

ERF 4268, 315 FIFTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS WRAP PROJECT OFFICE ON BEHALF OF A VAN DER WESTHUIZEN

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), that an application has been received for the following:

- ❖ **Departure** in terms of Section 16(2)(b) of the By-Law:
 - to relax the eastern lateral building line from 2m to 1.4m, to accommodate a proposed built-in braai;
 - relax the eastern lateral building line from 2m to 0m, to accommodate the existing covered patio; and
 - relax the western lateral building line from 2m to 1.2m, to accommodate a proposed en-suite bathroom.
- ❖ **Determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law, to legalize the previously built structures on the property and ensure compliance with the By-Law.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, 16 Paterson Street, Hermanus. Any written comments may 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 **6 October 2023**, quoting your name, address and contact details, interest in the application and reasons for comment. Telephonic enquiries can be made to the **Town Planner, Mr P Roux** 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.

ERF 4268, VYFDESTRAAT 315, VOËLKLIP, HERMANUS, OVERSTRAND MUNISIPALE AREA: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: MNRE WRAP PROJECT OFFICE NAMENS A VAN DER WESTHUIZEN

Kennis word hiermee gegee ingevolge Artikel 48 van die Munisipaliteit Wysigingsverordening op Munisipale Grondgebruikbeplanning, 2020, (Verordening), dat 'n aansoek ontvang is vir die volgende:

- ❖ **Afwyking** ingevolge Artikel 16(2)(b) van die Verordening:
 - om die oostelike lateraleboulyn te verslap vanaf 2m na 1.4m, om die voorgestelde ingeboude braai te akkommodeer;
 - die oostelike lateraleboulyn te verslap vanaf 2m na 0m, om die bestaande onderdak stoep te akkommodeer; en
 - die westelike lateraleboulyn te verslap vanaf 2m na 1.2m, om die voorgestelde en-suite badkamer te akkommodeer.
- ❖ **Bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) van die Verordening, om die vorige geboude strukture op die eiendom te wettig en voldoening aan die Verordening te verseker.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) voor of op **6 Oktober 2023**, met die naam, adres en kontakbesonderhede, belang in die aansoek, sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan die **Stadsbeplanner, Mnr P Roux** by 028-313 8900. Die Munisipaliteit mag weier om die kommentaar 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 formaliseer.

I-ERF 4268, 315 FIFTH STREET, VOËLKLIP, HERMANUS, KUMASIPALA WASE-OVERSTRAND: ISICELO SOKUNYENYISWA NOKUGQITYWA KWESOHLWAYO: WRAP PROJECT OFFICE EGAMENI LIKA A VAN DER WESTHUIZEN

Isaziso siyanikezelwa ngokweCandelo lama-48 loMthetho kaMasipala kaMasipala waseOverstrand kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, ka-2020 (uMthetho kaMasipala) sokuba isicelo sifunyenwe soku kulandelayo:

- ❖ **Ukutenxa ngokuhambelana** malunga Candelo 16(2)(b) malunga noku kulandelayo:
 - ukucuthwa komda wesakhiwo osecaleni ongasempuma ukusuka kwisi-2m ukuya kwisi-1.4m, ukuhlanganisa i-braai ecetywayo eyakhiwey;
 - ukucudisa umda wesakhiwo osecaleni ongasempuma ukususela kwisi-2m ukuya ku-0m, ukulungiselela ipatiyo ekhoyo egqunyiweyo; kwaye
 - ukucudisa umda wesakhiwo osecaleni ongasentshona ukusuka kwisi-2m ukuya kwisi-1.2m, ukulungiselela igumbi lokuhlambela elicetywayo le-en-suite.
- ❖ **Ukumiselwa kwesohlwayo** solawulo ngokweCandelo le-16(2)(q) loMthetho kaMasipala, ukwenza ngokusemthethweni izakhiwo ezakhiwe ngaphambili kwiprofati nokuqinisekisa ukuthotyelwa koMthetho kaMasipala.

