



OVERSTRAND MUNISIPALITEIT
ERF 3921, TWEDELAAN 128, KLEINMOND:
AANSOEK OM OPHEFFING VAN
BEPERKENDE TITELAKTEVOORWAARDE,
AFWYKING EN BEPALING VAN 'N
ADMINISTRATIEWE BOETE: FVS STADS- EN
STREEKBEPLANNERS NAMENS HEICH
BELEGGINGSTRUST

Kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die onderstaande aansoeke van toepassing op Erf 3921, Kleinmond (die eiendom), naamlik:

Opheffing van Beperkende Titellaktevoorwaarde

Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titellaktevoorwaarde C.8.. soos vervat in Titellakte T13275/2001 van die eiendom om 'n motorafdak en pergola wat die straatboulyn oorskrei, te akkommodeer.

Afwyking

Aansoek ingevolge Artikel 16(2)(b) van die Verordening ten einde die straatboulyn te verslap vanaf 4m na $\pm 0,45m$ om 'n motorafdak en pergola te akkommodeer.

Bepaling van 'n Administratiewe Boete

Aansoek ingevolge Artikel 16(2)(q) van die Verordening vir die ongemagtige boulynoorskreidings soos bo uiteengesit.

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 die Kleinmond Biblioteek, Vydelaan, Kleinmond.

Enige kommentare moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) bereik voor of op **27 Januarie 2023**, met u naam, adres en kontakbesonderhede, belang in die aansoek, en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die **Senior Stadsbeplanner, Me. H van der Stoep** by 028-3138900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word om hul kommentare te formuleer.

DGI O'Neill, Munisipale Bestuurder, Overstrand Munisipaliteit, Posbus 20, HERMANUS, 7200

Munisipale Kennisgewing Nr. 173/2022

OVERSTRAND MUNICIPALITY
ERF 3921, 128 SECOND AVENUE,
KLEINMOND: APPLICATION FOR REMOVAL
OF RESTRICTIVE TITLE DEED CONDITION,
DEPARTURE AND DETERMINATION OF AN
ADMINISTRATIVE PENALTY: FVS TOWN &
REGIONAL PLANNERS ON BEHALF OF HEICH
BELEGGINGSTRUST

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), of the following application applicable to Erf 3921, Kleinmond (the property), namely:

Removal of Restrictive Title Deed Condition

Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed condition C.8. as contained in Title Deed T13275/2001 of the property to accommodate a carport and pergola that encroach the street building line.

Departure

Application in terms of Section 16(2)(b) of the By-Law to relax the street building lines from 4m to $\pm 0,45m$ to accommodate a carport and pergola.

Determination of an Administrative Penalty

Application in terms of Section 16(2)(q) of the By-Law for the unauthorized building line encroachments as stipulated above.

Details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department : Town Planning at 16 Paterson Street, Hermanus and at the Kleinmond Library, Fifth Avenue, Kleinmond.

Any comments must be in writing to reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before **27 January 2023**, quoting your name, address and contact details, interest in the application, and the reasons for comment. Telephonic enquiries can be made to the **Senior Town Planner, Ms. H van der Stoep** 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 comments.

DGI O'Neill, Municipal Manager, Overstrand Municipality, P.O. Box 20, HERMANUS, 7200

Municipal Notice No. 173/2022

UMASIPALA WASE-OVERSTRAND
ERF 3921, 128 SECOND AVENUE,
KLEINMOND: ISICELO SOKUSUSWA
KWEMEKO YESITHINTELO SETAYITILE
YOBUNINI, UKUHAMBA KUNYE
NOKUMISELWA KWESOHLWAYO
SOLAWULO: FVS IDOLOPHU &
ABACWANGCISI BOMMANDLA EGAMENI
LIKA HEICH BELEGGINGSTRUST

Esi saziso sikhutshwe ngokuvumelana neCandelo-47 nele 48 loMthetho kaMasipala wase- Overstrand Otshintshiweyo omalunga Nokuceba Kokusetyenziswa Komhlaba kaMasipala (2020) ukuba kufunyenwe ezi zicelo zilandelayo eziqukiweyo kwi- iSiza 3921, Kleinmond (Ipropati), ngale ndlela:

Ukususwa kwezithintelo kwiSivumelwano soBuninimhlaba

Isicelo ngokuvumelana neCandelo - 16(2)(f) ngeMithetho Yedolophu yokususa imibandela eluqilima yetaytile yobunini- C.8. equkiweyo kwiTaytile Yobunini i- T13275/2001 kwipropati ukuhlalisa i-carport kunye ne-pergola etyhutyha umgca wesakhiwo sesitrato

Ukuphambuka

Ukufakwa kwesicelo ngokweCandelo le-16(2)(b) loMthetho kaMasipala sokunyenisa imida yesakhiwo ukusuka kwisi-4m ukuya kwi- $\pm 0,45m$ ukulungiselela indawo yekhapoti kunye ne-pergola.

Ukumiselwa kwesohlwayo soLawulo

Ukufakwa kwesicelo ngokweCandelo le-16(2)(q) loMthetho kaMasipala sophokelo lwemida yesakhiwo olungagunyaziswanga njengoko kuchaziwe apha ngasentla.

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 nakwithala lencwadi eKleinmond, Fifth Avenue, Kleinmond.

