

**REZONING, PERMANENT DEPARTURES  
AND  
COUNCIL'S APPROVAL  
ERF 5236 AT 188 BEACH ROAD  
STRAND**



**SUBMITTED TO:**  
Development Management Branch  
Helderberg District | City of Cape Town

**ON:**

30 August 2021

**BY:**

**PIETERHUIZEN**  
PLANNING

OUR REFERENCE: J004  
YOUR REFERENCE: Case ID to be confirmed.  
DATE: 30 August 2021

**PIETERHUIZEN PLANNING (PTY) LTD**  
2021/472575/07



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## **1. INTRODUCTION AND APPLICATIONS**

### **1.1 Introduction**

The purpose of this report is to motivate the applications required to allow for additions and alterations to the existing building on Erf 5236 Strand (hereafter referred to as “the property”).

The following documents are attached to this report:

Annexure A:	List of Applications Required.
Annexure B:	Application Form
Annexure C:	Copy of Deed of Transfer
Annexure D:	Company Report and Power of Attorney
Annexure E:	Conveyancer Certificate
Annexure F:	S.G. Diagram
Annexure G:	Previous Approval
Annexure H:	Previous Approved Building Plan
Annexure I:	Site Development Plan
Annexure J:	Pre-Application Consultation Minutes

### **1.2 Applications**

In terms of Section 42 of the City of Cape Town Municipal Planning By-Law, 2015 (hereafter referred to as “the By-Law”), *Pieterhuizen Planning (Pty) Ltd* hereby officially applies for the following applications:

In terms of Section 42(a): The **rezoning** of the property from Local Business Subzoning 2 (LB2) to General Business Subzoning 2 (GB2).

In terms of Section 42(b): To allow for the following **departures** from the provisions of the Development Management Scheme (hereafter referred to as “the DMS”), being Schedule 3 of the By-Law:

- From Item 137(a) to allow for the provision of 10 parking bays in lieu of 27 parking bays.
- From Item 140(1)(b) to allow for the access distance from an intersection to be 4.935m in lieu of 10m.
- From Item 140(2)(a) to allow for more than one motor vehicle carriageway crossing along Drake Road.
- From Item 140(2)(b) to allow for the spacing of the carriageway crossings to be less than 12m apart.

- From Item 142(3)(a) to allow for a parking bay designated for the physically disabled to be 3m in lieu of 3.7m.

In terms of Section 42(i): **City's Approval** to allow for the following permissions as prescribed in the DMS:

- As per Item 60(k)(ii) to allow for parking bays at ground floor level to be 0m in lieu of 10m from the street boundary with Drake Road and 5.9m in lieu of 10m from the street boundary with Beach Road.
- As per Item 141(1)(b) to allow for vehicles to reverse across the sidewalk along Drake Road.

As provided for by Item 60(b) of the DMS, it is also requested that the city not require a street centreline setback of 8m from the centreline of Drake Road.

See **Annexure B**, attached to this motivation report, for the signed application form.

## **2. THE PROPERTY**

### **2.1 Ownership and Title Deed**

Erf 5236 Strand is registered in the name of [REDACTED] (hereafter referred to as "the owner"), measures 498.4m<sup>2</sup> in extent, and is held by Deed of Transfer No. [REDACTED] – see **Annexure C**, attached, for a copy of the Title Deed.

The owner of the property has duly authorised *Wilhelm Esterhuizen of Pieterhuizen Planning (Pty) Ltd* to submit the required land use applications to the City of Cape Town. The company report and power of attorney is attached to this report as **Annexure D**.

### **2.2 Conveyancer Certificate**

As mentioned, the property is held by Deed of Transfer No. [REDACTED] *Conveyancer Christo Nimb from Morke De Villiers Attorneys, Conveyancers & Notaries* has certified that there are no restrictive title deed conditions pertaining to this application.

Condition B. in the said title deed, however, states that a pipeline servitude is registered in favour of Erf 5235 Strand. The conveyancer has confirmed that this is a praedial servitude. No provision is made in the By-Law for the removal of such a servitude. Therefore, written consent is required from the current owner of Erf 5235 Strand to allow for the proposed development on the property. The conveyancer certificate is attached to this report as **Annexure E**.

## 2.3 Surveyor General Documents

The **Surveyor General Diagram**, below and attached as **Annexure F**, (S.G. Diagram No.7274/1948) illustrates the cadastral identity of the property. It should be noted that the servitude, as identified in Section 2.2 of this report, is not illustrated on the S.G. Diagram below.

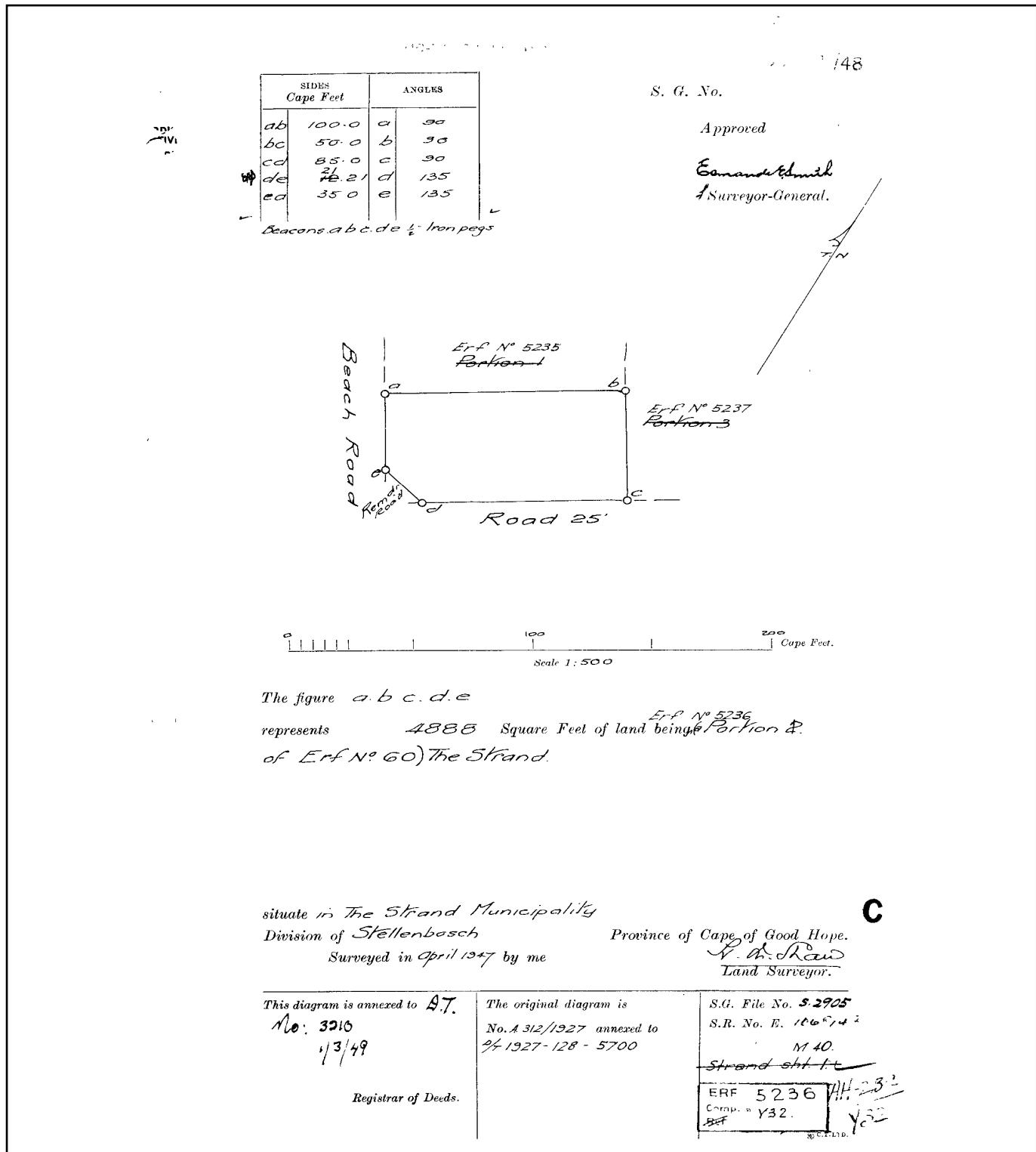


Figure 1 S.G. Diagram No. 7274/1948

## 2.4 Locality and Context

With reference to the **Locality Map**, Figure 2 below, the property is located in the seaside community of Strand, situated southeast of the City of Cape Town Central Business District. Strand forms part of the greater City of Cape Town Metropolitan Area under the Helderberg District.