Inkcukacha mayela nesindululo siyafumaneka ukuze sihlolwe phakathi evekini ngamaxesha omsebenzi ukusuka kwintsimbi ye08:00 ukuya kweye16:30 kwiSebe: Izicwangciso Zedolophu kwanombolo 16 Paterson Street, eHermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zamaCandelo 51 nelama-52 alo Mthetho uYilwayo yaye mazithunyelwe kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) ngomhla okanye ngaphambi wama- **6 EyeDwarha 2023** unike igama lakho, idilesi neenkukacha zonxibelelwano nawe, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Xa ufuna ukubuza into malunga nesi saziso ungatsalela umnxeba Umcwangcisi **Wedolophu uMnu. P Roux** kule nombolo 028-313 8900. Umasipala angala ukuzamkela izimvo ezifike emva komhla wokuvalwa. Nabani na ongakwaziyo ukufunda okanye ukubhala makaye kwiSebe loYilo lweDolophu apho igosa likamasipala liya kumncedisa azibhale izimvo zakhe.

1. Locality Plan
Erf 4268 - Hermanus

Plan prepared by: Thian Jansen

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

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



Project Office
Town Planning & Project Management



Scale 1 : 500



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
MSDF	Overstrand Spatial Development Framework, 2020
SR1	Residential Zone 1: Single Residential

2. PROPERTY DETAILS

Consultant	WRAP Project Office
Erf Number	Erf 4268 Hermanus
Extent	495m ²
Zoning	Residential Zone 1: Single Residential

3. BACKGROUND AND INTENT

The subject property, Erf 4268 Hermanus, is located in Fifth Street, Voëlklip, refer **Plan 1 - Locality Plan**. The property owner appointed WRAP Project Office to submit a land use application on their behalf, refer **Annexure A - Power of Attorney**. The application serves as a replacement to the original application submitted to the municipality.

The property owners acquired the property in 2016 and have slowly started to upgrade the property to accommodate their family's needs. The property is their primary residence. In their pursuit to maximize their enjoyment of the property, they are proposing two additions. The first is a built-in braai on the eastern side of the property, and the second involves converting an existing porch into an en-suite bathroom.

The property owners became aware that an outdoor covered area was never approved by the municipality. To ensure compliance, the owner is currently undergoing the process to obtain approval for the structure. Since the covered area encroach upon the side building lines, the approval of an application for departure from the building lines is required.

To ensure compliance with the OMLUS, approval of the following applications is required:

- Permanent Departure from the side building lines; and
- Determination of an administrative penalty.

4. PROCEDURE TO ACHIEVE THE PROPERTY OWNER'S INTENT

WRAP compiled this report to ensure the property owner's requirements are met. The following is proposed:

4.1 Permanent Departure from the 2m side eastern building line to 1,4m to allow the proposed built-in braai in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

4.2 Permanent Departure from the 2m side eastern building line to 0m to allow the existing covered patio in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

As mentioned in section 3 above, the property owner envisions enhancing their property by obtaining municipal consent for all the structures, existing and proposed. One of the proposed improvements is the addition of a built-in braai, as shown in Plan 4.2. The objective is to create an extra outdoor space where the owner and their family can enjoy themselves even when the weather is unfavourable. Notably, the area where the built-in braai is intended to be constructed was previously covered by the former owners with corrugated plastic without obtaining proper approval for the structure, which the current owners were unaware of.

In order to align with the regulations of the OMLUS, the property owners have chosen to seek approval for both the proposed built-in braai and the existing covered patio space, despite the latter being a pre-existing structure that does not comply with the building line requirements. Both structures are expected to encroach on the side building line, as illustrated in Plan 4.2.