Naziphi na izimvo ezibhaliweyo zingangeniswa ngokwezibonelelo zamaSolotyama-51 nama-52 kwaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ngoLwesihlanu okanye ngaphambi koLwesihlanu, **27 eyoMqungu (Janyuwari) 2023**, ukhankanye igama lakho, idilesi, iinkcukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Imibuzo ngefowuni ingabhekiswa **UMCwangcisi weDolophu oMkhulu, uNksz H van der Stoep** ku-028-313 8900. UMasipala angala ukwamkela izimvo ezifike emva komhla wokuvula. Nabani na ongakwazi ukufunda okanye ukubhala angaya kwiCandelo leDolophu apho igosa likamasipala liza kumnceda avakalise izimvo zakhe ngokusemethethweni.

DGI O'Neill, Umlawuli kaMasipala, Masipala waseOverstrand, P.O. Box 20, HERMANUS, 7200

Isaziso Sikamasipala No. 173/2022



5504





Town and Regional Planners

June 2022

Town Planning
Overstrand Municipality
16 Paterson Street / PO Box 20
Hermanus
7200

Attention: Municipal Manager

APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION AND DETERMINATION OF ADMINISTRATIVE PENALTY IN TERMS OF SECTION 16 OF THE OVERSTRAND MUNICIPALITY LAND USE PLANNING BY-LAW, ON ERF 3921, KLEINMOND.

Dear Municipal Manager,

Please find attached hereto, with the motivation report, the following for your department:

- Application Form
- Power of Attorney
- Title Deed
- Locality Plan
- Site Development Plan
- Surveyor General Diagram
- Proof of Payment

Client: Heinrich Agenbag (on behalf of Die Heich Beleggingstrust)

Consultants: FVS Town and Regional Town Planners

Author:

Jaco van Schalkwyk (C/8702/2018)

Principal Planner:

Jan A Visagie (A/1080/1999)

Kind Regards,

Jaco van Schalkwyk

Director of FVS Town and Regional Planners

Revision 1: September 2022



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Motivation Report

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- Annexure F: Surveyor General Diagram
- Annexure G: Proof of Payment



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1. SECTION 1: INTRODUCTION

FVS Town and Regional Planners is a professional town planning consultancy based in the Western Cape of South Africa, with project experience throughout the country. We strive to deliver town planning services to individuals, companies, and communities to create sustainable environments.

We have a combined experience of 10 years in both public sector and private sector. We can assist with all varieties of land - use related issues. With a dynamic and efficient team, we can assist with the management of both large and small-town planning projects and will be able to provide our consultation services where necessary.

1.1. BACKGROUND INFORMATION

The property owner recently consulted with this office and an architect on the possibility of constructing a carport in front of the existing garage for the sole purpose of storage of motor vehicles. It was advised that formal plans be drawn up for the construction and that an application be lodged to the Overstrand Municipality's Town Planning Department for their approval of proposed carport.

1.2. PLANNING BRIEF

Taking the aforesaid into consideration, application is hereby made in terms of Section 16 of the Overstrand Municipality By-law on Municipal Land Use Planning for the following:

- 1.2.1. Section 16 (2) (f) – Amendment, suspension, or deletion of restrictive conditions in respect of a land unit
- 1.2.2. Section 16 (2) (q) – Determination of an Administrative Penalty

Please refer to the following annexures for the Application Form and Power of Attorney:

Annexure A – Application Form

Annexure B – Power of Attorney

Section 3 of this motivation report will provide the reader with a full description of the application and proposed additions and alterations as proposed.

2. SECTION 2: PROPERTY DETAILS

Section 2 of this report consists of the details pertaining to the subject property, such as its locality and ownership details and the property.

2.1. OWNERSHIP DETAILS

Below are the details as contained in the subject Title Deed.

Property Description	Erf 3921, in the Municipality Overstrand, Division of Caledon, Province of the Western Cape
Deed Number	T13275/2001
Ownership	Die Heich Beleggingstrust
Extent	595m ²

A perusal of the subject title deed revealed that there are restrictive conditions registered on Erf 3921, specifically pertaining to the boundary building lines, and reads as follow:

Condition 8.: "All buildings to be erected on the land herein sold shall stand back at least 3,15 metres from the line of the street or avenue on which the lot or lots herein mentioned may front."

This application is thus for the removal of the restrictive condition as indicated above.

Please refer to **Annexure C** for a complete copy of the Title Deed.

2.2. LOCALITY

The application site is situated at number 128 of Second Avenue in the coastal town of Kleinmond, in the Overberg District of the Western Cape Province. Kleinmond is approximately 90km east of Cape Town on the southern coast of the Western Cape.

Kleinmond is a small coastal town in the Overberg region of the Western Cape province, South Africa. It is situated inside a UNESCO-declared biosphere about 90km east of Cape Town between Betty's Bay and Hermanus. The town's name, meaning "small mouth" in Afrikaans, refers to its location at the mouth of the Bot River lagoon. Hermanus, being the main town of the Overstrand Municipal area, is host to numerous smaller settlements on this coastal strip and includes Rooi Els, Pringle Bay and Gansbaai.

Tourism plays a large role in the town's economy due to its popularity with holiday makers from across the Western Cape and Cape Town in particular.

Please refer to **Annexure D** for the Locality Plan.

