



MUNISIPALITEIT OVERSTRAND
ERF 844, ROSSSTRAAT 14, FRANSKRAAL,
OVERSTRAND MUNISIPALE AREA: AANSOEK
OM OPHEFFING VAN BEPERKENDE TITELAKTE
VOORWAARDES EN VERGUNNINGSGEBRUIK:
MNRE INTERACTIVE STAD- EN
STREEKBEPLANNERS

Kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die onderstaande aansoek van toepassing op Erf 844, Franskraal, naamlik:

- aansoek om opheffing van beperkende titelakte voorwaardes C.5(b) & (d) soos vervat in titelakte T4371/1985 van toepassing op Erf 844, Franskraal in terme van Artikel 16(2)(f) van bogenoemde Verordening;
- aansoek om vergunningsgebruik in terme van Artikel 16(2)(o) van bogenoemde Verordening ten einde 'n wooneenheid op die grondvloer van die eiendom te bou.

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 ingedien word in terme van Artikels 51 en 52 van die bogenoemde Verordening by die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za voor of op **23 Julie 2021**, vergesel van u naam, adres, kontak besonderhede, belang in die aansoek en redes vir kommentaar. Telefoniese navrae kan gerig word aan die **Senior Stadsbeplanner, Mnr SW van der Merwe** by 028-313 8900. 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.

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

Munisipale Kennisgewing Nr. 92/2021

OVERSTRAND MUNICIPALITY
ERF 844, 14 ROSS STREET, FRANSKRAAL,
OVERSTRAND MUNICIPAL AREA: REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS AND
CONSENT USE: MESSRS INTERACTIVE TOWN
AND REGIONAL PLANNERS

In terms of Section 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) notice is hereby given of the applications mentioned below applicable to Erf 844, Franskraal, namely:

- removal of restrictive title deed conditions C.5(b) & (d) as contained in title deed T4371/1985 applicable to Erf 844, Franskraal in terms of Section 16(2)(f) of the above mentioned By-Law;
- application for consent use in terms of Section 16(2)(o) of the above mentioned By-Law in order to construct a dwelling unit on the ground floor of the property.

Detail 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 Gansbaai Library, Main Road, Gansbaai.

Any written comments must be submitted in accordance with the provisions of Sections 51 and 52 of the said By-law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za on or before **23 July 2021** quoting your name, address, contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the **Senior Town Planner, Mr SW van der Merwe** 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.

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

Municipal Notice No. 92/2021

UMASIPALA WASE-OVERSTRAND
MUNICIPALITY
i-ERF 844, 14 ROSS STREET, FRANSKRAAL,
KUMMANDLA WOMASIPALA WASE-
OVERSTRAND: UKUSUSWA KWEMIQATHANGO
ENEZITHINTELO KWITAYITILE KUNYE
NEMVUME YOSETYENZISO: ABAKWA-
INTERACTIVE TOWN AND REGIONAL
PLANNERS

Kukhutshwa isaziso ngokumayela neCandelo 47 no-48 loMthetho Otshintshiweyo woMasipala waseOverstrand ongokuSetyenziswa koMhlaba kaMasipala, 2020 sokokuba kufunyenwe izicelo ezichaziweyo malunga no-Erf 8444, eFranskraal, ngolu hlobo:

- ukususwa kwemiqathango C.5(b) no (d) kwitayitile njengoko iqulethwe ku-T4371/1985 mayela no-Erf 844, eFranskraal ngokuhambelana neCandelo 16(2)(f) loMthetho kaMasipala ochazwe ngasentla.
- isicelo sokufumana imvume yokusebenzisa ngokumayela neCandelo 16(2)(o) loMthetho kaMasipala ochazwe ngasentla ukuze kwakhiwe indlu kumhlaba wewepathhi.

linkcukacha ezihambelana nesi siphakamiso ziyafumaneka kwiintsuku zaphakathi evekini ukuze zihlolwe phakathi kwentsimbi ye-08:00 ne- 16:30 kwiSebe: Izicwangciso ngeDolophu kwa16 Paterson Street, Hermanus nakwithala leencwadi lase Gansbaai.

Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zeSoloty lama-51 nelama-52 loMthethwana kaMasipala ochazwe ngentla (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za ngomhla okanye ngaphambi **komhla we 23 July 2021** uchaze igama lakho, idilesi, neenkukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zokuhlomla. Imibuzo ngefowuni ingabuzwa **kuMnu. SW van der Merwe kwa-** 028-313 8900. UMasipala angala ukwamkela izimvo emva kokuvula. Nabani na ongakwazi ukufunda nokubhala angandwendwela kwiSebe leziCwangciso zeDolophu acele igosa limncede ukufaka uluvo lwakhe ngokusemthethweni.

UMphathi kaMasipala, Overstrand Municipality,
P.O. Box 20, **HERMANUS**, 7200

Inothisi kaMasipala iNomb. 92/2021



ERF 844 FRANSKRAAL, OVERSTRAND



**Application is hereby made for the removal
of restrictive title deed conditions and
consent for a dwelling on the ground floor**



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April 2021

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1. Introduction	
a. Brief Refer to Annexure A for the Power of Attorney.	Interactive Town and Regional Planning was appointed by the owner of the property, Gerhard & Johanna Potgieter to prepare and submit an application for <u>the removal of restrictive title deed conditions and a consent use to allow for a dwelling unit on the ground floor of Erf 844, Franskraal</u> in terms of Chapter IV, Section 16.2(f)&(o) of the Overstrand Amendment By-law on Municipal Land-use Planning, 2020.
b. Background	<p>The owner of the application area was under the impression that he was purchasing a vacant residential property which was actually a vacant 483m² Business Zone 3: Local Business (B3) property located at 14 Ross Street.</p> <p>The owner wishes to <u>construct a dwelling unit on the ground floor</u> of the property.</p> <p>This proposal for a dwelling unit on the ground floor is permitted as a consent use according to the Overstrand Municipality Land Use Scheme, 2020 and the parameters for "General Residential Zone 2: Townhousing on the perimeter" are applicable to the proposed development for a dwelling unit on the ground floor of the property.</p> <p>According to the title deed there are two restrictive conditions which are required to be removed, in order to allow for the proposed land-use and a 3m in lieu of a 3.36m street building line.</p>
c. Development Objective & Application Proposal	<p>The development objective is to allow for a dwelling unit on the ground floor of the property.</p> <p>Subsequently, the application proposal is for the following:</p> <ul style="list-style-type: none"> • Consent use to construct a dwelling unit on the ground floor • Removal of restrictive title deed conditions to allow for: <ul style="list-style-type: none"> ○ Land-use other than a "shop" ○ Street building line of 3m in accordance with the Overstrand Municipality Land Use Scheme, 2020, in lieu of a 3.36m title deed street building line.