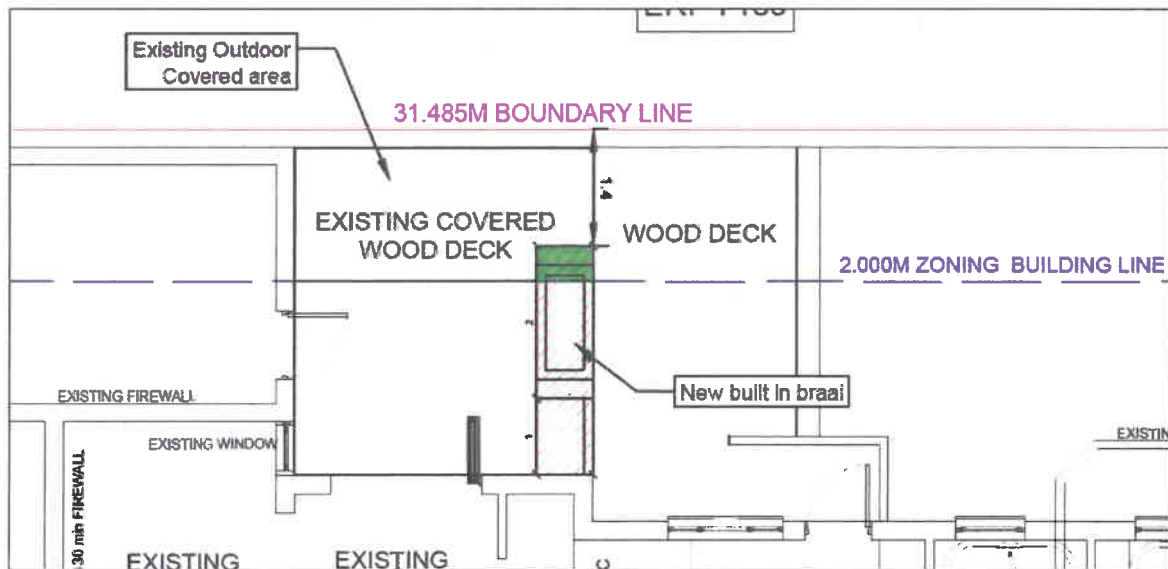


Figure 1: Extract of Plan 4.2



Figure 2: Existing covered patio

The neighbours adjacent to the covered patio have signed a consent letter (refer **Annexure C - Neighbours' Consent**). They have owned their property since 1982 and indicated that the covered patio was erected in 2005. They also indicated that they do not have any objection to the existing structure.

In addition to the covered patio, the property owner has a vision to improve this area with a built-in braai. There are several advantages to introducing a covered braai area, firstly the primary advantage of a covered braai area is the protection it provides from the elements. Whether it's rain, intense sun, or strong wind, the covered area ensures that the property owners can continue to enjoy the outdoor area more without being affected by adverse weather conditions.

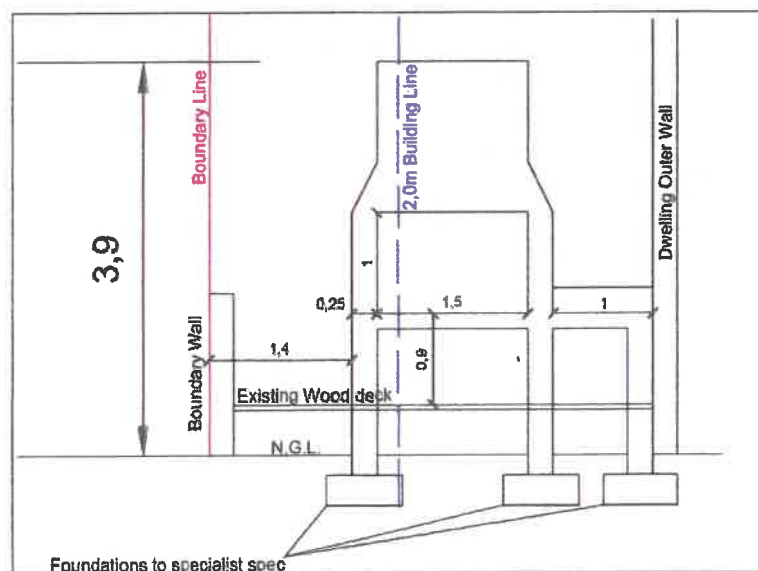


Figure 3: Extract of Plan 4.2



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Additionally, the covered space extends the usability of the braai area. Unlike open outdoor spaces that are subject to seasonal limitations, a covered braai area can be enjoyed throughout the year. It allows the property owners to utilise the space even during colder months or when it's raining. This extended usability ensures that the property owners can make the most of their outdoor space regardless of the season.

Lastly, a covered braai area can provide an added level of privacy and reduce any potential noise impact. The roof acts as a barrier, shielding the space from neighbouring properties. This privacy allows the property owners to enjoy their outdoor area while creating a more intimate setting.