2.3. CHARACTER OF THE SURROUNDING AREA

The application site is situated towards the southern part of Kleinmond, between the sea and the Main Road. The immediate surrounding erven are zoned as Single Residential Zone 1 and is thus predominately a residential area. Due to the high number of tourists that travel to, and through, the area it is regarded as understandable that numerous properties in the surrounding area are utilised as both residential erven and self-catering (or similar such as B&B, Lodge, or similar types of short-term holiday) accommodation.

Kleinmond, including other towns in the area, is mainly sustained by the tourism trade and offers a wide variety of activities such as golfing, hiking, and other tourist related activities such as fishing and kayaking. The surrounding area is further stimulated by various economic activities associated with the normal functions of any town.

The figures below should provide the reader with a relative understanding of the surrounding area. Figure 1 provides the reader with a simple zoning extract, while Figure 2 provides the reader with an aerial photograph of the application site and surrounding properties.



Figure 1: Surrounding Zonings (Overstrand Public Viewer, April 2022)

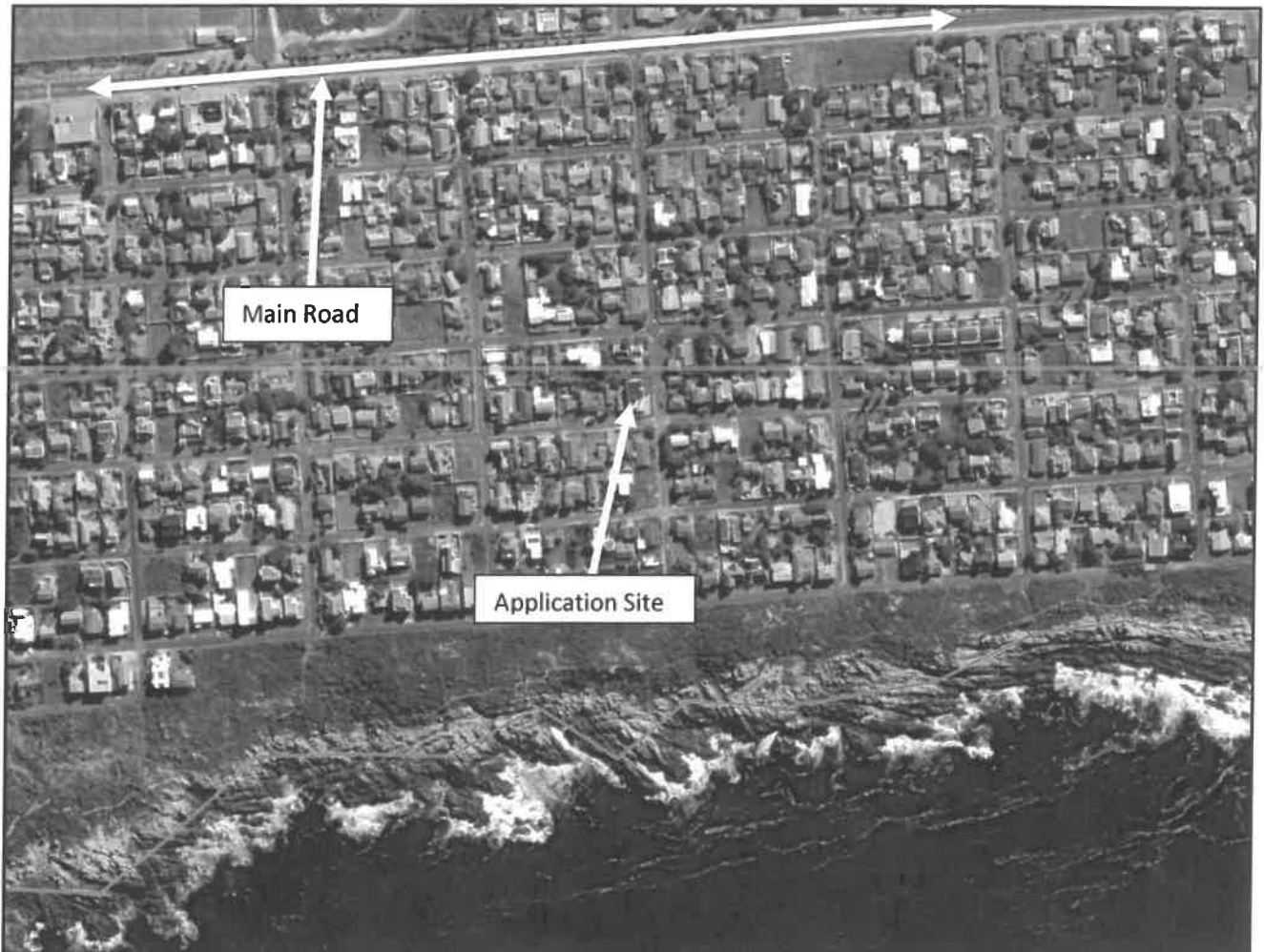


Figure 2: Aerial Photograph of application site and surrounding area (Cape Farm Mapper, April 2022)

2.4. ZONING

Erf 3921, Kleinmond is currently zoned as Single Residential Zone 1.

2.5. IMPACT ON MUNICIPAL SERVICES

The proposal is not deemed to have a negative impact on the municipal engineering services. The application site is well serviced, and the proposal is not deemed to have an additional impact on the municipal services. See hereunder the use of each of the services:

2.5.1. Access

Access to the application site is currently from 9th Street, as is currently the case.