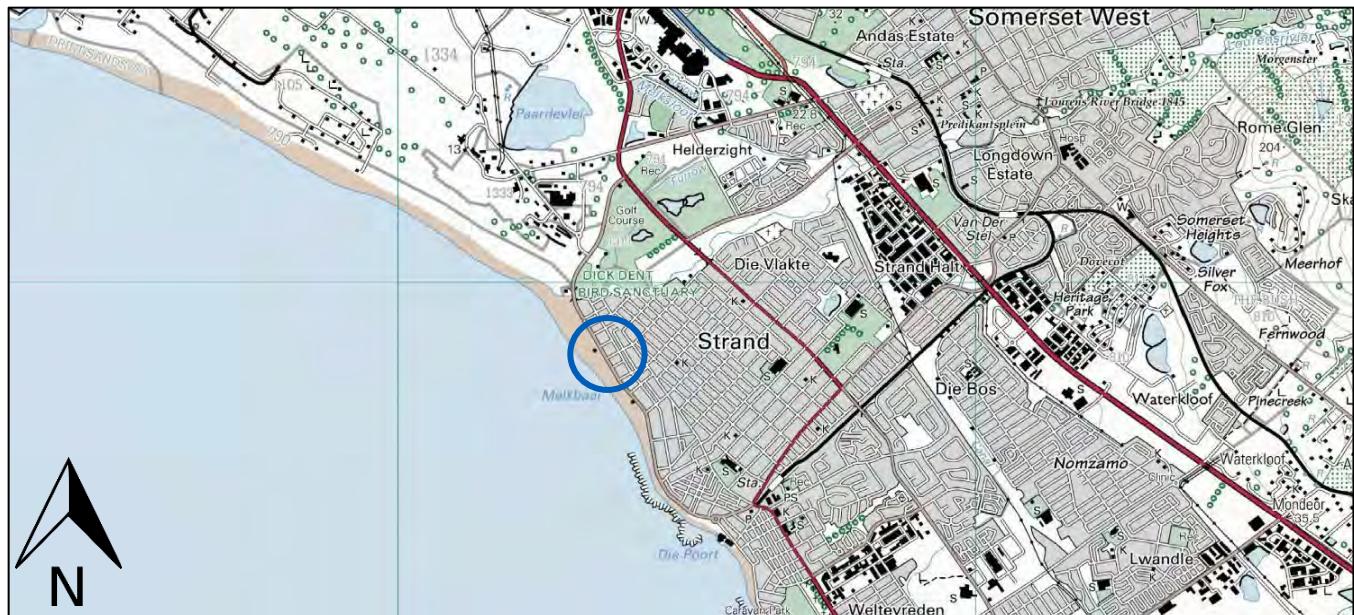


Figure 2 Locality Map of the Property

The **Aerial Photograph**, Figure 3 below, illustrates that the property is located on the corner of Beach and Drake Road and is currently developed with a building comprising three storeys. The property is otherwise bounded by Erf 5235 (to the northwest) and Erf 5237 (to the northeast). Furthermore, the building on the property currently enjoys pedestrian access from the south (ground floor) and the southeast (first and second floors).



Figure 3 Aerial Photograph of the Property

Beach Road, situated along the Strand Beachfront, is characterised by high density (mostly residential) developments. The Strand Beachfront area is also divided into three sections namely, Golden Mile (between the Lourens River and Sarel Cilliers Road), Central Part (between Sarel Cilliers Road and the Main Road) and the Platinum Mile (between Main Road and the Ocean View Hotel). The above three areas are characterised by the following:

- Golden Mile:

This area of Beach Road is characterised by the main swimming beach in Strand. Various activities such as kite surfing, stand-up paddling, body surfing, swimming and surfing are popular amongst visitors of this part of the Strand Beachfront. The Golden Mile area also accommodates a water park and put-put facilities. It is clear that this part of the Strand Beachfront caters as the activity destination of the area. High pedestrian traffic is prevalent along the Golden Mile of the Strand Beachfront.

- Central Part:

This area of Beach Road is known for the newly upgraded promenade along the road. Various residential and commercial uses are accommodated in the developments along this part of Beach Road. The area is also known for informal markets, coffee shops and the recreational joggers on the promenade.

- Platinum Mile:

This part of Beach Road forms a linkage between Strand to the Gordons Bay area and is characterised by residential developments and some commercial uses. Fishing is the predominant activity on this part of the Strand Beachfront.



Figure 5 Demarcation of the Strand Beachfront

## 2.5 Existing Development and Current Uses

The property forms part of the Golden Mile area of the Strand Beachfront which, as identified above, is the activity destination along Beach Road.

The current uses accommodated in the existing building on the property is therefore aimed to serve individuals visiting and utilising the activities situated in this part of the area. The existing building comprise three storeys and the different storeys of the building is utilised as follows:



Figure 6 Uses Accommodated within the Existing Building

## 3. PREVIOUS APPROVALS

The property was initially regarded as a General Residential Zoned property. The uses proposed during a Special Consent application (1992) was for the ground floor to be used as a *café* and *flatlet*, the first floor as a *restaurant* and the second floor as a *flat*. This application was approved in 1992 and subsequently approved again in 1993. Building plan approval for the above-mentioned uses were also granted during 1993.

During 2015, a letter was obtained from the City of Cape Town to confirm the then current zoning of the property to be General Residential Subzoning 5 (GR5). With the City of Cape Town's Municipal Planning By-Law coming into effect in 2015, the existing approved uses on the property was not deemed appropriate for the GR5 zoning.

Therefore, the previous owner of the property applied for an administrative penalty in 2018 and the Municipal Planning Tribunal determined the penalty whereupon the previous owner paid the said penalty.

A rezoning application was subsequently applied for, also in 2018, and approved during 2019. This application entailed the rezoning of the property from General Residential Subzoning 5 (GR5) to Local Business Subzoning 2 (LB2) to regularise the existing land uses on the property, consent use to allow for the restaurant on the ground floor of the building and permanent departures to allow for the following:

- Reversing of vehicles across the sidewalk along Drake Road.
- More than a single motor vehicle carriageway crossing along Drake Road.
- A motor vehicle carriageway crossing along Drake Road, narrower than the minimum width (2.5m in lieu of 2.7m).
- The reduction of the minimum access distance from an intersection (4.681m in lieu of 10m).
- The spacing of carriageway crossings to be less than 12m apart.
- The under-provision of on-site parking (8 bays in lieu of 23 bays).

The previous approval letter, dated 4 June 2021, is attached to this motivation report as **Annexure G**.

The approved building plan (approval dated 15 June 2020), submitted subsequent to the land use management approval above, illustrates the existing building and uses on the property comprising of the following development parameters:

- Floor Factor: 0.973 (472m<sup>2</sup>)
- Coverage: 37.11% (180m<sup>2</sup>)
- Height: 8.825m from base level to top of roof

The current approved building plan, drawn by *The Plan Co Architectural Designers*, is attached to this motivation report as **Annexure H**.

## 4. ZONING AND APPLICABLE DEVELOPMENT RULES

### 4.1 Zoning

The zoning of properties situated in the City of Cape Town is regulated in terms of the Development Management Scheme, being schedule III of the City of Cape Town Municipal Land Use Planning By-Law, 2015. Below is an extract of the City of Cape Town's **Zoning Map**, indicating the property zoned Local Business Subzone 2 (LB2).



Figure 7 Extract of the Zoning Map

## 5. PROPOSED DEVELOPMENT

With reference to the site development plan (drawing number SD-F229-M203 – M207, M303 – M315) and M302), drawn by *LotterHaus* and attached to this motivation report as **Annexure I**, the proposed additions and alterations will include additions to the ground-, first- and second floors of the existing building as well as the addition of a third floor on top of the existing building. With reference to each floor, the following additions and alterations are proposed:

### 5.1 Ground Floor

It is reiterated that the ground floor currently accommodates a restaurant. With the property being situated on a street corner, it is proposed to activate the interface of the ground floor with Beach Road. This is as a result of the large pedestrian traffic experienced on Beach Road in front of the property.