4.3 Permanent Departure from the 2m side western building line to 1,2m to allow the proposed en-suite bathroom in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

In the previous section (Section 3), it was discussed that the property owner has a vision to convert the existing patio/ pergola into an en-suite bathroom. This existing patio/ pergola currently features an almost solid wall facing the neighbouring property. The plan is to construct the new en-suite bathroom while retaining the same footprint as the current patio/ pergola. Below is a visual representation of the existing patio/ pergola:

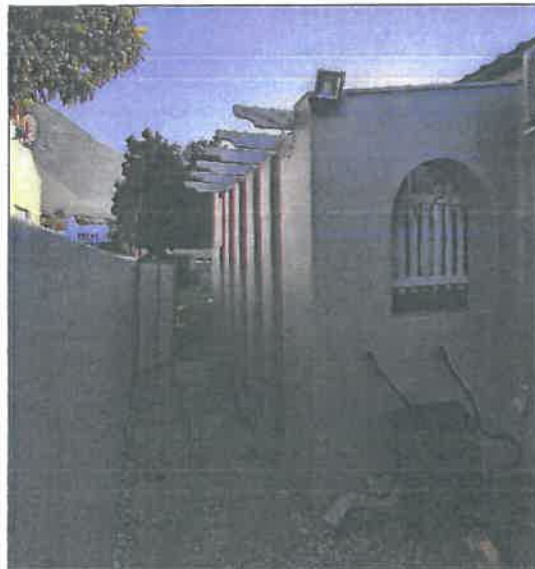


Figure 4: Existing patio / pergola

By opting to use the same footprint for the bathroom, the aim is to minimize any additional impact on the neighbours compared to what they are currently experiencing. The proposed approach seeks to respect the privacy of both the property owner and the neighbouring households. To achieve this, sandblasted windows will be incorporated into the design to ensure privacy is upheld.

The introduction of the en-suite bathroom will offer significant benefits to the property owners. First and foremost, it will enhance the functionality and convenience of their living space. They will have the luxury of a private bathroom conveniently located in



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close proximity to their bedroom. This addition will also contribute to the overall property value, making it more attractive to potential buyers or tenants in the future.

Furthermore, the decision to transform the patio/pergola into an en-suite bathroom demonstrates the property owner's commitment to adapting their living space to better suit their needs and lifestyle. It exemplifies their desire to make thoughtful and meaningful improvements to their property.

It is important to emphasize that the property owner acknowledges the concerns of their neighbours and is taking proactive measures to address potential privacy issues. The incorporation of sandblasted windows in the bathroom design ensures that both parties' privacy rights are respected, creating a harmonious living environment for everyone involved. **Refer to Plan 4.3.**