Please note that the proposal will not lead to an increase in the existing services network as the current capacity is deemed to be sufficient.



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3. SECTION 3: MOTIVATION

Section 3 of the motivation report deals specifically with the type of application and what will be applied for, as well as the development particulars.

3.1. THE APPLICATION

- Application is hereby made in terms Section 16 (2) (f) of the Overstrand Municipal Land Use Planning By-Law for the following:

“Amendment, suspension or deletion of restrictive conditions in respect of a land unit”:

Application is hereby made for the removal of a restrictive Title Deed condition:

Condition 8.: “All buildings to be erected on the land herein sold shall stand back at least 3,15 metres from the line of the street or avenue on which the lot or lots herein mentioned may front.”

- Application is hereby made in terms Section 16 (2) (q) of the Overstrand Municipal Land Use Planning By-Law for the following:

“Determination of an Administrative Penalty:”

Application is made for the determination of an administrative penalty in terms of Section 90 of the Overstrand Municipality Amended By-law on Municipal Land Use Planning.

3.2. THE PROPOSAL

The proposal entails the construction of a new carport and pergola as depicted on the Site Development Plan (Plan Number: JC6011/101 & JC6011/102)

Please refer to the figures on the following pages for extracts from the proposed site development plan, attached hereto as **Annexure E**.

3.3. THE ADMINISTRATIVE PENALTY

Application is hereby made in terms of Section 90 of the Overstrand Municipality Amended By-Law on Municipal Land Use Planning, 2020 for the determination of an administrative penalty. An administrative penalty is a direct contravention of the Overstrand Municipal Planning By-Law on Land Use Planning. The following measures must be addressed to the satisfaction of the Municipality to determine whether the imposition of an administrative penalty is applicable. The information required is stipulated as follow:

- *The nature, duration, gravity, and extent of the contravention.*

The administrative penalty application pertains to the illegal structure being built the specified street boundary building line. The proposed carport and pergola situated in front of the existing garage was recently constructed. Estimated at approximately four months ago. The owners were not aware that the construction of the structure will have such a detrimental impact and has subsequently made all efforts to rectify the contravention. The owner immediately made use of the services of an architect and the services of a town planner to compile the required plans and for the town planner to apply for the relevant applications, to the authorities.

- *The conduct of the person (allegedly) involved in the contravention.*

The property owner realised that his actions were not considered to be favourable and should have done it in a different manner. The property owner has immediately made use of the services of professionals to assist in this matter.

- *A report by a quantity surveyor in matters of unauthorised building/construction.*
This office is of the opinion that a report by a quantity surveyor is not required at this stage. Should the Local Authorities, MPT, or any other governing body require a report by the quantity surveyor it will be requested and made available upon request, should a penalty be requested.
- *Whether the unlawful conduct was stopped.*
Upon completion of the construction work, it was conveyed to the property owner that the conducted undertaken was of an illegal nature. The property owner immediately contacted the relevant professionals to rectify the situation and has indicated that no further construction will take place prior to any further approvals.
- *Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.*
To our knowledge, the current owners have not been in contravention of this By-Law or any other previous planning law.

This office respectfully requests that a penalty be not imposed on the owners of Erf 3921, due to the following reasons:

- The property owner was not duly informed on the required processes to follow.
- No complaints have been received from the abutting neighbours, or surrounding community.
- Erf 3921 is a holiday home and is not the primary dwelling for the owners. The owner expressed that he wanted to finalise construction prior to returning to his primary dwelling elsewhere in the country.
- Construction was prioritised due to the influences of nature. In other words, the owner was rushed to finalise construction prior to the start of winter, which is typically the rainy season for this part of the country. It is common knowledge that rain, and wet weather can deter (and delay) a project by many months.
- To the best of our knowledge, no previous contravention has been done by the property owners.

We respectfully request your favourable consideration with this matter.

3.4. REMOVAL OF RESTRICTIVE TITLE DEED CONDITION:

To reiterate Section 3.1 of this motivation report, application is made for the removal of a restrictive title deed condition, contained in the subject title deed.

In terms of Section 35 of the Amendment By-Law on Municipal Land Use Planning, 2020, the Municipality must take into consideration a few aspects upon approving or refusing the removal, suspension, or amendment of a restrictive condition. The subject title deed contains a restrictive condition that will have to be removed. The condition is as follow:

Condition 8.: "All buildings to be erected on the land herein sold shall stand back at least 3,15 metres from the line of the street or avenue on which the lot or lots herein mentioned may front."



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The application entails the construction of a carport and pergola over the prescribed 3.15m street boundary building line, pertaining to outbuildings. The proposed carport is approximately 0.45m from the street boundary line.