2. The Application

<p>a. Analysis: Title Deed</p> <p>Refer to Annexure D for the Conveyancer Certificate.</p>	<p>The Conveyancer Monica Korf from Virtual Lawyers issued a certificate confirming that there are title deed conditions that restrict the development proposal.</p> <p>The restrictive title deed conditions in Title Deed T63560/2017 are conditions C.5(b) &(d).</p> <p>C. SUBJECT FURTHER to the following conditions contained in Deed of Transfer No.T4371/1985, imposed by the Administrator of the Province of the Cape of Good Hope when approving the establishment of Franskraal Township Extensions No.3 in terms of Ordinance No.33 of 1934, namely:</p> <p>5. This erf shall be subject to the following further conditions provided especially that where, in the opinion of the Administrator after consultation with the Townships Board and the Local Authority, it is expedient that the restriction in an such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation subject to compliance with such conditions as he may impose:</p> <p>(b) It shall be used for shop purposes only;</p> <p>(d) No building or structure or any portion thereof, except boundary walls, fences, verandas and balconies shall be erected nearer than 3.36 metres to the street line which forms a boundary to this erf.</p>			
<p>b. Analysis: Development Criteria:</p> <p>The development parameters for Erf 844 Franskraal, Overstrand as per the Overstrand Zoning Scheme Regulations, 2020, are summarised as follows:</p>	<p>Parameters</p>	<p>Existing Zoning</p>	<p>Proposal</p>	<p>Comments</p>
	<p>Zoning</p>	<p>Business Zone 3: Local Business</p>	<p>Business Zone 3: Local Business</p>	<p>Consistent</p>
	<p>Primary Uses</p>	<p>Shops, dwelling unit (above ground floor), flats (above ground floor), offices, restaurant, caretaker's accommodation and self-catering</p>	<p>Dwelling unit (above ground floor)</p>	<p>Consistent</p>
	<p>Consent Uses</p>	<p>Bottle store, business premises, clinic, conference facility, dwelling unit (on ground floor) in accordance with 6.3.2, 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</p>	<p>Dwelling unit (on ground floor)</p>	<p>Application includes a consent use for a dwelling unit on the ground floor as well as removal of restrictive title deed condition regarding permitted land-use</p>
	<p>Coverage</p>	<p>75% 65% in terms of 6.3.2 in case of dwelling on the ground floor</p>	<p>65%</p>	<p>Consistent</p>

	Height	8.5m 8m in terms of 6.3.2 in case of dwelling on the ground floor 2 storeys	2 storeys	Consistent
	Building Lines	Street 0m 3m in terms of 6.3.2 in case of dwelling on the ground	3m	Consistent Application includes removal of restrictive title deed condition regarding the street building line
			3.36m (Title Deed)	
	Common	0m 3m in terms of 6.3.2 in case of dwelling on the ground	3m	Consistent
	Parking	4 bays per 100m ² GLA for shops 2 bays per dwelling unit	2 bays per dwelling unit	Consistent
c. Application	<p>Application is hereby made in terms of the Overstrand Amendment By-law on Municipal Land-use Planning, 2020 for:</p> <ul style="list-style-type: none"> • Removal of restrictive title deed condition C.5(b) from Title Deed T63560/2017 in terms of Chapter IV, Section 16.2(f). • Removal of restrictive title deed condition C.5(d) from Title Deed T63560/2017 in terms of Chapter IV, Section 16.2(f). • Consent for a dwelling unit on the ground floor in terms of Chapter IV, Section 16.2(o). 			

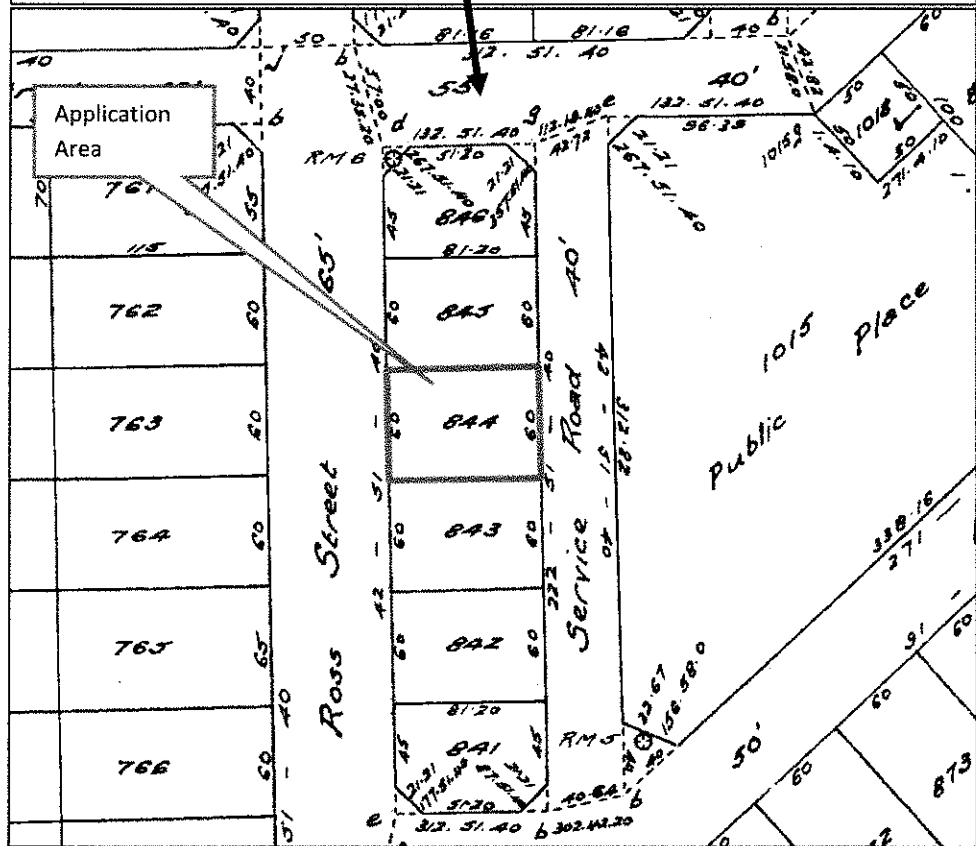
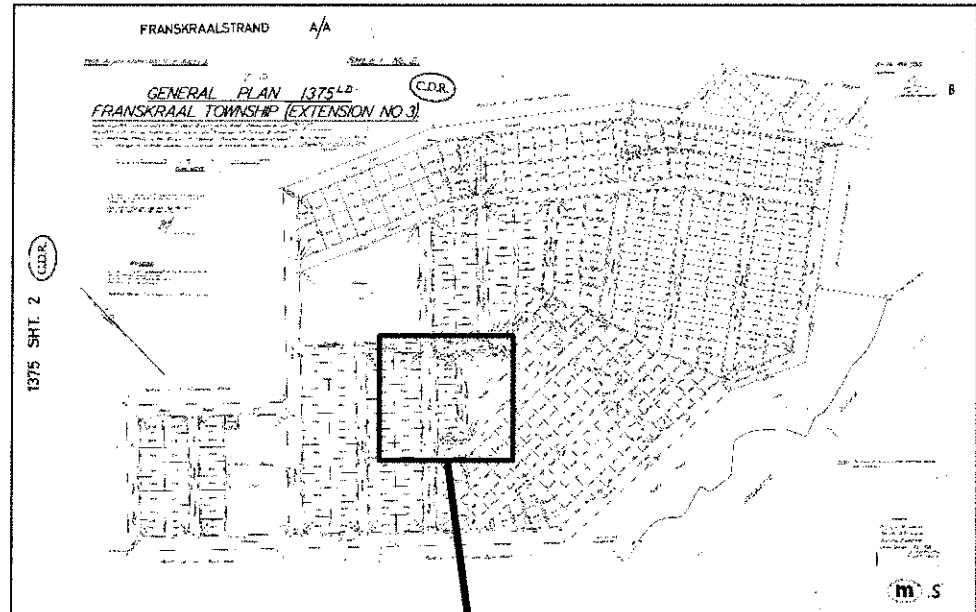
3. Contextual Site Information