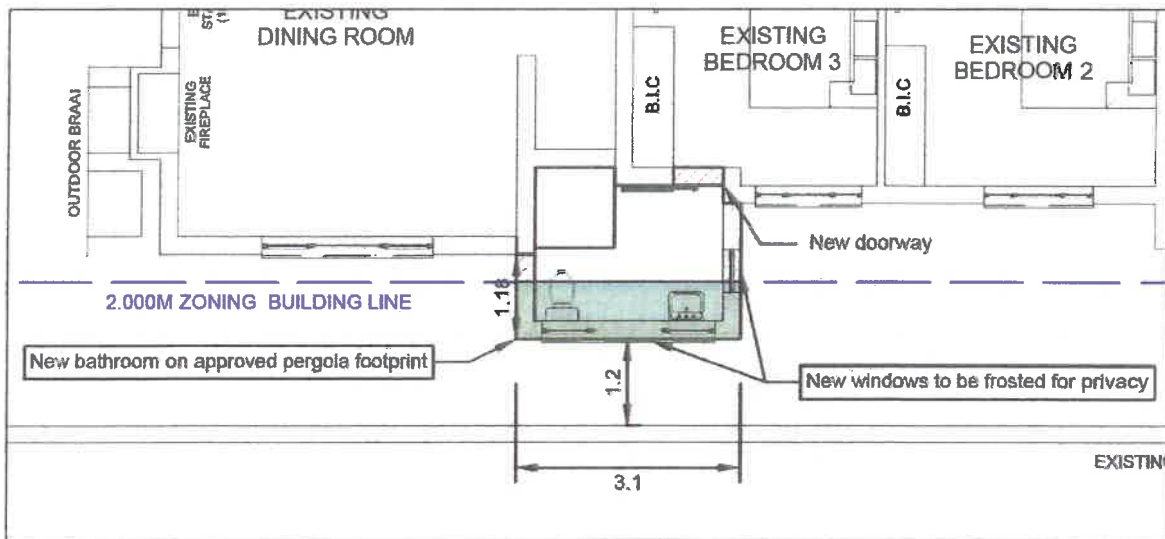


Figure 5: Floor plan of the proposed ensuite bathroom



4.4 Determination of an administrative penalty in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

The existing covered patio encroaching on the eastern side building line was constructed in the early 2000's by the previous owners. To ensure compliance with the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 it is of importance to include the determination of an administrative penalty application. It is however requested that the administrative penalty be waived as this application serves as method to rectify the contraventions that occurred, and it was not the current owners who erected the illegal structure.

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 lines encroachments is:

Covered Patio	±16,9m ²
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The conduct of the person (allegedly) involved in the contravention

The previous owners erected the structure and the current property owners were not aware of its status as being illegal.

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 structure is already built.

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. APPLICATION

Considering the above, application is made for the following:

- 5.1 Permanent Departure** from the 2m side eastern building line to 1,4m to allow the proposed built-in braai in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- 5.2 Permanent Departure** from the 2m side eastern building line to 0m to allow the existing covered patio in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- 5.3 Permanent Departure** from the 2m side western building line to 1,2m to allow the proposed en-suite bathroom in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- 5.4 Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

6. LAND USE ENVIRONMENT

The subject property is located in the Voëlklip area, an established residential area in Hermanus. The property is surrounded by Residential Zone 1: Single Residential and Public Open Spaces properties. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan).

7. TITLE DEED

Title deed T56311/2016 (refer **Annexure B**) was perused and there were no restrictive conditions that prohibits the proposals being made.

8. ZONING

The following zoning parameters were assessed in conjunction with the SR1 OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (q) of the OM By-Law:



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RESIDENTIAL ZONE 1: SINGLE RESIDENTIAL			
Land Use Restrictions			
Parameters	Proposal	Comply/ deviate	
Primary use	Dwelling House	Comply	
Consent use	N/A	N/A	
Development parameters			
Coverage	Existing Dwelling = 206.68m ² New bathroom = 6.6m ² Existing covered patio = 16.9m ² Proposed Coverage = 230,18m ² / 46.50%	Comply	
Building lines	<p><i>Please take note final building plans will be submitted to the Overstrand Municipality Building Control Department.</i></p> <p>The street building lines are being adhered to.</p> <ul style="list-style-type: none"> Permanent Departure from the 2m side eastern building line to 1,4m to allow the proposed built-in braai; Permanent Departure from the 2m side eastern building line to 0m to allow the existing covered patio; and Permanent Departure from the 2m side western building line to 1,2m to allow the proposed en-suite bathroom. 	Deviates	



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		Please take note formal building plans will be submitted to the Overstrand Municipality Building Control Department.	
Height	The maximum height of a building, measured from the base level to the top of the structure, is 8,0 m.	The existing dwelling adheres to the 8,0m building line.	Comply
Garages and carports	Garages and carports may be constructed within building lines in accordance with Chapter 16.1.2.	A double garage is present on site.	Comply



9. SERVICES

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

Electricity, Water, Sewage and Solid Waste

The subject property will be 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.

Solid waste will be collected every week by the OM.

Access and Egress

Access and egress to the property are gained from Fifth Street.

10. 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 land use application was a result of addressing all the land use requirements and ensuring the property meets the requirements of the property owners. To achieve this, the property owners are required to apply for permanent departures.

Socio-economic impact	The permanent departures are not predicted to have a socio-economic impact.
Compatibility with surrounding uses	The proposal is to improve the property in-line with the development parameters as set out within the OMLUS.
Impact on the external engineering services	Refer Section 9.
Impact on safety, health and wellbeing of the surrounding community	It is not predicted that the proposal will have an impact on safety, health and wellbeing of the surrounding community.
Impact on heritage	The subject property is not listed in the OM Heritage Register.
Impact on the biophysical environment	It is 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 not have an impact on traffic, parking or access.