In order for the application to be considered, the following aspects have to be taken into consideration:

The Municipality must have regard to the following:

- *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.*
The subject restrictive conditions do not have any significant value to a person or entity. The conditions stipulate building lines that are deemed too restrictive taking into consideration the extent of the property (595m²). It is further deemed that the removal of these conditions will not alter the character of the surrounding area as the Municipal boundary building lines will remain intact.
- *The personal benefits which accrue to the holder of rights in terms of the restrictive condition.*
The owner will enjoy the added security of his vehicles being parked under a roofed structure, thus adding value to the existing dwelling and will further aid in the safety of his property.
- *The personal benefits which will accrue to the person seeking the removal of the restrictive condition if it is removed.*
The property owner will possibly enjoy the benefit of an increase in property value which will then be in line with the retail prices of properties in the surrounding area.
- *The social benefit of the restrictive condition remaining in place in its existing form.*
There is no social benefit to be enjoyed should the restrictive conditions remain in place. The restrictive condition serves no purpose in terms of the health, safety, and wellbeing of the surrounding community. The restrictive condition does not deter a change in land use, or similar deterrence that could have a detrimental impact on the surrounding community. In essence, the removal of the restrictive condition only limits the property owner in terms of development on their property.
- *The social benefit of the removal or amendment of the restrictive condition.*
The property owner may enjoy the added benefit of an enlarged covered area (carport and pergola) will provide added security for the property.
- *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.*
This application entails the removal of a restrictive conditions and will not attempt to alter the additional conditions as pertained in the subject Title Deed. Therefore, not all restrictive conditions will be removed.

As per the above, the removal of Conditions 9 of the subject Title Deed is not deemed to impact negatively on the surrounding community or the abutting properties. This office requests the favourable consideration of this application.