In achieving the above, additions proposed to the ground floor includes, *inter alia*, the following:

- The increase of the restaurant up to 0m from the street boundary with Beach Road and up to 0m from the common boundary with Erf 5235 Strand.
- A new staircase to be added to the southern corner of the property, providing access to the upper floors from beach road.
- Internal alterations to the restaurant.

Figure 7 and 8, below, illustrates the exiting building's ground floor in comparison with the proposed ground floor.

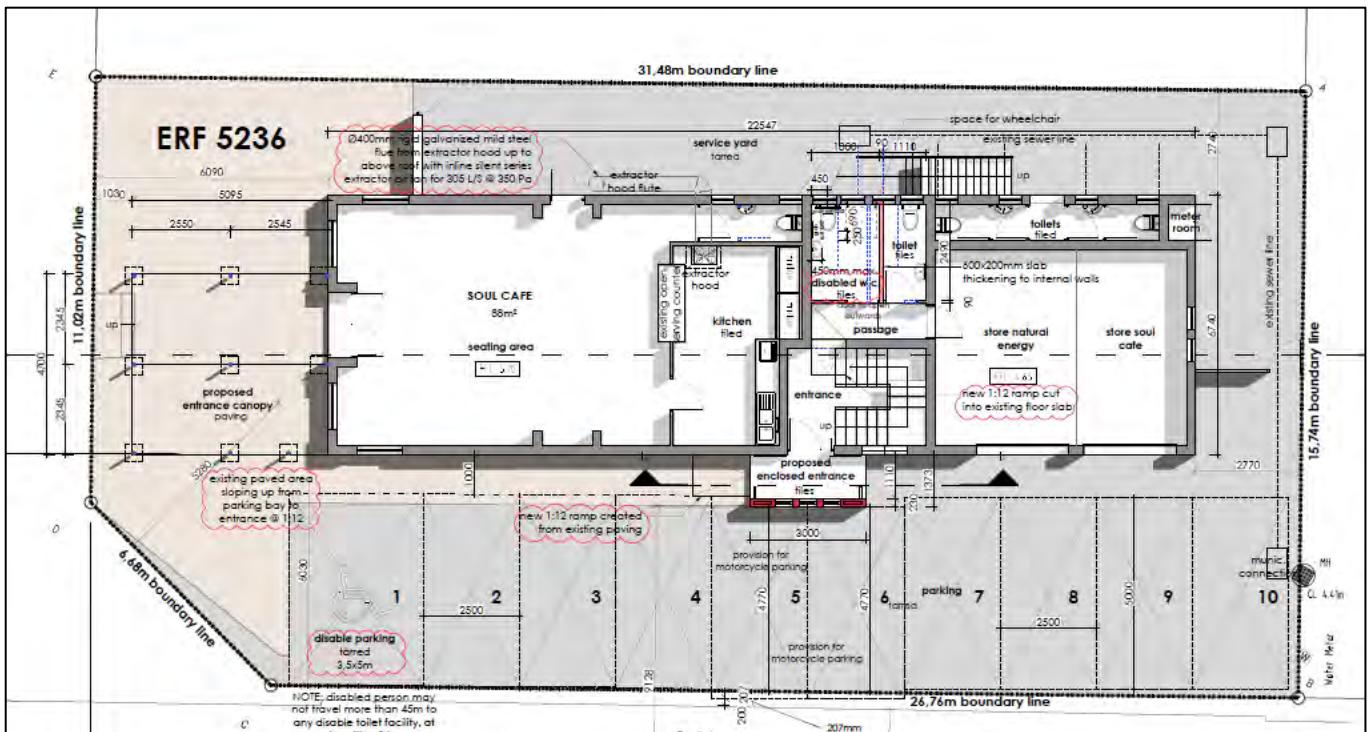


Figure 7 Existing Ground Floor

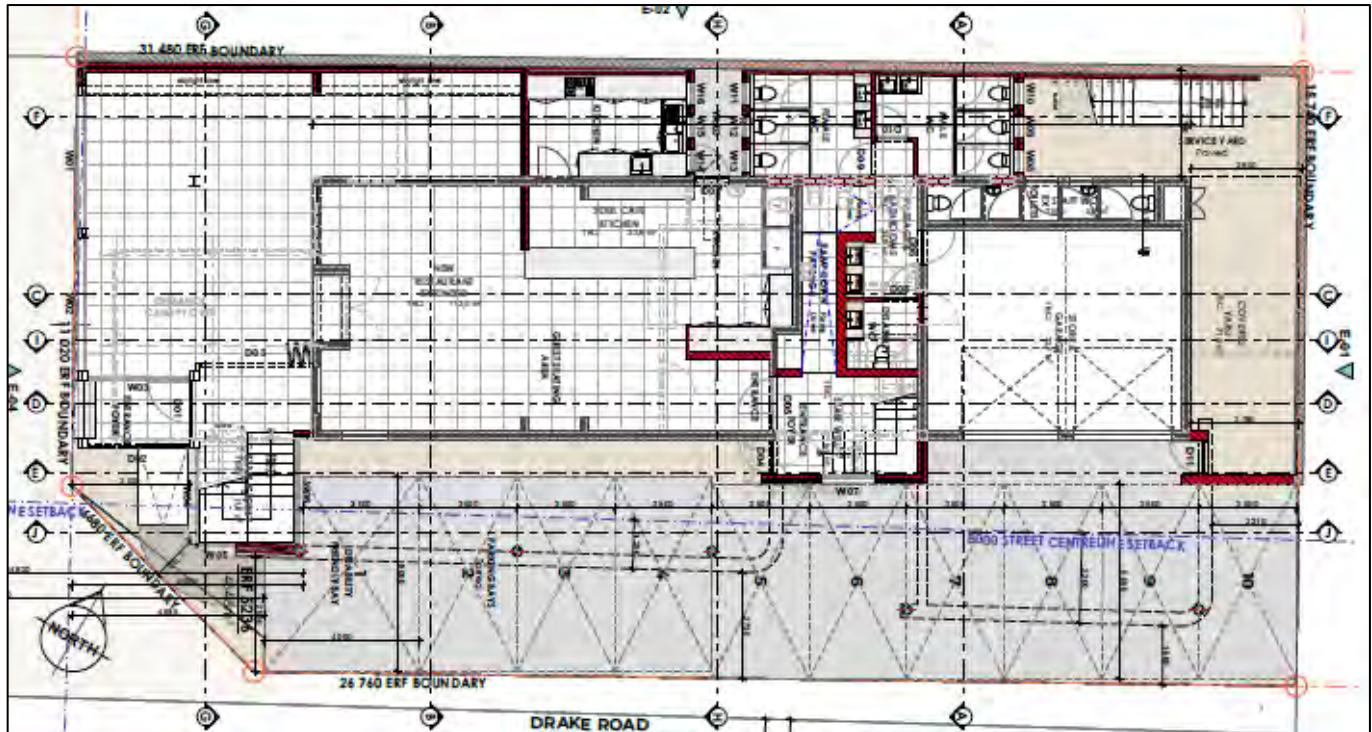


Figure 8 Proposed Ground Floor

It should be noted that 10 parking bays (including one parking bay designated for the physically disabled) are provided for along the southeast boundary on the ground floor of the property.

## 5.2 First Floor

The first floor of the existing building currently accommodates a surf shop. Currently, access to the shop is gained from an entrance facing Drake Road. Drake Road is a one-way road leading towards Beach Road and which does not experience large volumes of pedestrianised traffic. The current entrance to the shop is mainly hidden to the pedestrians along Beach Road and therefore insufficient.

To achieve a better interaction with the pedestrian traffic on Beach Road, it is proposed to add a staircase from the ground floor to the first floor of the building. As mentioned under section 5.1 of this report, this staircase is proposed on the southern corner of the property. The staircase will lead to an extended first floor with an additional balcony proposed up to 0m from the street boundary with Beach Road. The extensions proposed towards the street boundary with Beach Road, and the complete first floor of the proposed building, will be set back from the common boundary with Erf 5236 in order to mitigate any material impact of the proposed building on the abutting property.

Furthermore, it is proposed to extend the existing first floor to the southeast. This will create more practical space to be utilised by the current surf shop. Figure 9 and 10, below, illustrates the existing building's first floor in comparison with the proposed first floor.