a. Property Description

Property	Extent	Title Deed	Registered Owner
844 Franskraal	483m ²	T63560/2017	Gerhard & Johanna Potgieter

Refer to Annexure E for the SG Diagrams, Annexure B for the Title Deed of Erf 844 Franskraal

The following Surveyor General Plans reflect the application site:



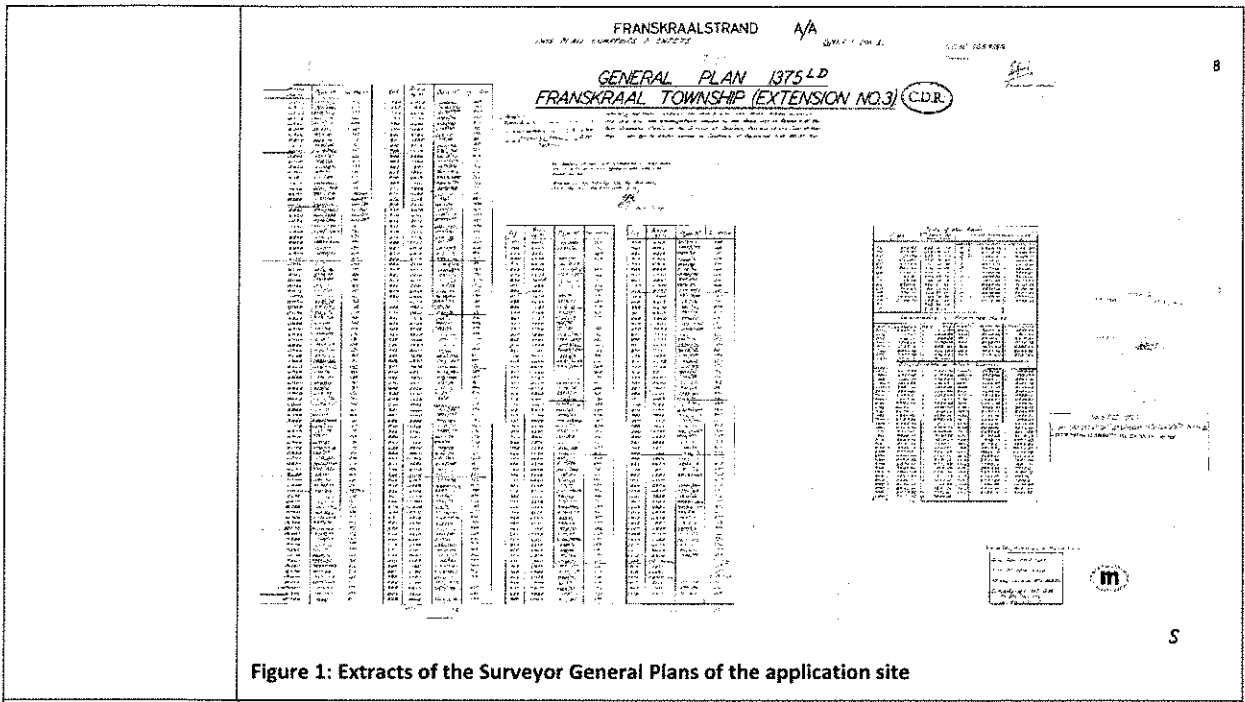


Figure 1: Extracts of the Surveyor General Plans of the application site

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

Regional Context:
Within the regional context, the application area is located within Franskraal residential suburb, located south east of Gansbaai and within the Overstrand municipal area. Franskraal functions as a popular residential, holiday and retirement suburb of Gansbaai.