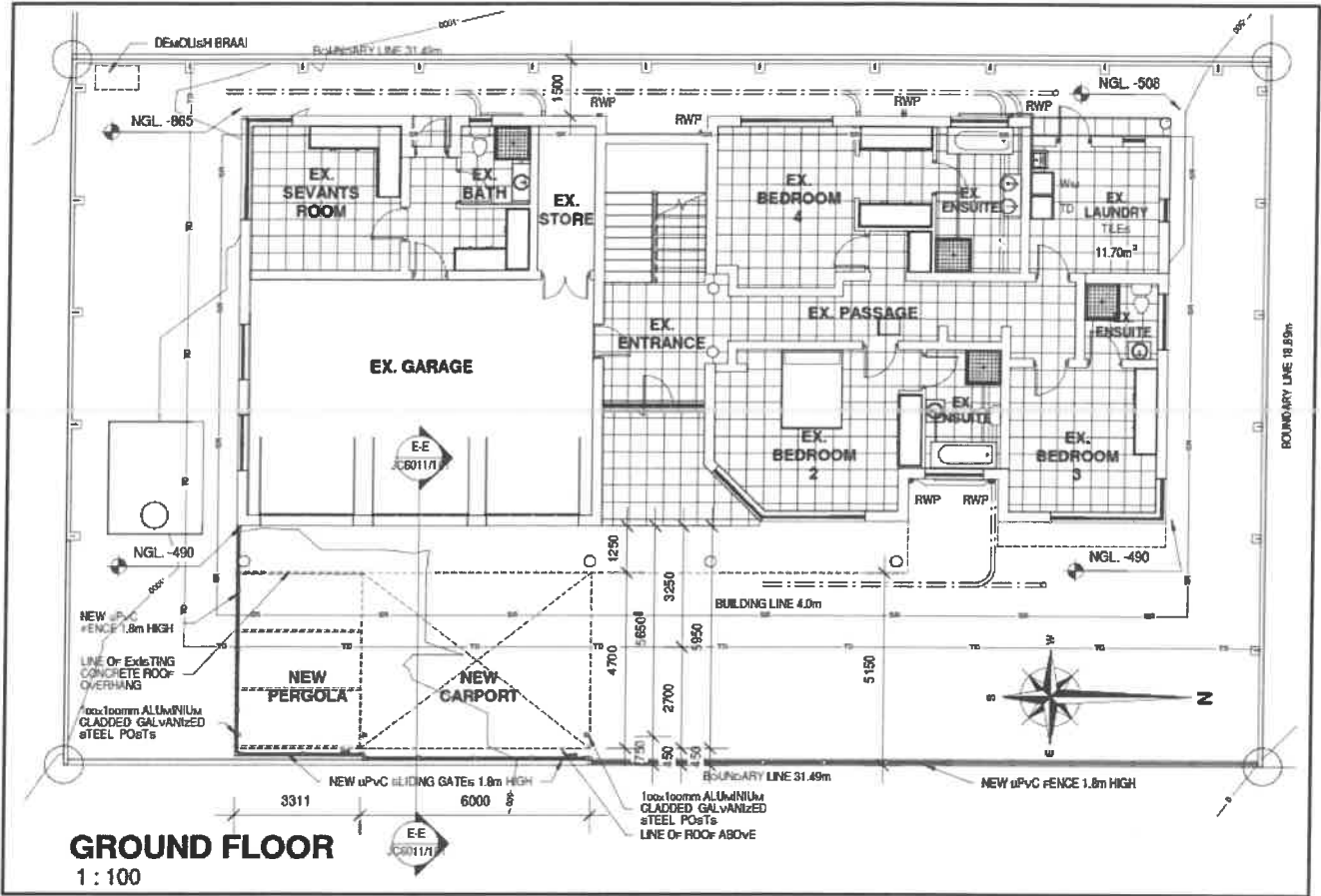


Figure 3: Ground Floor layout

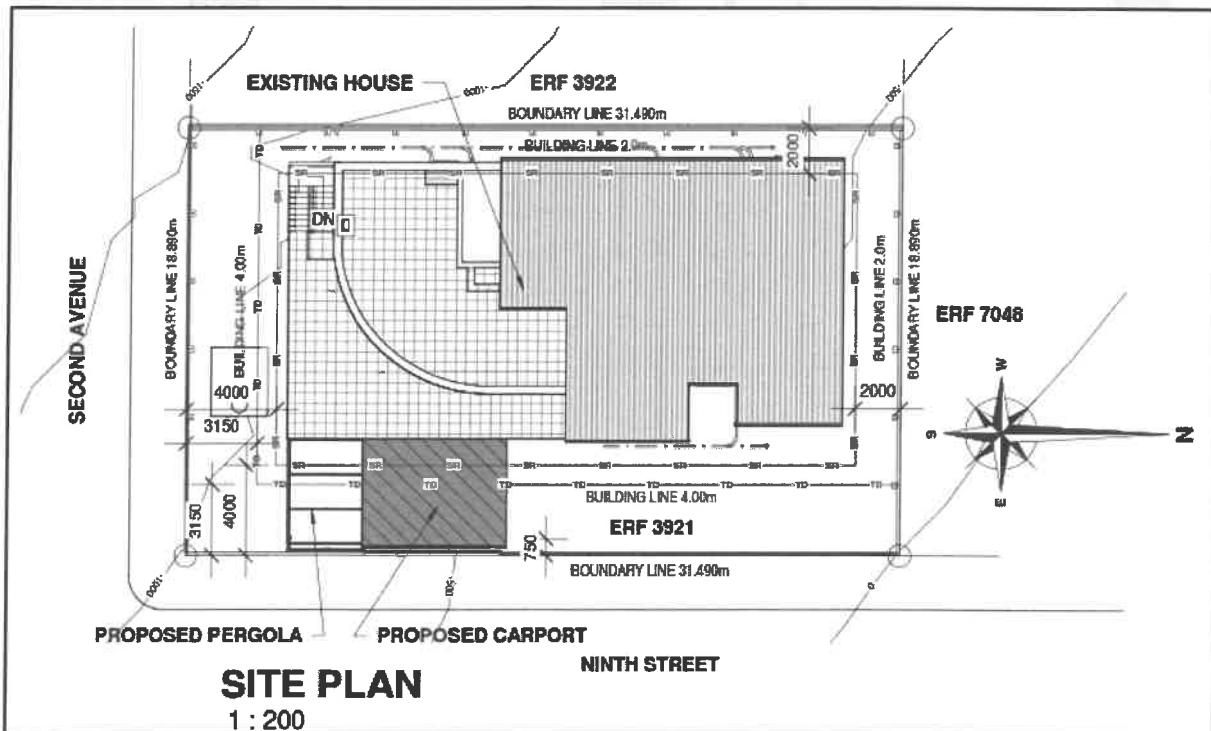


Figure 4: Site Plan



Figure 5: Elevations

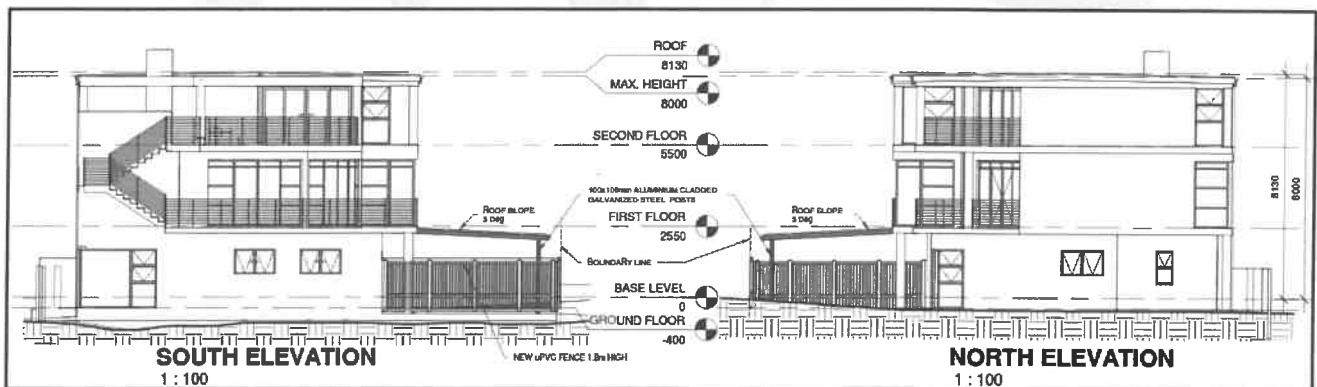
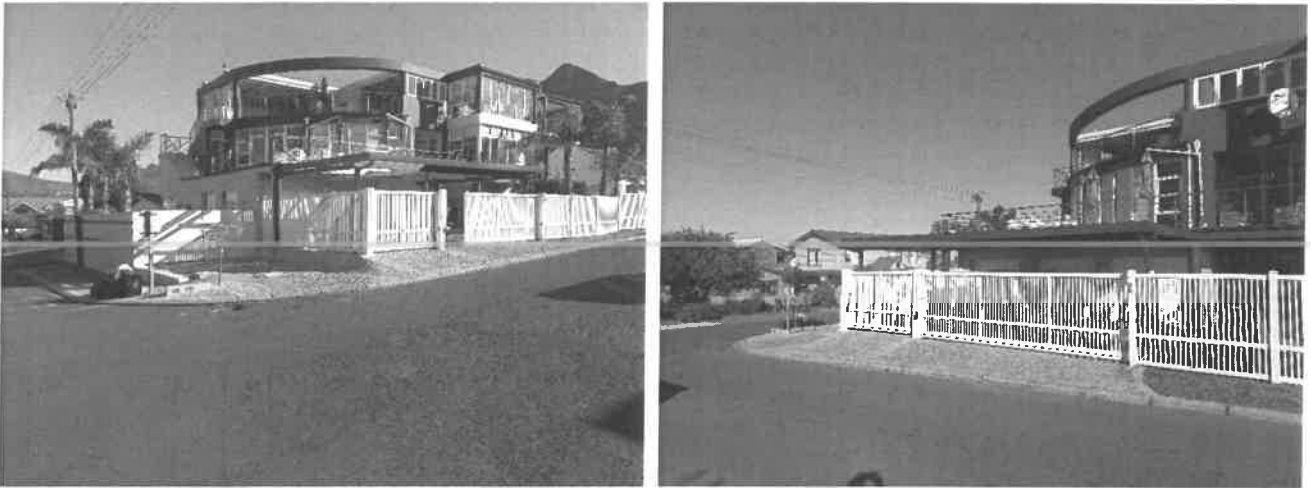