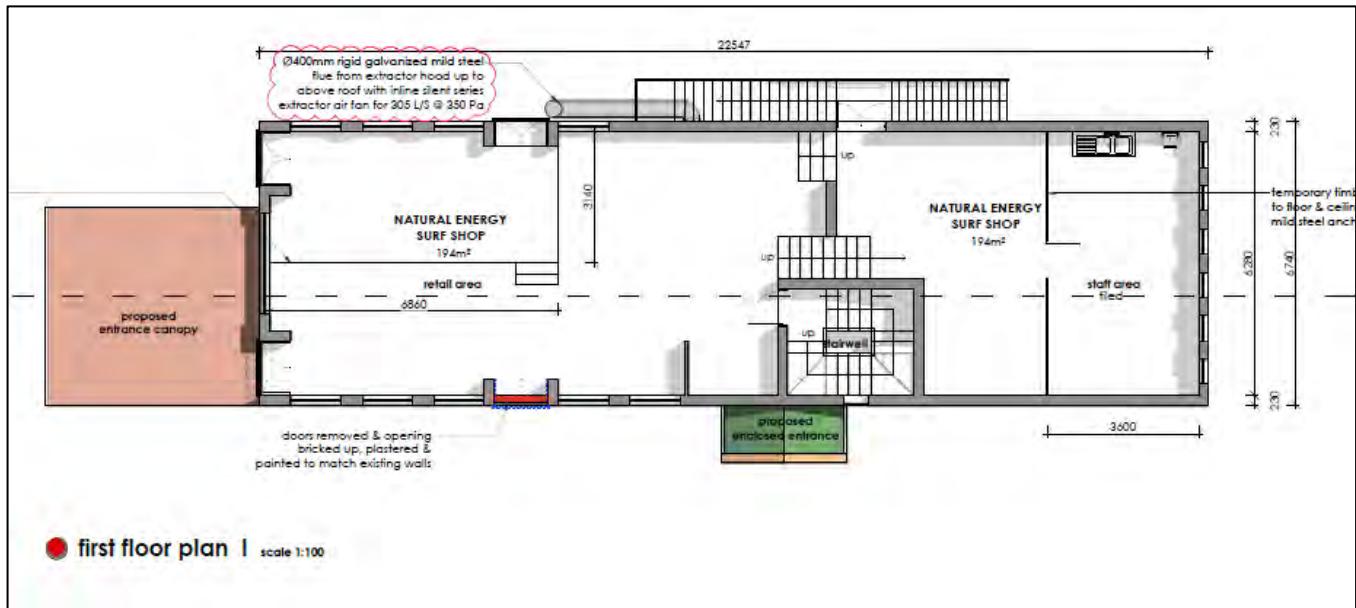


Figure 9 Existing First Floor

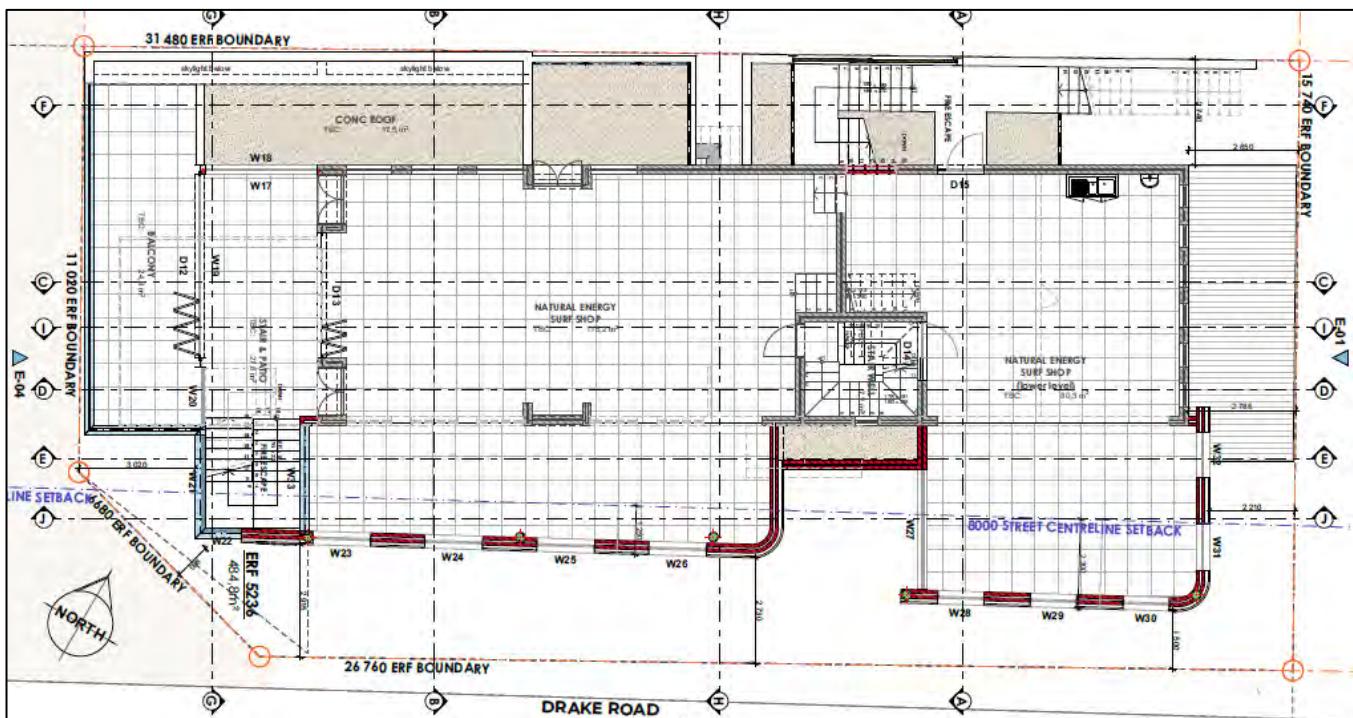
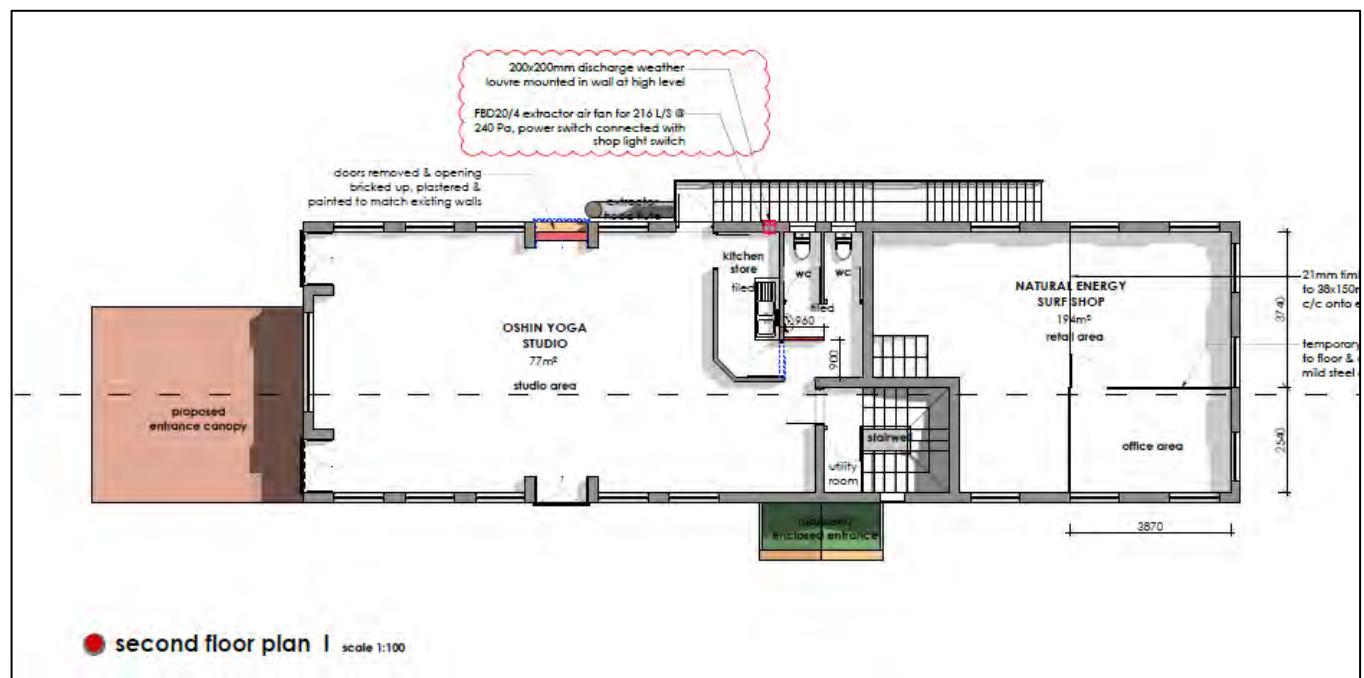