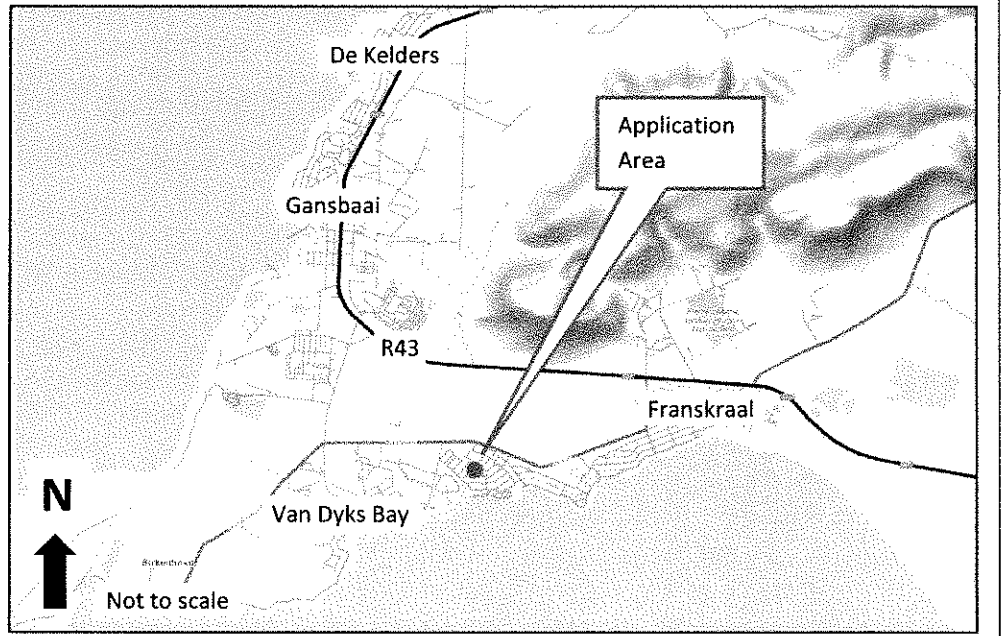


Figure 2: Locality Plan – Regional Context

Local Context:

Within the local context the application area is located at 14 Ross Street.

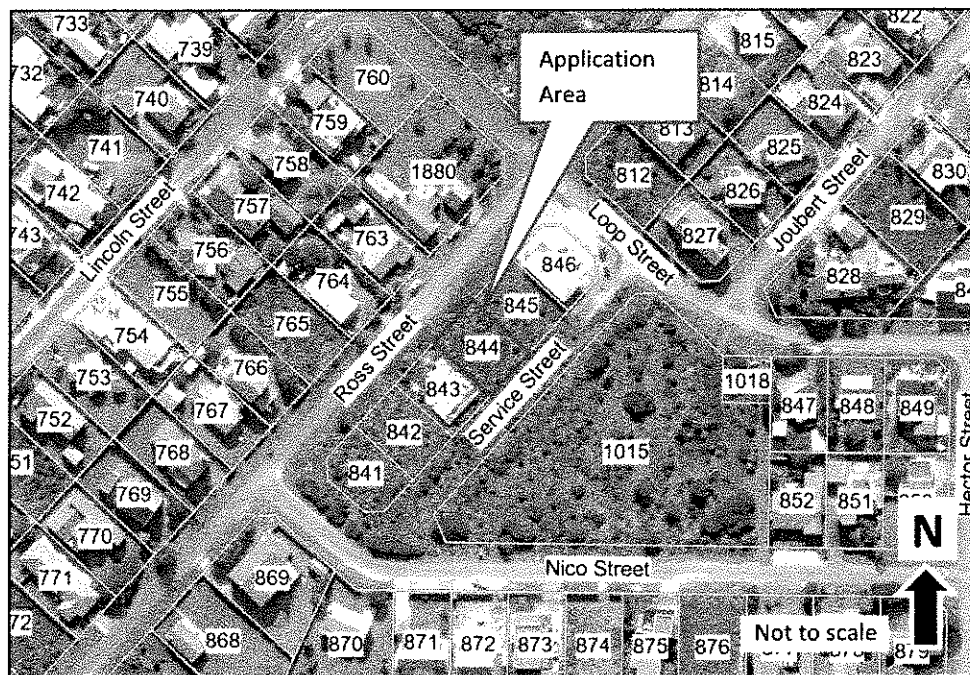


Figure 3: Locality Plan – Local Context

c. Land Use:

Refer to the Land Use Plan attached as Annexure H.

Erf 844 Franskraal is a vacant property surrounded by vacant, residential, business and open space properties. The proposal is consistent with the land use of the area.

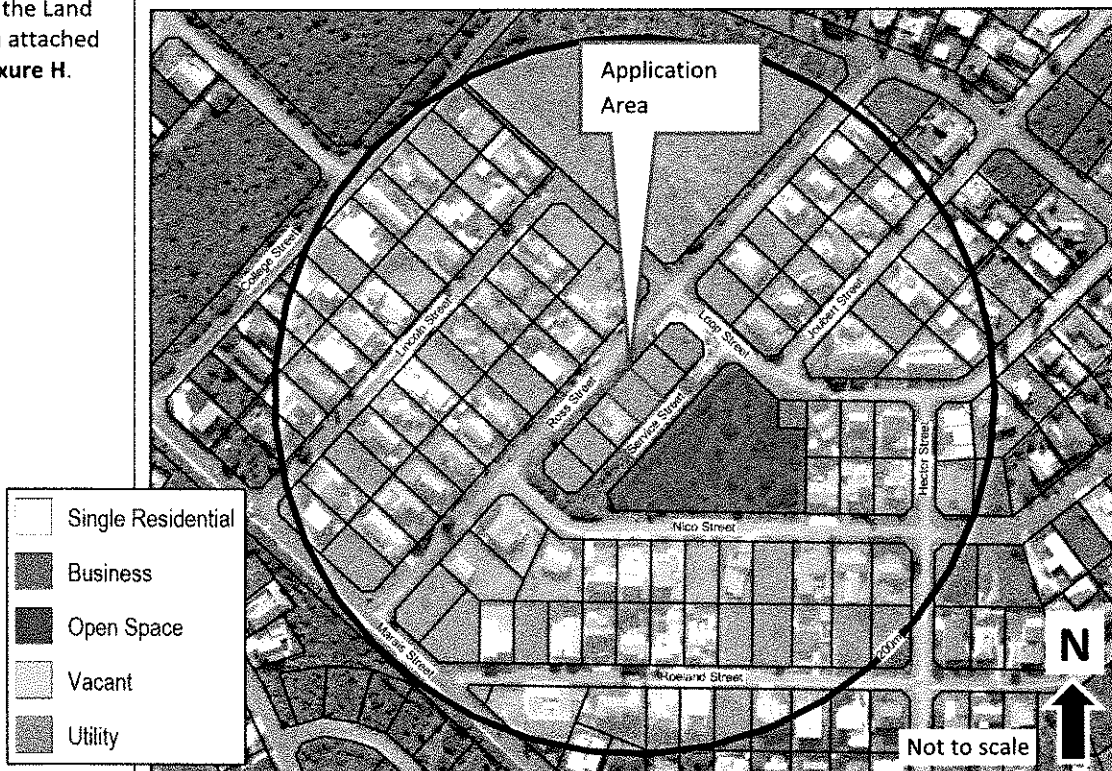


Figure 4: Land use plan based on a 2020 aerial photo

d. Zoning:

Refer to the zoning map attached as Annexure G.