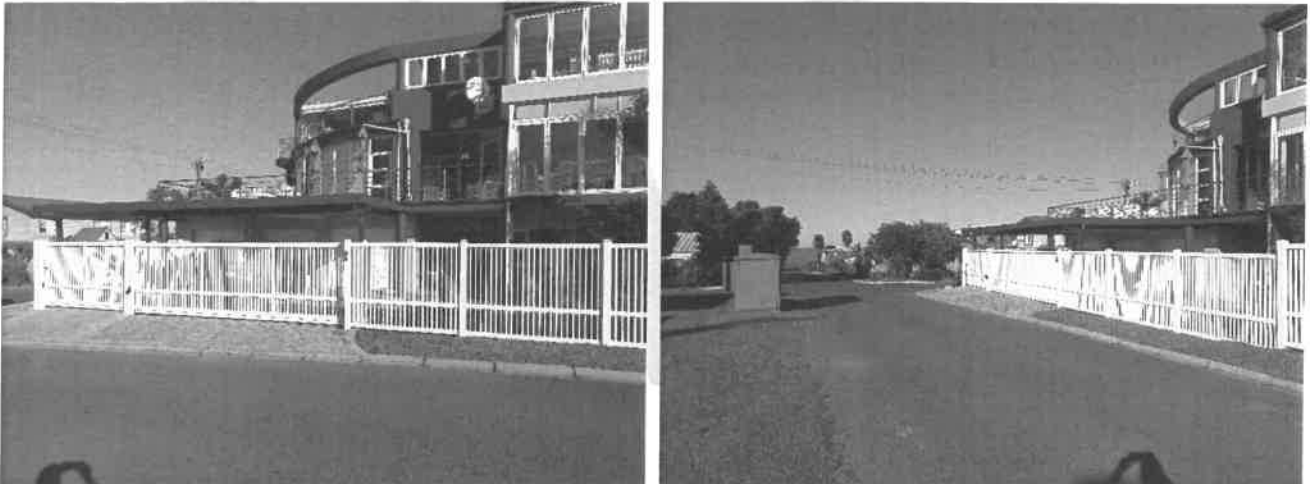
Figure 6: Additional Elevations

3.5. PHOTOS OF THE SITE

This office took photos during a site visit at the application site. The photos are for information purposes to assist the reader and to provide a feel for the proposed applications. Please see the photos on the following pages.



Photos 1 & 2: Carport and fence



Photos 3 & 4: Entrance and Line of Sight

3.6. NEED AND DESIRABILITY

For an informed decision to be made by the Authorised Official it is crucial to address the need and desirability of an application. This office has summarised a few key aspects that are site specific and should be taken into consideration before a decision is to be made. Herewith the need for the proposal:

- The proposed carport is mainly for the parking of motor vehicles when friends and family come to visit the property owners.
- The proposal will aid in the protection of motor vehicles.
- During summer times the sun can be harsh on motor vehicles and the owner wanted to protect his property (motor vehicles) against weather elements such as sun and rain.

The proposal is deemed desirable due to the following reasons:

- The proposal is not deemed to impact negatively on the line of sight / sight distances of Ninth Street nor on Second Avenue since the proposal is not situated on the corner of the aforesaid intersection, but towards the centre of the property.
- The proposal will add value to the existing property and dwelling.
- The proposal will aid in the safety and security of the property owner's vehicles.
- The proposal is in line with any residential neighbourhood.
- It is not deemed that the proposal will impact negatively on the streetscape of the existing dwelling.
- The proposal will further not detract from the abutting neighbours in terms of privacy and loss of sunlight.
- No additional Municipal services will be required for the proposal.
- The application site is situated within an existing residential area and is thus not deemed to impact negatively on any environmentally sensitive areas.