Impact on views, sunlight and character of the area

The subject property is located in a residential setting and the structures being proposed are not out of the ordinary. As the neighbours have provided their consent, it is accepted that the small impact that the structures may have, is not opposed by the neighbours.



Economic impact

There has been capital expenditure through the construction phases. However, the proposal does not have a long-term economic impact.

Opportunity cost

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or foregoing of valued land use rights of interested and affected parties when an application is approved. The proposal is not predicted to have a negative impact on surrounding properties.

Environmental impact

The subject property is not located within an environmentally important area.

11. POLICIES AND REGULATIONS

11.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

The property is not located within the HPOZ.

11.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The property is not located within the HPOZ.

11.3 Spatial Planning Policies

This proposal is not in conflict with any provisions of the Western Cape Provincial Spatial Development Framework, 2014 or the Overstrand Spatial Development Framework, 2020.

12. PLANNING PRINCIPLES

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

Spatial justice

Spatial justice refers to planning proposals that do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal to increase the enjoyment of the property is not predicted to have an effect on past spatial injustices.

Spatial sustainability

Spatial sustainability refers to planning proposals which result in communities that are viable. These proposed departures intend to ensure the subject property is utilised to its maximum capabilities.

Efficiency

This proposal is intended to maximise the usage of the subject property.

Spatial resilience

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



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Good administration

The OM has a credible track record of good administration regarding the method of public participation. Public participation forms an integral part of the land use planning process.

The public participation process provides people who may be affected by the proposal with an opportunity to provide comment and to raise issues of concern about the proposal or make possible suggestions that may result in an enhanced outcome of which both parties benefit. Comments will be reviewed and considered after which it will be addressed accordingly.



13. EVALUATION

The purpose of submitting the application is to address and rectify the encroachment of the building lines that were caused by the previous owners while also seeking consent to allow the property owners to add two new structures to the property (built-in braai and en-suite bathroom).

Furthermore, the submission of this application shows the property owner's intent to resolving the issue at hand. Rather than allowing the encroachment to persist or attempting to circumvent the regulations, they have chosen to address the situation through the proper channels. This demonstrates their willingness to comply with the established rules and procedures, emphasizing their respect for the integrity of the planning process.

The submission of this application is an effort by the property owner to rectify the encroachment of the building lines and comply with the relevant spatial planning policies. By seeking the consent of the municipality, the property owner aims to regularize the situation and ensure that their property align with the established guidelines and regulations. This responsible approach reflects their commitment to responsible development and their willingness to adhere to the planning framework of the area.

14. RECOMMENDATION

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

- 14.1 Permanent Departure** from the 2m side eastern building line to 1,4m to allow the proposed built-in braai in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- 14.2 Permanent Departure** from the 2m side eastern building line to 0m to allow the existing covered patio in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- 14.3 Permanent Departure** from the 2m side western building line to 1,2m to allow the proposed en-suite bathroom in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- 14.4 Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

3. Aerial Plan
Erf 4268 - Hermanus

Plan prepared by: Thian Jansen
All distances are approximate
and subject to a survey