The application area, Erf 844, Franskraal is zoned Business Zone 3: Local Business. The surrounding erven are zoned Business Zone 3: Local Business, Residential Zone 1: Single Residential as well as Open Space Zone 2: Public Open Space. The proposal is consistent with the zoning of the area.

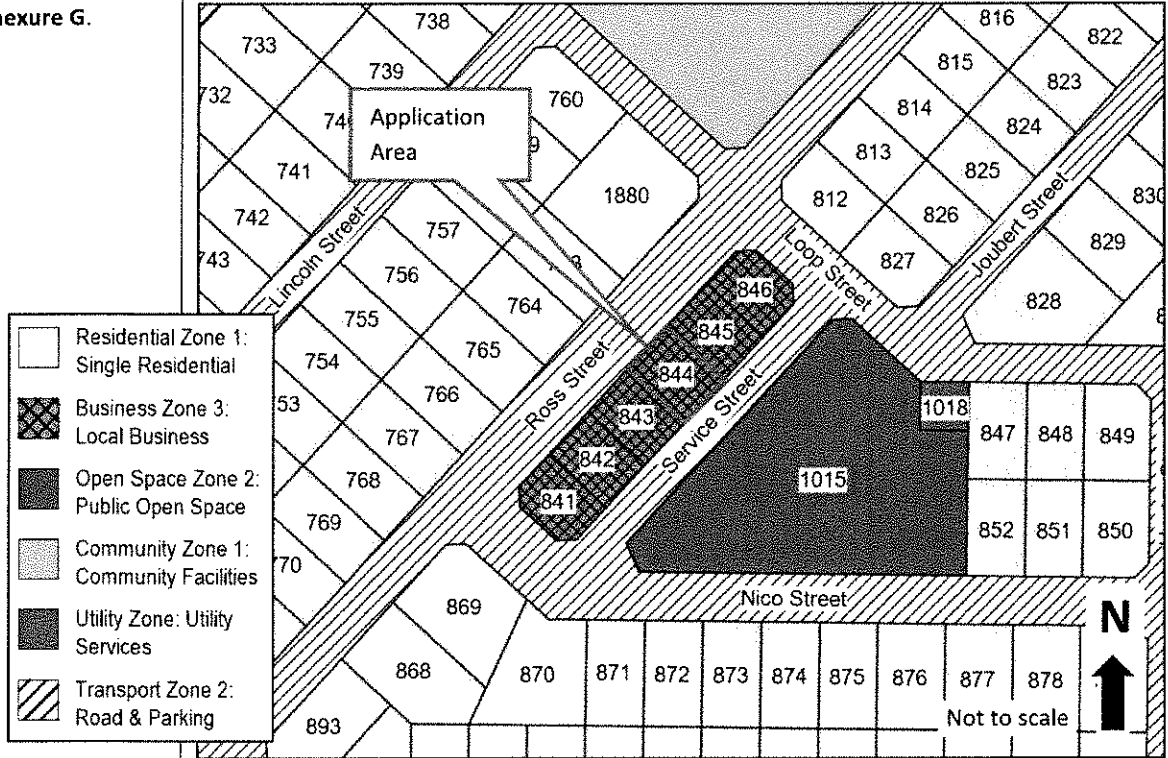


Figure 5: Overstrand online zoning viewer extract

<p>e. Spatial Planning Policy</p>	<p>The following policy guidelines from the following relevant policy documents are <u>applicable</u> to the application area.</p> <ul style="list-style-type: none"> • Overstrand Amendment By-law on Municipal Land-use Planning, 2020 <p>7.2.1 The following <u>use restrictions</u> apply to property in this zone:</p> <p>a) Primary uses are: shops, dwelling unit (above ground floor) in accordance with 6.3.2, flats (above ground floor), offices, restaurant, caretaker's accommodation and self-catering.</p> <p>b) <u>Consent uses</u> are: bottle store, business premises, clinic, conference facility, <u>dwelling unit (on ground floor) in accordance with 6.3.2, flats (on ground floor)</u>, 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).</p> <p><u>The proposal is consistent with 7.2.1(b) where a dwelling unit (on ground floor) in accordance with 6.3.2, flats (on ground floor) is allowed as a consent use subject to approval.</u></p> <p>The following excerpts from the by-law is applicable to <u>the removal of restrictive conditions</u>:</p> <p>35. (4) When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following: (a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement; (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition; (c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed; (d) the social benefit of the restrictive condition remaining in place in its existing form; (e) the social benefit of the removal or amendment of the restrictive condition; and (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.</p> <p><u>The application for the removal of restrictive conditions was evaluated according to the above-mentioned criteria and no material personal, social or financial benefits to the restrictive conditions remaining in place were found, whereas personal and social benefits are foreseen to result from the removal of the restrictive title deed conditions.</u></p> <p>Therefore, the application proposal is consistent with the Overstrand Amendment By-law on Municipal Land-use Planning, 2020.</p> <ul style="list-style-type: none"> • Overstrand Municipality Spatial Development Framework 2020 <p>The SDF is aimed at providing general direction to guide decision making on an ongoing basis, aiming at the creation of <u>integrated, sustainable and habitable</u> regions, cities, towns and residential areas.</p>
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The application area is a vacant business erf within an urban development area.