Figure 10 Proposed First Floor

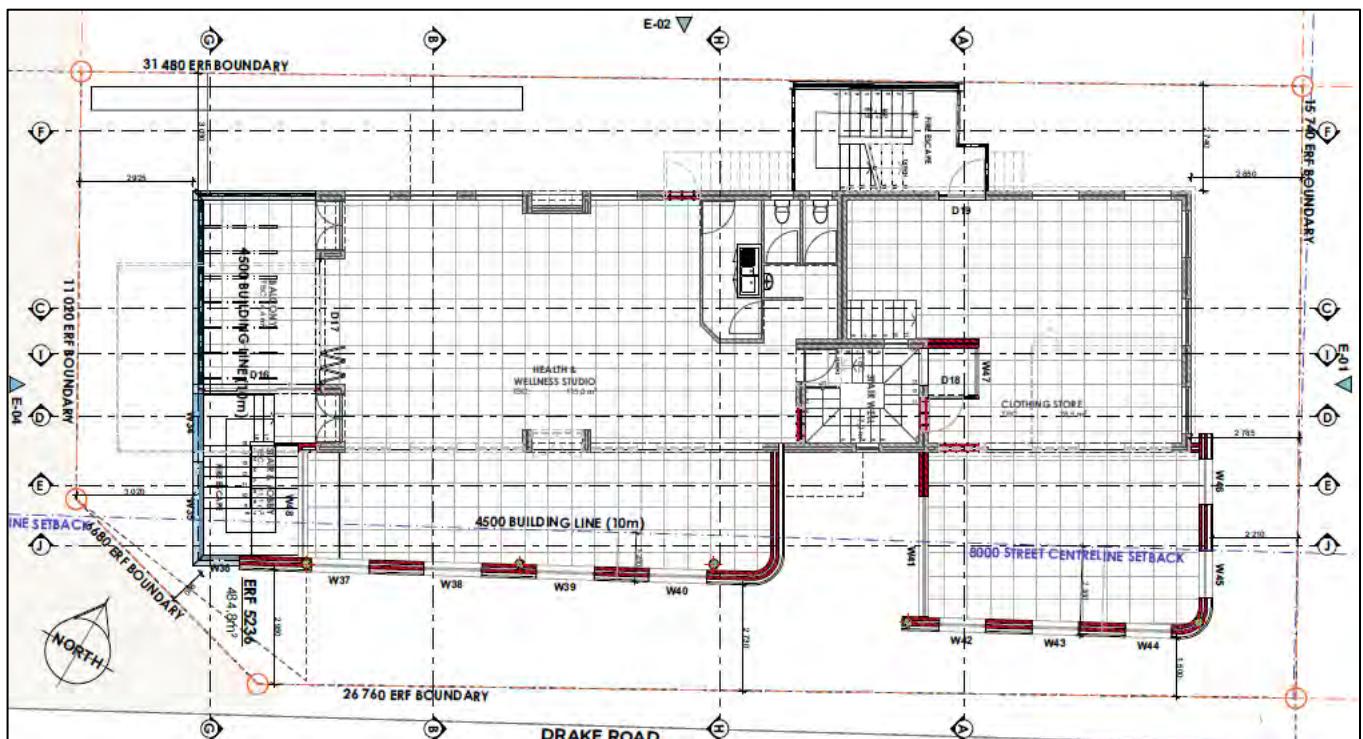
### 5.3 Second Floor

The second floor of the existing building currently accommodates a place of instruction (Yoga and Thai Chi studio). Access to this floor is also proposed to be via the new staircase to be situated on the southeast corner of the property. The stairs will lead to a newly proposed balcony and will provide access to a second floor that is extended to the southeast on the same footprint as the first floor.

Figure 11 and 12, below, illustrates the exiting building's second floor in comparison with the proposed second floor.



**Figure 11 Existing Second Floor**



**Figure 12 Proposed Second Floor**

#### 5.4 Third Floor

It is further proposed to add an additional floor to the existing building on the property. Access to the proposed third storey will be via the internal staircase situated on the eastern portion of the building. The proposed third floor will accommodate an upmarket dwelling unit comprising one bedroom, a bathroom, a study room, a guest toilet and an open plan kitchen / dining area / lounge. The dwelling unit will also have two balconies which is proposed on top of portion of the second-floor footprint. Figure 13, below, illustrates the proposed third floor of the building:

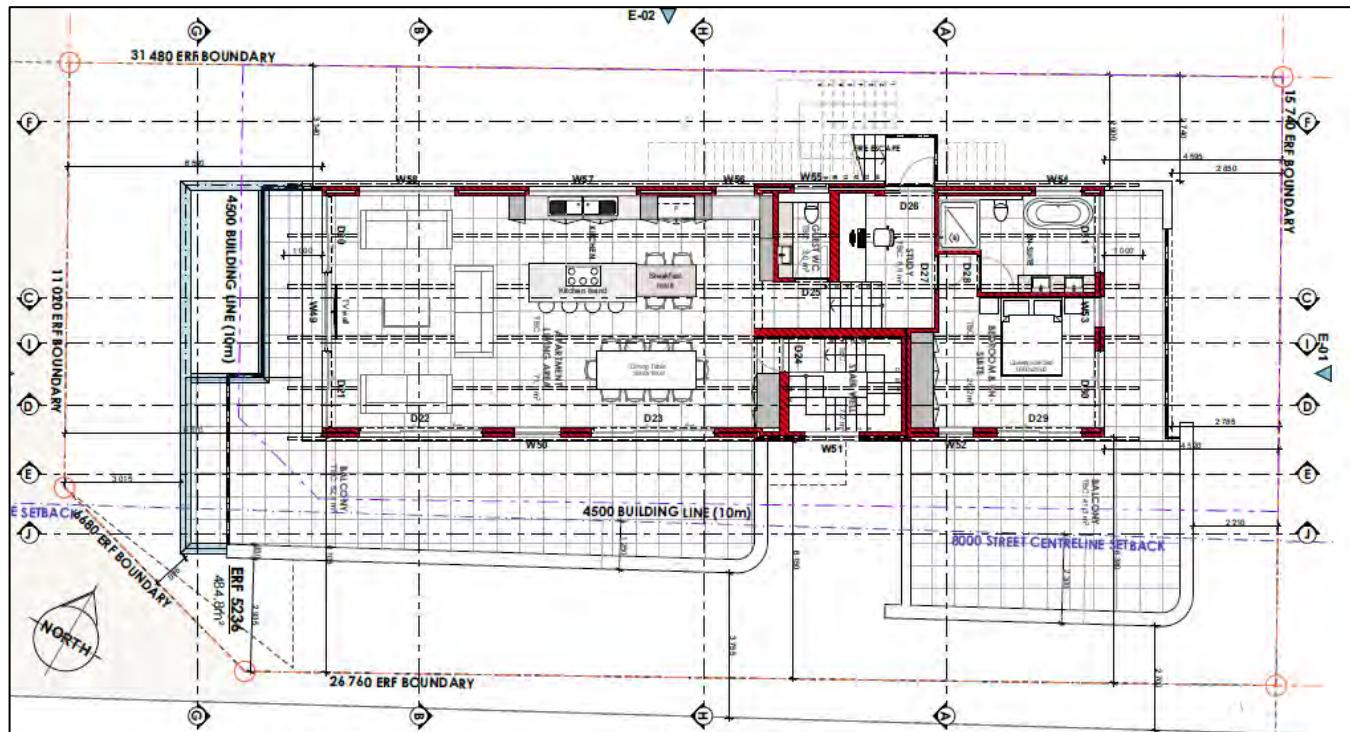


Figure 13 Proposed Third Floor

## 6. ASSESSMENT OF PROPOSED DEVELOPMENT

### 6.1 Proposed Development in Accordance with Previous Approval and GR2 Development Rules

In order to assess the proposed development, cognisance should be taken of the development rules pertaining to the existing approved site development plan (as per the conditions of approval) as well as the development rules for properties zoned General Business Subzoning 2 (GB2), since it is proposed to rezone the property accordingly.