Tel: 028 313 1411

Email: admin@wrapgroup.co.za
Unit B, Standard House,
Corner of Royal and Dirkie Uys
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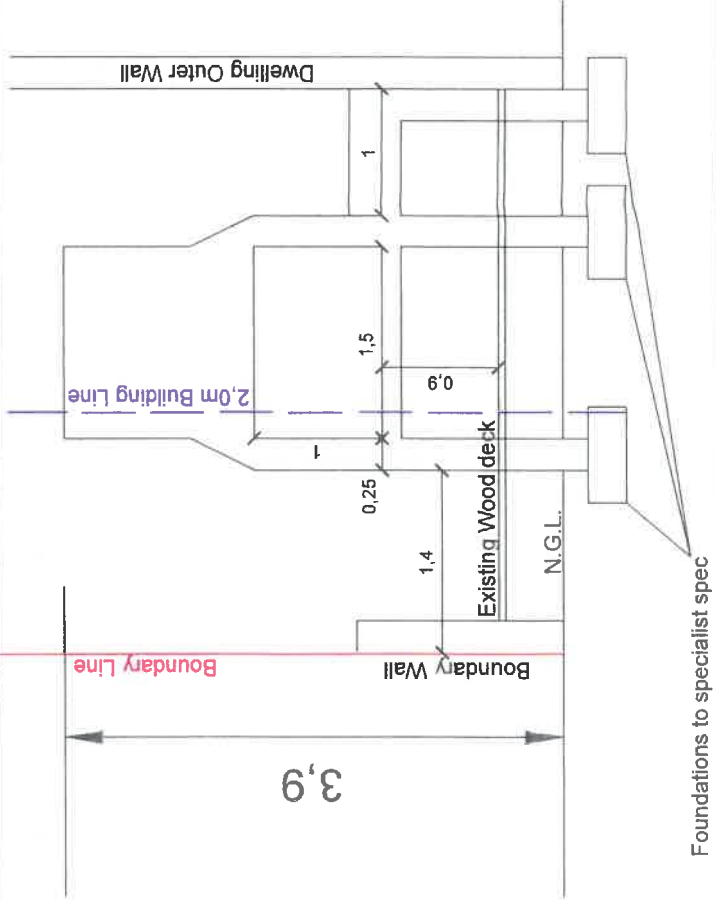
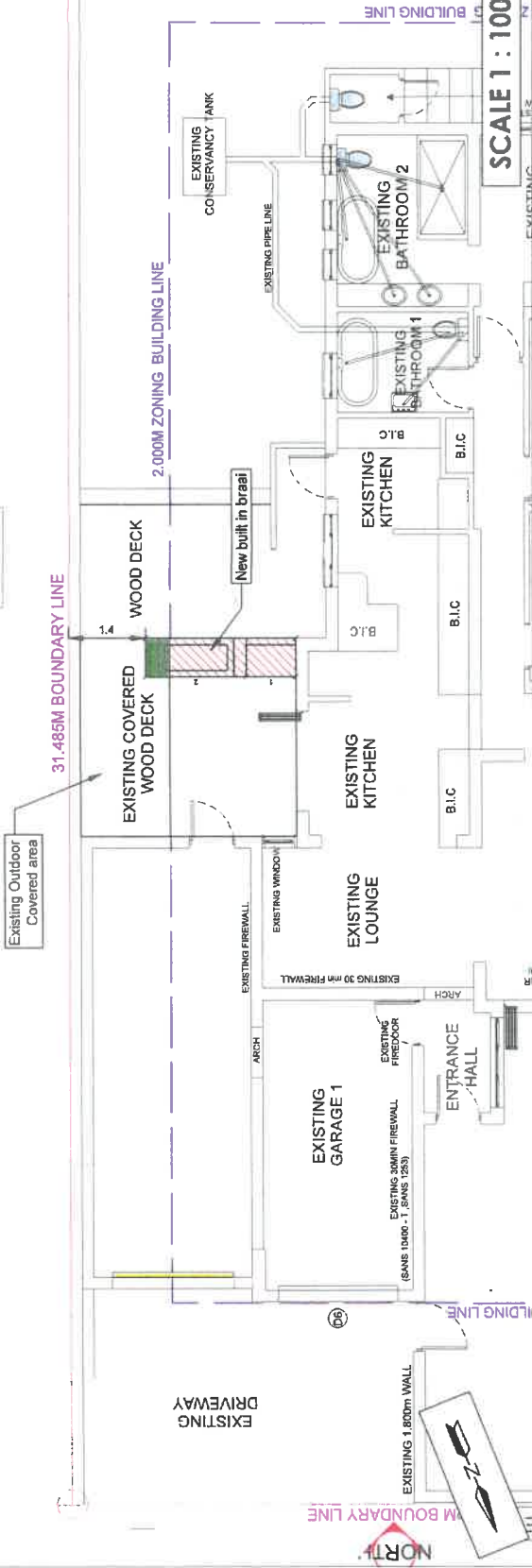


Project Office
Town Planning & Project Management



NTS

ERF 7188



ELEVATION

NTS

Foundations to specialist spec

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