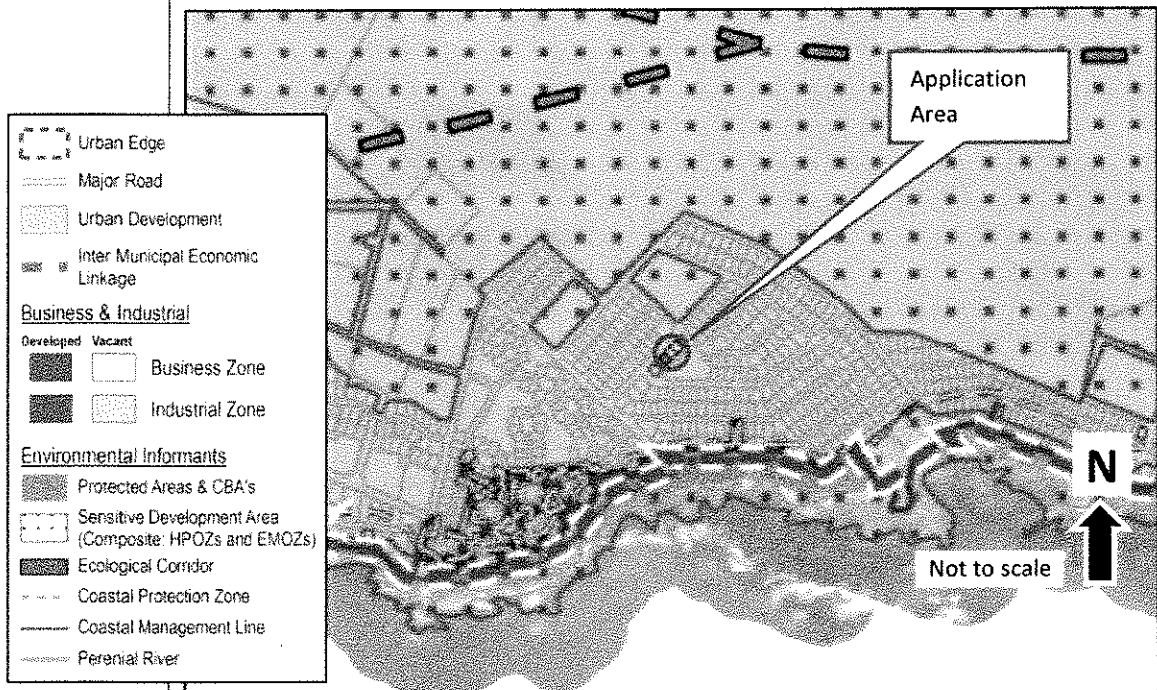


Figure 6: 2020 MSDF Spatial Proposal Franskraal

The proposal is for a consent for a dwelling unit on the ground floor and therefore no change in zoning is proposed for the application area, which will remain Business Zone 3, in accordance with the SDF, 2020.

Therefore, the application proposal is consistent with the Overstrand Municipality Spatial Development Framework 2020.

It is concluded however, that amendment of the SDF may be required in future as five of the six erven demarcated for business have been vacant for many years which leads to the conclusion that this area is unsuitable for business development.

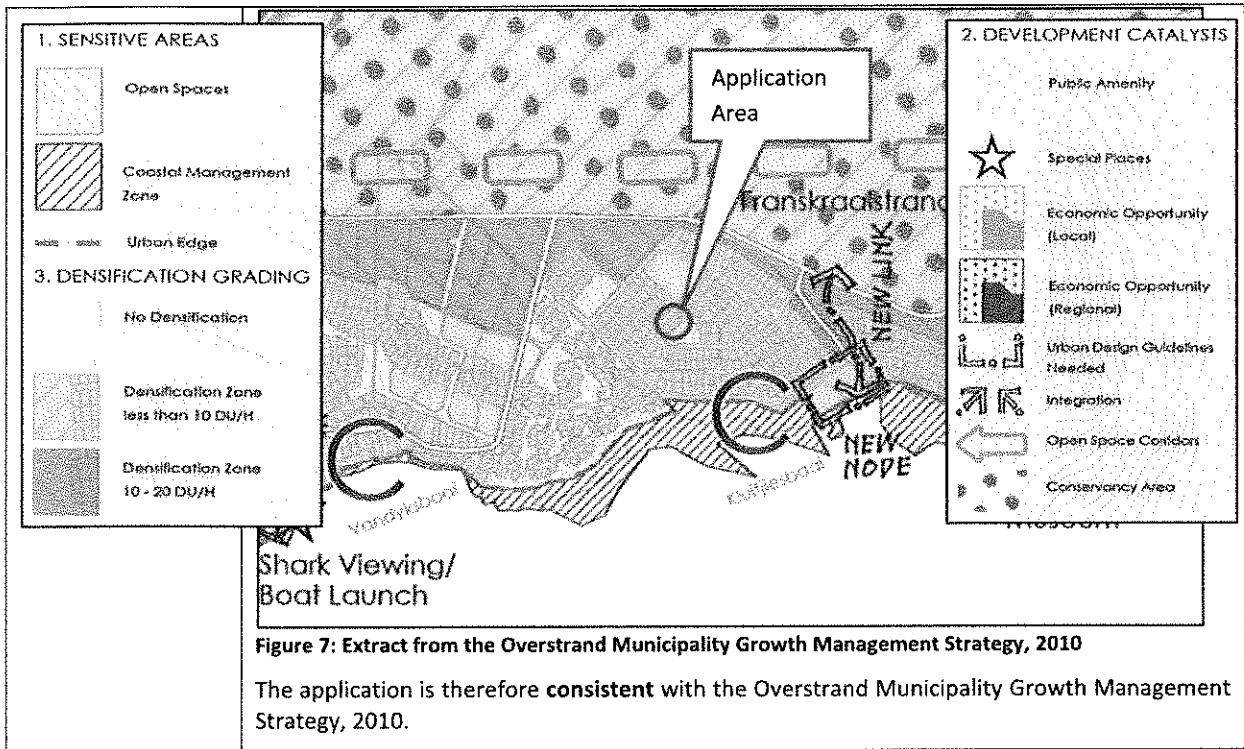
- **Overstrand Municipality Growth Management Strategy, 2010**

The Overstrand Growth Management Strategy defines, explains, and uses densification as a growth management tool to positively redress and counteract the effects of urban sprawl to promote the longer-term sustainability of the Overstrand Municipality and its sub-regions' environmental quality.

The following extracts from this document with regards to densification is applicable to the proposal.

- The application area is within a less than 10 Dwelling Units Per Hectare Densification Zone.

As the proposal is for a consent for a dwelling unit on the ground floor, the densification per ha is considered to be immaterial.



4. Motivation

Motivation for the application:

Refer to **Annexure I** for the Site Plan.

a. Introduction & Background:

The owner of the application area was under the impression that he was purchasing a residential property which was actually a 483m² Business Zone 3: Local Business (B3) property, located at 14 Ross Street.