Accordingly, the proposed additions and alterations is assessed in Table 1 below:

Erf 5236 Strand (498.4m <sup>2</sup> )			
Development Rule	Existing Approval	General Business Subzoning 2 (GB2)	Proposed
Primary Uses	Shop Place of Instruction	<b>Business Premises</b> ; Dwelling House; Second Dwelling; Boarding House; <b>Flats</b> ; Place of Instruction; <b>Place of Instruction</b> ; Place of Worship; Institution; Hospital; Place of Assembly; Place of Entertainment; Hotel; Conference Facility; Service Trade; Authority Use; Utility Service; Rooftop Base; Telecommunication Station; Multiple Parking Garage; Private Road; Filming; Veterinary Practice; Open Space	Business Premises Place of Instruction Flats
Consent Uses	Restaurant	Adult Shop; Adult Entertainment Business; Adult Services; Informal Trading; Expo Centre; Motor Repair Garage; Warehouse; Freestanding Base Telecommunication Station; Wind Turbine Infrastructure; Transport Use; Helicopter Landing Pad; Service Station	Not Applicable
Coverage	37.11% (179.98m <sup>2</sup> )	100%	77% (373.7m <sup>2</sup> )
Floor factor	0.973 (472m <sup>2</sup> )	2.0 (970m <sup>2</sup> )	1.96 (951.4m <sup>2</sup> )
Height from existing ground level to top of roof	8.825m	15m	13.045m
Street boundary building setback from Beach Road: - Ground Floor - First Floor - Second Floor - Third Floor (<10m) - Third Floor (>10m)	1.03m 6.09m 6.09m N/A N/A	0m 0m 0m 0m 4.5m	0m 0m 3.02m 3.015m 6.59m
Street boundary building setback from the splay: - Ground Floor - First Floor	Unknown 5.28m	0m 0m	0.96m 0.96m

- Second Floor	5.28m	0m	0.96m
- Third Floor (<10m)	N/A	0mm	0.96m
- Third Floor (>10m)	N/A	4.5m	>4.5m
Street boundary building setback from Drake Road:			
- Ground Floor	1.03m	0m	2.95m
- First Floor	6.09m	0m	1.5m
- Second Floor	6.09m	0m	1.5m
- Third Floor (<10m)	N/A	0m	1.5m
- Third Floor (>10m)	N/A	4.5m	6.105m
Common boundary building setback from Erf 5235:			
- Ground Floor	Approx. 1.84m	0m	0m
- First Floor	Approx. 1.84m	0m	0m (Fire Escape)
- Second Floor	Approx. 1.84m	0m	0m (Fire Escape)
- Third Floor (<10m)	N/A	0m	0m (Fire Escape)
- Third Floor (>10m)	N/A	0m	2.74m
Common boundary building setback from Erf 5237:			
- Ground Floor	2.77m	0m	0m
- First Floor	2.77m	0m	2.21m
- Second Floor	2.77m	0m	2.21m
- Third Floor (<10m)	N/A	0m	2.21
- Third Floor (>10m)	N/A	0m	4.520m
Parking	8 bays in lieu of 23 bays	12.192 Bays (Restaurant = 203.2m <sup>2</sup> GLA) 9.792 Bays (Shops = 326.4m <sup>2</sup> GLA) 3 Bays (Place of Instruction for 20 + 1) 1.5 Bays (Flat) <b>= 27 Bays in Total</b>	10 Parking Bays

Table 1 Assessment of Proposal

## 6.2 Proposed Development in Accordance with Other Permissions of the DMS

From Table 1, the only other application required (apart from the rezoning of the property) is a parking departure to allow for the provision of 10 off -street parking bays in lieu of 27 parking bays.

However, and in order to fully assess the proposed development, the following Items as per the DMS, need also be considered:

- *Item 60(k)(ii): Except with the approval of the City, no parking bays at ground floor level on a land unit, either outside or within a building, shall be located closer than 10m to a street boundary, in order to enhance amenity at street level.*

The parking bays are proposed at 0m from the street boundary with Drake Road and 4.935m from the street boundary with Beach Road. Therefore, City's Approval is required to allow for this deviation from the provisions of this Item.

- *Item 140(1)(b): No vehicular ingress or egress shall be closer than 10m from an intersection as defined by the prolongation of street boundaries; except for industrial-zoned properties, where the distance shall be 15m.*

The vehicular ingress to parking bay 1 is proposed at 4.935m from the intersection of Beach Road with Drake Road and a departure from this Item is thus required.

- *Item 140(2)(a): Motor vehicle carriageway crossings shall be limited to one per site per public street or road abutting the site.*

Since the parking bays provided on the property, all gain access directly and continuously of Drake Road, a departure from this Item is required.

- *Item 140(2)(b): Notwithstanding paragraph (a) above, where the total length of any street boundary of a site exceeds 30 m in length, one additional carriageway crossing may be permitted, provided that no two carriageway crossings are closer than 12 m to each other.*

All of the proposed parking bays are staggered against each other along Drake Road. Therefore, the carriageway crossings to the parking bays are not proposed to be 12m apart. A departure from this Item is thus required.

- *Item 141(1)(b): The layout of any parking area, except for parking in SR1 and SR2 zonings, shall ensure that vehicles can readily leave the site without reversing across the sidewalk, unless approved by the City.*

Since the parking bays are proposed on the street boundary building line, it is required for vehicles to exit the bays by reversing over the sidewalk of Drake Road. A departure from this Item is therefore required.

- *Item 142(3)(a): Parking bays shall be a minimum of 3,7 m in width and 5 m in length.*

The parking bay for the physically disabled (parking bay 1) is, due to the location of the staircase, proposed to be less than 3.7m wide for a portion of the bay. The back portion of the bay, however, wraps around the proposed staircase to ensure a width of 4m. Nonetheless, a departure from this Item is required.

## 7. APPLICATIONS

With reference to Section 6 of this report and the **Land Use Application Form**, mentioned to be attached to this report as **Annexure B**, formal applications are hereby made in terms of Section 42 of the MPBL for the following:

In terms of Section 42(a): The **rezoning** of property from Local Business Subzoning 2 (LB2) to General Business Subzoning 2 (GB2).

In terms of Section 42(b): To allow for the following **departures** from the provisions of the Development Management Scheme (hereafter referred to as “the DMS”), being Schedule 3 of the By-Law:

- From Item 137(a) to allow for the provision of 10 parking bays in lieu of 27 parking bays.
- From Item 140(1)(b) to allow for the access distance from an intersection to be 4.935m in lieu of 10m.
- From Item 140(2)(a) to allow for more than one motor vehicle carriageway crossing along Drake Road.
- From Item 140(2)(b) to allow for the spacing of the carriageway crossings to be less than 12m apart.
- From Item 142(3)(a) to allow for a parking bay designated for the physically disabled to be 3m in lieu of 3.7m.

In terms of Section 42(i): **City's Approval** to allow for the following permissions as prescribed in the DMS:

- As per Item 60(k)(ii) to allow for parking bays at ground floor level to be 0m in lieu of 10m from the street boundary with Drake Road and 5.9m from the street boundary with Beach Road.
- As per Item 141(1)(b) to allow for vehicles to reverse across the sidewalk along Drake Road.

As provided for by Item 60(b) of the DMS, it is also requested that the city not require a street centreline setback of 8m from the centreline of Drake Road.

## **8. ADJUDICATION AND MOTIVATION**

### **8.1 Motivation for Applications**

#### **8.1.1 Motivation for Rezoning**

It is proposed to rezone the property from Local Business Subzoning 2 (LB2) to General Business Subzoning 2 (GB2) which will enable the development of a four-storey building with a maximum height of 13.045m from the existing ground level of the property. It should be noted that this is merely 1.045m higher than what is allowed under the current zoning of the property (12m).

