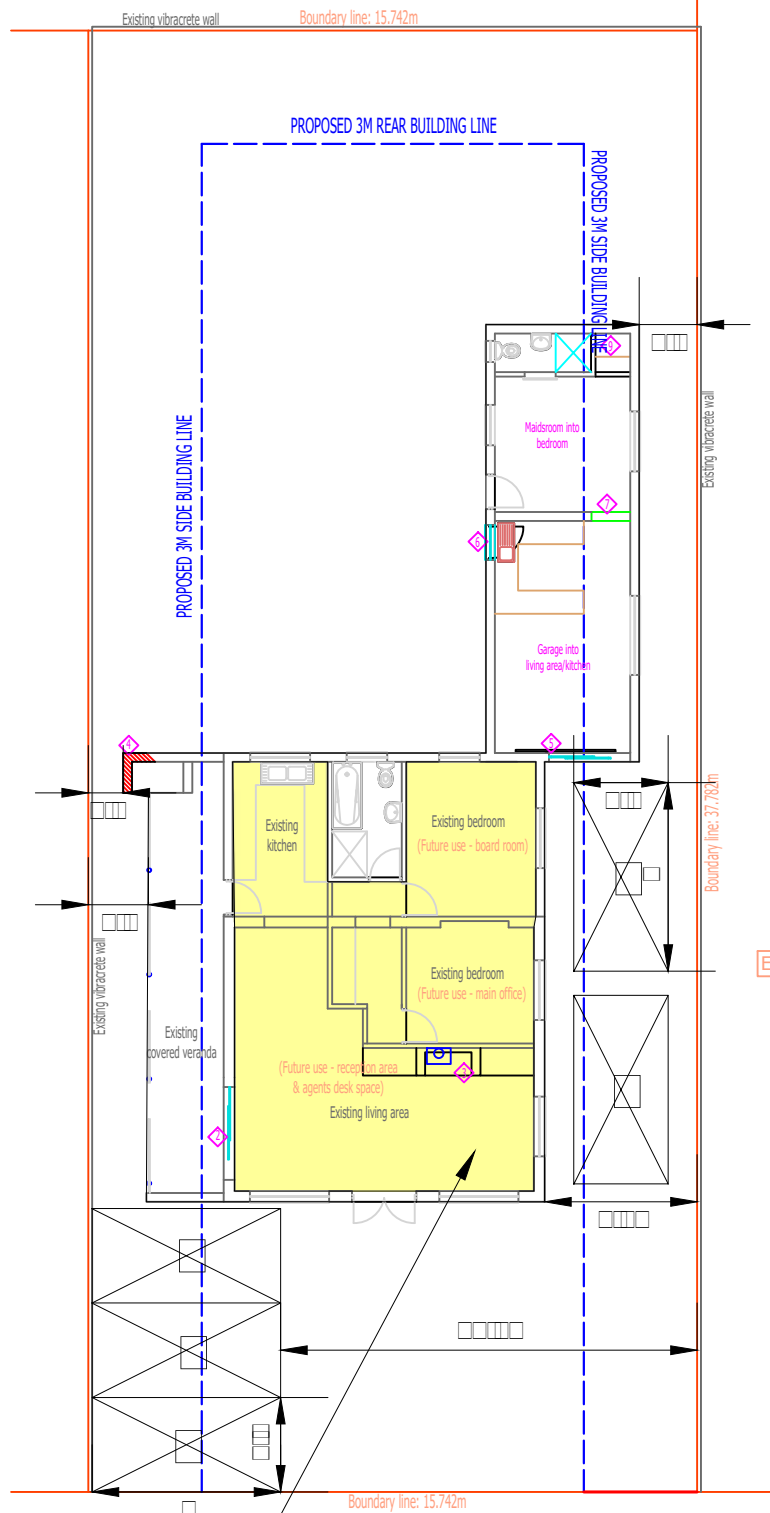
13. RECOMMENDATION

Based on the motivation, it is recommended that the following is approved:

- 13.1 Removal of restrictive title deed conditions** to accommodate the proposed rezoning in terms of Section 16(2)(f) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020;
- 13.2 Rezoning** of Erf 869 Sandbaai from Residential Zone 1: Single Residential to Business Zone 3: Local Business in terms of Section 16(2)(a) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020;
- 13.3 Permanent Departure** from the 3m southern side building line to $\pm 1,5m$ to accommodate the existing flat on the ground floor in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020;
- 13.4 Permanent Departure** from the 3m northern side building line to $\pm 0,9m$ to accommodate the existing covered veranda and braai in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020;
- 13.5 Consent Use** to allow a flat on the ground floor in terms of Section 16(2)(o) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020; and
- 13.6 Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.