The vacant application area is one of 6 erven located along Ross Street which are all zoned for Business Zone 3: Local Business. Five of the six erven have been vacant for many years, leading to a possible conclusion that this area has not yet been recognized as a suitable area for business practices. A public open space erf and a utility erf are located behind the application area. The rest of the erven in the surrounding area consist of single residential zoned erven with existing dwelling units or vacant land.

The owner wishes to construct a dwelling unit on the ground floor of the property.

This proposal for a dwelling unit on the ground floor is permitted as a consent use on a Business Zone 3 erf according to the Overstrand Municipality Land Use Scheme, 2020, and the parameters for "General Residential Zone 2: Townhousing on the perimeter" are applicable in this case.

According to the title deed there are two restrictive conditions which are required to be removed in order to allow for the proposed land-use as well as for a 3m in lieu of a 3.36m street building line.

b. Proposal

As the owner wishes to construct a dwelling unit on the ground floor of the vacant 483m² Business Zone 3 property, the following two applications are required:

- Firstly, a dwelling unit on the ground floor is permitted as a consent use on a Business Zone 3 erf of which the parameters of "General Residential Zone 2: Townhousing on the perimeter" are applicable to the proposal as tabled below, in accordance with the Overstrand Municipality Land Use Scheme, 2020.

Table 2: PROPOSAL PARAMETERS: Erf 844 Franskraal

Zoning		Business Zone 3
Consent Use		Dwelling Unit on ground floor
Building Lines	Common	3m
	Street	3m
Coverage		65%
Height		2 storeys
Parking		2 bays

Therefore, the application is for a consent use for a dwelling unit on the ground floor subject to the parameters as indicated in Table 2 above.

- Secondly, the following two title deed conditions from Title Deed T63560/2017, restrict the proposal in the following way:
 - The proposed land-use for a dwelling unit on the ground floor, is prohibited as the title deed condition C.5(b) states that: "It shall be used for shop purposes only."
 - Title deed street building lines are more restrictive than the 3m street building lines required by the Overstrand Municipality Land Use Scheme, 2020, as title deed condition C.5(d) states that: "No building or structure or any portion thereof, except boundary walls, fences, verandas and balconies shall be erected nearer than 3.36 metres to the street line which forms a boundary to this erf."

Therefore, the application is for a removal of restrictive title deed conditions (b) and (d).

On the condition that the above-mentioned applications are approved and before the construction phase commences, building plans will be submitted in accordance with the applicable parameters as set out in Table 2 above.

c. Character

The application area is one of six Business Zone 3 erven situated adjacent to and between Ross Street along the front and Service Street along the back of the erven. The surrounding erven consist of public open space behind the application area, adjacent to Service Street as well as single residential dwellings, as illustrated in Figure 8 below.

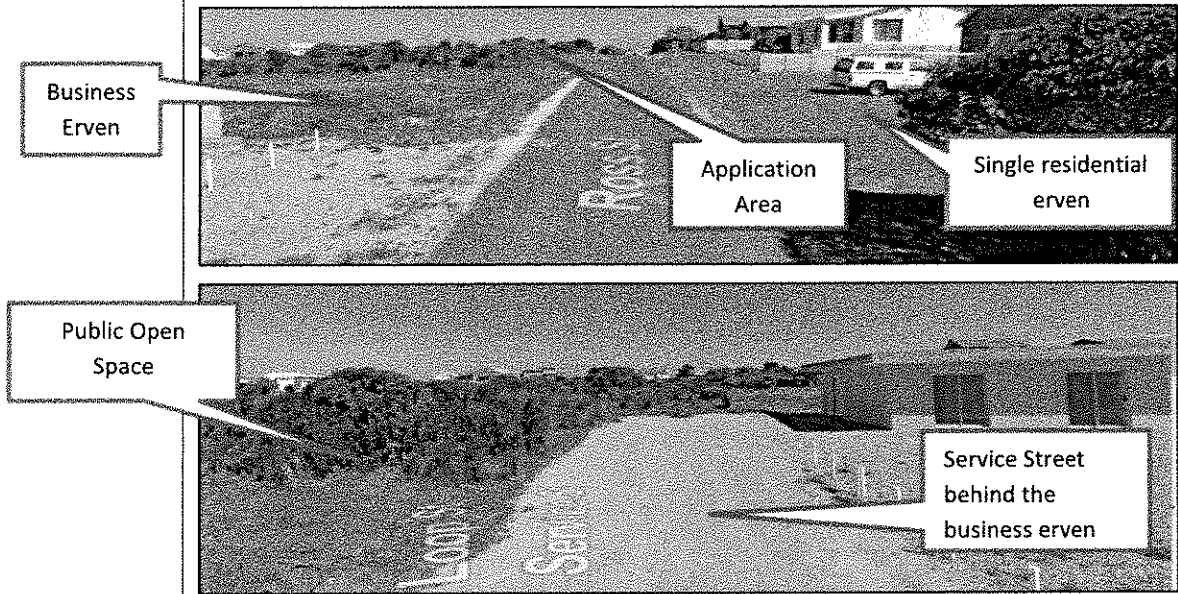


Figure 8: Location of Business Erven & Character of the surrounding area

The proposed land-use for a dwelling unit on the ground floor is foreseen to support the tranquil residential character of the surrounding area while maintaining business rights and the option of a potential appropriate future business on this property.

The proposed residential land-use is consistent with the surrounding residential land-use and is not foreseen to impact negatively on the adjacent business zoned erven as the proposed land-use is a less intensive use than the land-uses permitted by the adjacent business zonings.

Furthermore, the proposed land-use is not foreseen to be impacted by potential future business land-use either, as the businesses here are foreseen to represent offices and/or speciality businesses which should not significantly impact in a negative way in terms of noise or traffic. Any potential impact on the application area should be equal to the impact from businesses on the existing surrounding single residential dwellings within the area.