Another increase in development rules, resulting from the rezoning, will be the increase in floor factor from 1.0 to the proposed 1.96. Due to the size of the property and the existing urban character of Beach Road, comprising of high density and multi-story developments, it is argued that the proposal is within character of the area.

The General Business Subzoning 2 (GB2) is considered to be the most appropriate zoning since the current uses, which is predominantly business orientated, on the property will remain prevalent as part of the new proposal. A residential component has also been added to the building to create self-regulating balance of uses on the property.

Furthermore, and as identified in Section 2.4 of this report, the property is located on a part of the Strand Beachfront Area known as the Golden Mile. This area is known for the activities that's on offer and that attracts visitors to the area. It is argued that more business uses are appropriate within this part of the Beachfront Area as a result of the prevailing activities.

It is recognised that the proposal does not infringe on the development rules for the proposed zoning in terms of height, floor factor, coverage or setbacks.

#### **8.1.2 Motivation for Departures**

The proposed departures, although some in a lesser form, have been previously granted during the previous approval of 2019. Even though approval for the said departures have previously been granted, motivation for the departures are set out below:

Parking Departure:

<b>2019 Approval</b>	<b>Current Proposal</b>
8 bays in lieu of 23 bays	10 bays in lieu of 27 bays

The proposed increase in floor factor, resulting in an increase in gross leasable area for the restaurant and shops, as well as the addition of a dwelling unit on the third-floor results in a parking bay requirement of 27 bays. With the previous approval being granted at 8 bays in lieu of 23, the current departure will effectively result in a departure of 2 additional bays in lieu of 4 bays.

Beach Road comprises of many off-street public parking options. Within a radius of a 100m from the application site, a total of 50 off-street public parking bays are recognised by the City of Cape Town – see Figure 14 below.



**Figure 14 Off-Street Parking Provision within 100m of the Property**

The visitors of this portion of Beach Road, where the property is located, visit the area for activities such as going to the beach, surfing, kitesurfing, and jogging. The norm is for them to park their vehicles on the off-street public parking bays and then explore the area by walking. In between the listed activities, they might visit the restaurant and shops within the building on the property. It is therefore argued that a majority of the visitors for the restaurant and shops on the property does not require the normal parking provision as per the DMS requirements.

The only uses on the property that might require the normal off-street parking provision for its visitors/inhabitants, are the place of instruction (Yoga & Thai Chi instruction centre) and the flat. The collective parking requirement for these uses is 4.5 bays which is adequately provided for on the property.

It is therefore argued that the approval of the parking departure will not result in a material negative impact on the current parking situation within the surrounding area.

Access distance from an intersection:

2019 Approval	Current Proposal
4.681m in lieu of 10m	4.935m in lieu of 10m

The proposed access distance from an intersection has been increased by this proposal, it is therefore argued that the approval of this departure will have no negative impact on the surrounding area.

Number of carriageway crossings along Drake Road:

2019 Approval	Current Proposal
More than 1 CWC	More than 1 CWC

The proposal is in line with the previous approval in this regard. With Drake Road being a one-way traffic road, the approval of this application will have no negative impact on the area.

Spacing of carriageway crossing from each other:

2019 Approval	Current Proposal
Less than 12m	Less than 12m

Similar to the above, the proposal is in line with the previous approval in this regard. With Drake Road being a one-way traffic road, the approval of this application will have no negative impact on the area.

Width of parking bay for the physically disabled:

2019 Approval	Current Proposal
3.5m	3m in lieu of 3.7m

Although it is proposed to depart from this provision of the DMS, it should be noted that the parking bay for the physically disabled is proposed to widen to 4m southeast of the newly proposed staircase. It is argued that a physically disabled visitor will be able to park in the bay and that the widen area will be sufficient for exiting and entering the vehicle. This is due to the 3m wide area of the bay being located on the 'front' portion of the bay and therefore only accommodating the nose of a vehicle – see Figure 15 below:

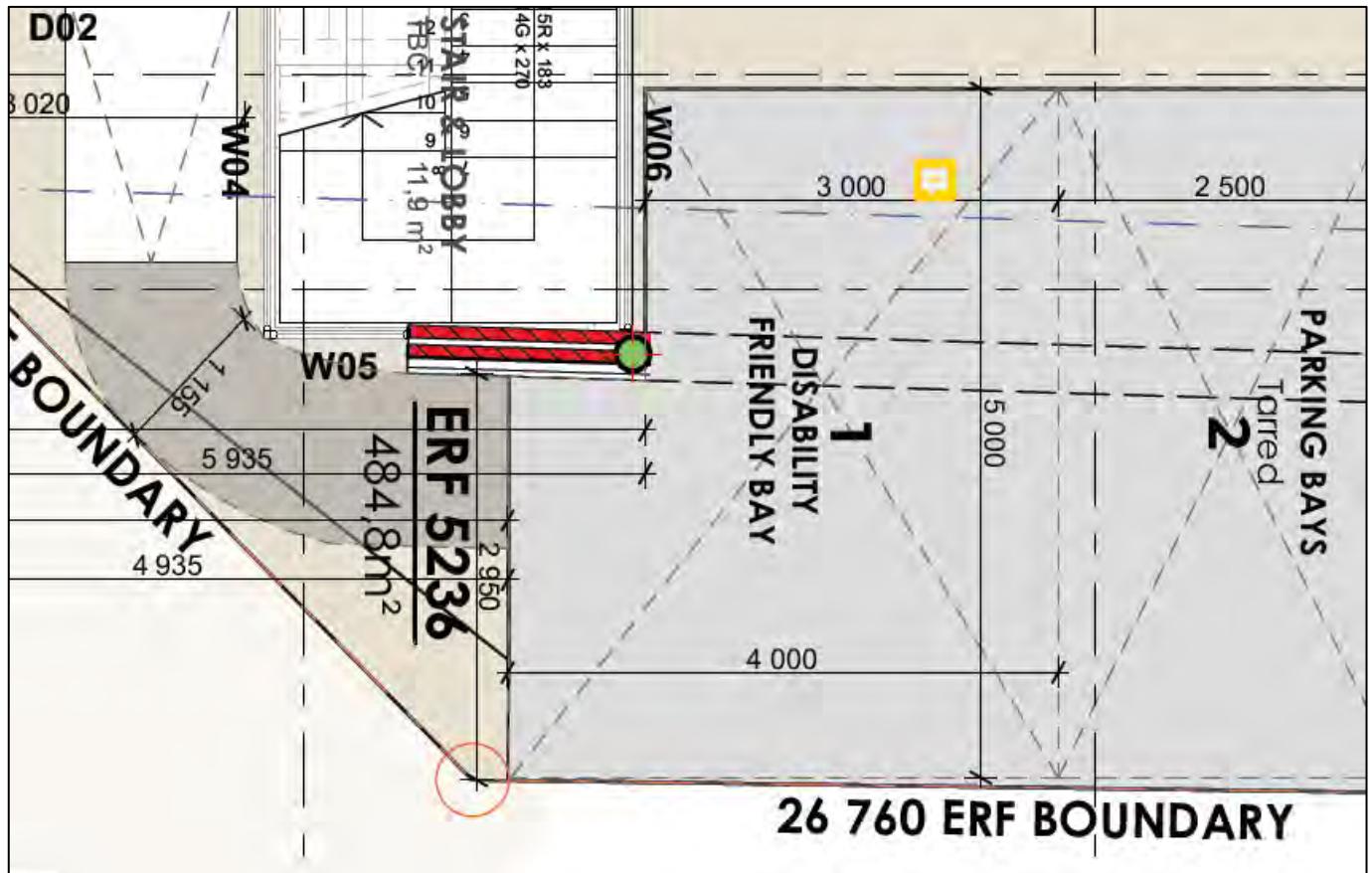


Figure 15 Parking Bay for the Physically Disabled

### 8.1.3 Motivation for Council's Approvals

The applications for council's approval are both similar to what was approved in 2019, therefore it is argued that the approval of the proposed application for council's approval will not have any impact on the surrounding area.