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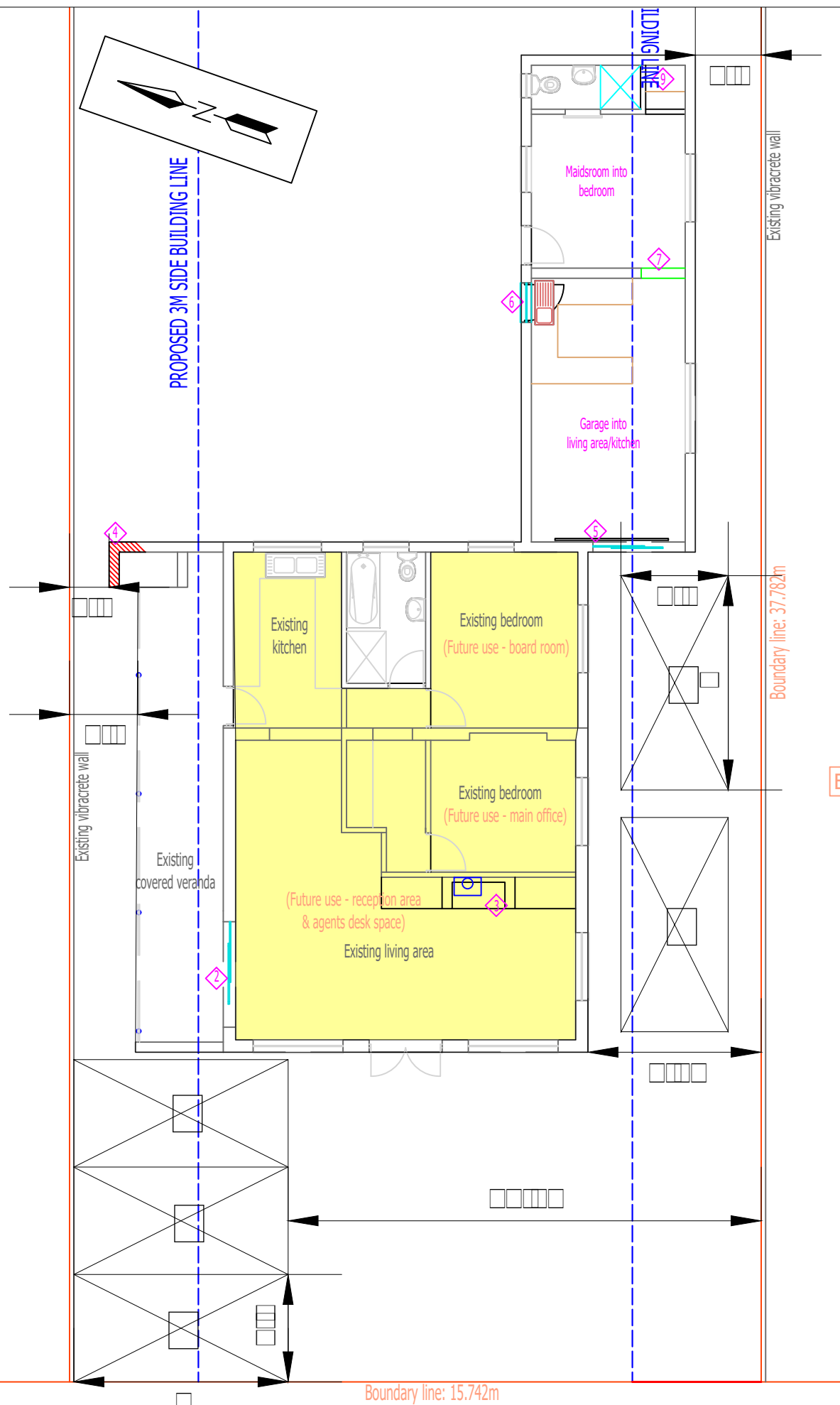
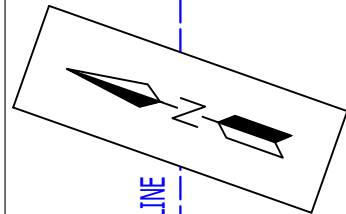


Boundary line: 15.742m

MAIN ROAD

±75m² GLA

Scale 1 : 200



Boundary line: 15.742m

MAIN ROAD

Scale 1 : 125

Extent - 595m²

GLA - ±75m²

GLA - 75m² = 3 Parking Bays

ER