However, it is noteworthy that five of the six business zoned erven are still vacant, leading to the conclusion that this area has not yet been recognized as a suitable area for business practices. The possibility exists that these business zoned erven may all eventually even be developed for residential purposes rather than for business purposes.

d. Evaluation of the proposal in terms of Section 35(4) of the Overstrand Amendment By-law on Municipal Land-use Planning, 2020

The application proposal has been evaluated in terms of Section 35(4) of the Overstrand Amendment By-law on Municipal Land-use Planning, 2020 regarding personal and social benefits which are foreseen to result from the removal versus non-removal of the restrictive title deed conditions and the following conclusions were made:

	<p>(a) <u>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</u></p> <p><u>No material financial or other value of the rights</u> in terms of the restrictive condition enjoyed by the owner, are evident.</p> <p>(b) <u>Personal benefits which accrue to the holder of rights in terms of the restrictive condition</u></p> <p><u>No material personal benefits</u> which accrue to the holder of rights in terms of the restrictive condition, are evident.</p> <p>(c) <u>Personal benefits which will accrue to the person seeking the removal of the restrictive condition</u></p> <ul style="list-style-type: none"> • The owner was under the impression that the primary land-use rights on the erf were for residential purposes • The owner is not interested to develop the property for business purposes • The property owner will be allowed to construct a dwelling unit on the ground floor of the property • There will be no need for the owner to resell the property due to not being permitted to develop it for residential purposes <p>(d) <u>The social benefit of the restrictive condition remaining in place in its existing form</u></p> <p><u>No material social benefits</u> to the restrictive conditions remaining in place in its existing form, are evident.</p> <p>(e) <u>The social benefit of the removal or amendment of the restrictive condition</u></p> <p>The social benefits of the removal of the restrictive conditions are considered as follows:</p> <ul style="list-style-type: none"> • On a small and accumulative scale, relieves the potential traffic impact of an additional business in the area • On a small and accumulative scale, attracts less outsiders into the residential area, thus decreasing the potential for crime and potentially increasing property value • Additional surveillance and less vacant land in the area, thus minimizing the potential for crime • Contributes to the housing need in the Overstrand region <p>(f) <u>Will the removal, suspension or amendment of the restrictive condition completely remove all rights enjoyed by the beneficiary or only some of those rights</u></p> <p>The only rights which will be removed are that the property shall no longer be permitted to be used for shop purposes only. The removal will allow for a dwelling unit on the ground floor to be constructed subject to a 3m street building line in lieu of the 3.36m title deed street building line. The construction of the dwelling unit will be subject to all the relevant Development Management Scheme, 2020 regulations and title deed restrictions, other than the subject restrictive conditions for which a removal is being applied.</p> <p>e. Desirability of the proposal</p> <p>The proposal is considered desirable for the following reasons:</p> <ul style="list-style-type: none"> • The owner was under the impression that the application area is for residential use and would like to use it as such.
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- According to the Overstrand Municipality Land Use Scheme, 2020, Business Zone 3 makes provision for a dwelling unit on the ground floor as a consent use.
- The proposed land-use is not foreseen to impact negatively on or be negatively impacted by the land-uses in the surrounding area.
- The business rights and the option of a potential appropriate future business on this property will be maintained.
- As the owner is not interested to develop the property for business purposes, the proposal allows the owner to develop the property for residential use, therefore not forcing him to sell the property.
- The property will not lie vacant indefinitely as is the case with the surrounding vacant business erven.
- The proposal is consistent with the character of the area.
- Social and personal benefits in terms of potentially higher property value, less potential for crime and the provision of housing are foreseen to result from the proposal.

f. Planning Principles

The application has also been analyzed for consistency with the planning principles prescribed by the Spatial Planning and Land Use Management Act, 2013 (SPLUMA) and also the Western Cape Land Use Planning Act, 2014 (LUPA) and the following conclusions were made:

- (i) **Spatial Justice** which refers to the need for redressing the past apartheid spatial development imbalances and aim for equity in the provision of access opportunities, facilities, services and land.

Possible results of the development

The need for housing is directly addressed by the proposal.

The following strategies and principles encouraged by the Overstrand Municipal Spatial Wide Development Framework, 2006 is supported by the proposal, namely, optimal use of land which is encouraged due to the scarcity thereof and catering for a full range of residential needs.

Furthermore, the property will not lie vacant indefinitely as is the case with the surrounding vacant business erven.

The application is **consistent** with the principle of spatial justice.

- (ii) **Spatial Sustainability** which refers to the fact that a spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.

Possible results of the development

The proposed development is situated within the urban edge and does not affect any agricultural, environmentally sensitive, biodiversity rich areas or scenic and cultural landscapes.

The proposal addresses the current growing need for housing in the Overstrand and allows the option to operate a business permitted by Business Zone 3 in future, should the owners or future owners wish to establish a business on the application area.

Due to the location of the application area within the urban edge, the proposal will also contribute to minimizing urban sprawl.

The application is **consistent** with the principle of spatial sustainability.

	<p>(iii) Efficiency which refers to the manner in which settlements themselves are designed to function in such a way that there will be a minimum need to travel long distances to access services, facilities and opportunities.</p> <p>Possible results of the development The proposal will allow for the property to be developed for residential purposes with access to services, facilities and opportunities, rather than letting the property lie vacant until such time as and if a business is established here in future.</p> <p>The application is consistent with the <u>efficiency principle</u>.</p> <p>(iv) Spatial Resilience which, in the context of land use planning, refers to spatial plans, policies and land use management systems which should enable communities to be able to resist, absorb and accommodate any economic and environmental shocks which might occur in a timely and efficient manner.</p> <p>Possible results of the development The proposed development will not lead to any economical and/or environmental shocks as the proposed land-use is for a dwelling unit on the ground floor.</p> <p>The application is consistent with the principle of <u>spatial resilience</u>.</p> <p>(v) Good Administration which, in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure that a joint planning approach is pursued.</p> <p>Possible results of the development Consultative practices are being followed in this application as it is done in consultation with the Planning Department of the Municipality who will also advertise the application in such a manner as to enable the Government and the general public to participate in the eventual decision-making process.</p> <p>The application is consistent with the principle of <u>good administration</u>.</p>
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5. Conclusion

Approval of the application allows for the optimal use of scarce land to address the housing need, rather than letting the land lie vacant without certainty as to whether a future business will or will not be established here.

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

It is therefore recommended that the application **be approved** in terms of the Overstrand Amendment By-law on Municipal Land-use Planning, 2020, as follows:

- Removal of restrictive title deed condition C.5(b) from Title Deed T63560/2017 in terms of Chapter IV, Section 16.2(f).
- Removal of restrictive title deed condition C.5(d) from Title Deed T63560/2017 in terms of Chapter IV, Section 16.2(f).
- Consent for a dwelling unit on the ground floor in terms of Chapter IV, Section 16.2(o).