## 8.2 Application in terms of the Development Management Scheme

### 8.2.1 Section 99 of the MPBL: Adjudication Criteria and Motivation

Section 99 of the MPBL relates to the adjudication of applications. The applications required, as set out in Section 7 of this report, are assessed in Table 2 below, against the minimum threshold requirements as set out in Section 99 of the MPBL:

Criteria for Deciding Application	Motivation
Section 99(1) of the MPBL	
99(1)(b): the proposed land use must comply with or be consistent with the municipal spatial development framework, or if not, a deviation from the municipal spatial development framework must be permissible;	The proposed land use is consistent with the Municipal Spatial Development Framework (hereafter referred to as “the MSDF”). In this regard, no deviation from the MSDF is required.
99(1)(d)(i): subject to subparagraph d(ii), in the case of an application for a departure to alter the development rules relating to permitted floor space or height, approval of the application would not have the effect of granting the property the development rules of the next subzone within a zone.	It is proposed to rezone the property to GB2. The proposed development complies with the development rules for floor space and height applicable to the GB2 Zoning as per the DMS and therefor the proposal <b>will not</b> grant the property the development rules of the next subzone (GB3).
99(1)(d)(ii): the approval of an application for a departure to alter the development rules relating to permitted floor space or height that does not exceed 10% of the maximum height or floor space of the existing subzone does not trigger the minimum threshold requirement.	Not Applicable.
Section 99(2) of the MPBL	
99(2)(a): any applicable spatial development framework.	The City of Cape Town Municipal Spatial Development Framework, approved by council on 25 April 2018 (hereafter referred to as “the MSDF”), serves to guide urban growth and proposals contained in the area specific District Spatial Development Plans.

According to the MSDF, the property is situated in an area known as *Consolidation Areas*:



Figure 16 The Property within the context of the MSDF

Consolidation Areas are areas where new development will be subject to infrastructure capacity. As per the MSDF, the desired outcomes for these areas include the *incremental intensification* via, *inter alia*, rezonings. It is therefore argued that the proposal is in line with the MSDF as a result of existing infrastructure being well capable of handling the proposed development.

The city is currently in the process of reviewing their district level policy documentation. The Helderberg District Spatial Development Framework (hereafter referred to as "the HDSDF") is the document that guides development within the Helderberg District. The proposal is consistent with the Draft HDSDF (and the proposed amendments to the documents) due to the following:

- The property is located on Beach Road, which is considered to be a Development Route. Development Routes are classified as routes where the intensification of land uses is promoted and where redevelopment opportunities of high-density mixed-use development should be supported.
- The proposal will improve the pedestrian environment along the Strand Beachfront Area.
- The proposal will result in business intensification without detracting from the existing character of the route.

	<ul style="list-style-type: none"> <li>- The proposal encourages mixed-use intensification along Beach Road in the form of a restaurant, business premises and residential development.</li> </ul>
99(2)(b)  relevant criteria contemplated in the development management scheme;	The application complies with relevant criteria contemplated in the DMS, i.e., the proposal is desirable when assessed in terms of the adjudication criteria set out in Section 99.
99(2)(d)  any applicable policy or strategy approved by the City to guide decision making, which includes the Social Development Strategy and the Economic Growth Strategy.	<p>The application complies with all policies and strategies of the City of Cape Town, i.e. the City of Cape Town's Social Development Strategy and the Economic Growth Strategy. The reasoning behind this is due to the following:</p> <ul style="list-style-type: none"> <li>- The proposal is considered environmentally sustainable since it is a brown-field development within a designated urban area.</li> <li>- An increase in economic activity will result from the approval of this application.</li> <li>- The proposal will assist in achieving economic growth in the area.</li> </ul> <p>The proposal is also considered in line with the City of Cape Town's Urban Design Policy, due to the following:</p> <ul style="list-style-type: none"> <li>- The proposal will ensure the more efficient activation of the streetscape as well as the corner of Beach and Drake Road.</li> <li>- The proposal will improve the safety and security of the area by the addition of a residential component to the property and by improving the passive surveillance of the public realm through the activation of the street frontages.</li> </ul>
99(2)(d)  the desirability of the proposed use or development of land as contemplated in subsection (3).	The proposal is desirable as will be discussed under the motivation in terms of Section 99(3) of the By-Law.
99(2)(e)  impact on existing rights (other than the right to be protected against trade competition).	<p>The proposal will not have a material impact on the existing rights of the surrounding property owners. The increase in the floor factor and height will not be out of character of the area, as a result of the following:</p> <ul style="list-style-type: none"> <li>- Almost all of the properties along Beach Road are zoned General Residential Subzoning 5 (GR5) which makes provision for the development of these properties with floor factors of 2.5 and heights of 35m from the existing ground level.</li> <li>- The proposed floor area of 1.96 and height of 13.045m is considered to be well below the allowed permissions of the surrounding properties and therefore will not have a negative impact on the surrounding property owners.</li> <li>- The proposal will not materially reduce the views of any property owner within the immediate surrounding area.</li> </ul>

	<ul style="list-style-type: none"> <li>- The proposed additional floor will accommodate a residential component which will not result in an increase in noise pollution.</li> </ul>
99(2)(f)  in an application for the consolidation of land unit-	Not applicable.
99(2)(g)  Other considerations prescribed in relevant national or provincial legislation, which includes the development principles as contained in section 7 of the Spatial Planning and Land Use Management Act, 2013 (Act no. 16 of 2013).	<p>The proposal is aligned with the development principles as set out in Section 7 of SPLUMA:</p> <p>Spatial Sustainability: The development is proposed on a property that is considered to be under-utilised and under-developed. The property is also situated along a proposed Development Route where development as such should be promoted.</p> <p>Efficiency: The proposed development will make use of various glass panels to ensure the efficient use of natural sunlight for the lamination of the building.</p> <p>Spatial Resilience: The property is currently under-developed and under-utilised. The proposal will ensure a more stable income (residential component) as well as better marketable leasable areas for the under uses in the building.</p> <p>Good Administration: The proposal has been processed and will be assessed in accordance with all relevant legislation.</p>
99(2)(h)  whether the application complies with the requirements of this By-law.	The application complies with the MPBL. Section 42 of the MPBL makes provision for the applications and all required information has been submitted with this application.
Section 99(3) of the MPBL: Desirability	
99(3)(a)  socio-economic impact	The approval of the departure applications will enable the more efficient use of the property. By increasing the amount of leasable space for the uses and the addition of a residential component, the proposal will ensure a more balanced and economically viable building.
99(3)(d)  compatibility with surrounding uses	As motivated for under Section 99(2)(e) of the By-Law and demonstrated throughout this report, the proposed development will be compatible with the surrounding existing uses. The proposed residential component will

	also contribute to a more balanced building that will regulate the other uses currently prevalent in the existing and proposed building.
99(3)(e) impact on the external engineering services	<p>There will be no material impact on the existing external engineering services as the property is located within a <i>Consolidation Area</i> with sufficient existing infrastructure capacity. It is noted that the additional floor space as a result of the rezoning will require the payment of a development contribution to the City of Cape Town.</p> <p>The application will also be circulated to the City's engineering services departments for their comments and inputs.</p>
99(3)(f) impact on safety, health and wellbeing of the surrounding community	The more efficient activation of the streetscape, as a result of the proposal, will have a positive impact on the safety and security of the immediate surrounding area.
99(3)(g) impact on heritage	No impact.
99(3)(h) impact on the biophysical environment	No impact.
99(3)(i) Traffic impacts, parking, access and other transport related considerations.	As demonstrated, the proposal will effectively result in the under provision of 2 parking bays on the property, when evaluated against the current status quo of the property. As identified, the user of the restaurant and business component
99(3)(j) Whether the imposition of conditions can mitigate an adverse impact of the proposed use or development of land.	<p>The following conditions of approval are argued to be necessary to mitigate the potential impact of the proposal:</p> <ul style="list-style-type: none"> <li>- Future development of the property should be generally in accordance with the envelope of the proposed building as per the submitted Site Development Plan.</li> <li>- The payment of development contributions.</li> </ul>

Table 2 Motivation of the Applications

## **9. CONCLUSION**

The application has been made in terms of Section 42 of the MPBL for the rezoning of the property, permanent departures and council's approval. It is demonstrated that the proposal is consistent and compliant with the various policies and frameworks that guides land use in the City of Cape Town. The proposal is also argued to be desirable and thus should be supported by the City of Cape Town.

It is therefore recommended that the proposed applications and resultant development should be considered for approval.

PIETERHUIZEN PLANNING (PTY) LTD

30 August 2021