The following aspects are also crucial to take into consideration when determining the desirability of an application:
Section 66 of the Overstrand Municipality Amendment By-Law on Municipal Land Use planning of 2020:

- *When the Authorised Official or Municipal Planning Tribunal considers an application it must have regard to the following:*
 - *the application submitted in terms of this By-law;*
 - *the procedure followed in processing the application;*
 - *the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding proposed land uses;*
 - *the comments in response to the notice of the application and the comments received from organs of state and internal departments;*
 - *the response by the applicant to the comments referred to in paragraph (d);*
 - *investigations carried out in terms of other laws which are relevant to the consideration of the application;*
 - *a registered planner, or a planner eligible for registration, written assessment, which includes:*
 - *an amendment of a Spatial Development Framework or land use scheme*
 - *an approval of an overlay zone contemplated in the land use scheme*
 - *a phasing, amendment or cancellation of a subdivision plan or part thereof*
 - *a determination of a zoning*
 - *a rezoning*
 - *the integrated development plan and Municipal Spatial Development Framework;*
 - *the applicable Local Spatial Development Frameworks adopted by the Municipality;*
 - *the applicable policies of the Municipality that guide decision-making;*
 - *the Provincial Spatial Development Framework;*
 - *where applicable, the regional spatial development framework;*
 - *the policies, principles, planning and development norms and criteria set by national and provincial government;*
 - *the matters referred to in Section 42 of the Spatial Planning and Land Use Management Act;*
 - *the principles referred to in Chapter VI of the Land Use Planning Act; and*
 - *the relevant provisions of the land use scheme.*

- *An Authorised Official or Municipal Planning Tribunal must approve a site development plan submitted to the Municipality for approval in terms of applicable development parameters or conditions of approval if the site development plan—*
 - *is consistent with the development parameters of the zoning;*
 - *is consistent with the development parameters of the overlay zone;*
 - *complies with the conditions of approval; and*
 - *complies with this By-law.*
- *When a site development plan is required in terms of development parameters or conditions of approval—*
 - *the Municipality may not approve a building plan if the site development plan has not been approved; and*
 - *the Municipality may not approve a building plan that is inconsistent with the approved site development plan.*

Section 49 of the Western Cape Land Use Planning Act of 2014:

When a municipality considers and decides on a land use application, the municipality must have regard to at least—

- *the applicable spatial development frameworks;*
- *the applicable structure plans;*
- *the principles referred to in Chapter VI;*
- *the desirability of the proposed land use; and*
- *guidelines that may be issued by the Provincial Minister regarding the desirability of proposed land use.*

It is the opinion of this office that the proposed application is well motivated in terms of the legislation as provided for in this motivation report and is not deemed to impose an unusual risk to the surrounding community, due to the following reasons:

- The proposal is not deemed to impact negatively on the traffic flow of 9th Street.
- No negative visual impact on the abutting neighbours.
- The extension is of the same architectural style as the existing dwelling.
- Vistas and other rights, such as privacy, remain intact.
- Proposal will add value to Erf 3921 and surrounding area.
- No threat on the health and safety of the surrounding community is envisaged.

This office is thus of the opinion that the proposal can be deemed as desirable.

4. SECTION 4: LEGISLATION

Section 4 of this report consists of the applicable Legislation pertaining to this application.

4.1. FORWARD PLANNING

Overstrand Municipality Spatial Development Framework (May 2020)

The Municipal Spatial Development Framework is a sectoral component of the IDP that, in terms of the Municipal Systems Act, 2000 (Act No. 32 of 2000), is aimed at providing general direction to guide decision making on an ongoing basis, aiming at the creation of integrated, sustainable, and habitable regions, cities, towns and residential areas.

The key statutory requirements of the SDF are as follow:

- Give effect to the principles, norms, and standards.
- Include a written and spatial representation of a five-year spatial development plan for the Municipality.
- Include a longer spatial development vision statement.
- Identify current and future structuring elements of the Municipal spatial form (i.e., development corridors, activity spines, economic nodes, etc.).
- Include population growth estimates for the next five years.
- Include estimates for the demand of housing units and the planned location and density of future housing developments.
- Include estimates of economic activity and employment trends and locations in the Municipality for the next five years.
- Identify, quantify, and provide location requirements of engineering infrastructure and services provision for the next five years.
- Identify the designated areas where a national or provincial inclusionary housing policy may be applicable.
- Include a strategic assessment of the environmental pressures.
- Create opportunities (incl. spatial location of environmental sensitivities, high potential agricultural land, and coastal strips).
- Identify areas in which more detailed local plans must be developed and shortened land use procedures may be applicable.
- Provide spatial expression of integration of municipal sectoral policies.
- Determine a capital expenditure framework for the Municipal development programmes depicted spatially.
- Include an implementation.

The proposal is not deemed to be in contravention with the Overstrand SDF as it is not in contradiction with the abovementioned statutory requirements of the SDF. Further to the aforesaid is that the application site is in an urban development area, within the urban edge of Pringle Bay. The proposal is thus not in contravention with the SDF.

Overstrand Integrated Development Plan (May 2020)

The Overstrand Municipality Integrated Development Plan (IDP) is aimed towards addressing the development needs of our communities with clearly defined strategic objectives and performance indicators. These strategic objectives are as follows:

- The provision of democratic, accountable, and ethical governance



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- The provision and maintenance of municipal services
- The encouragement of structured community participation in the matters of the municipality
- The creation and maintenance of a safe and healthy environment
- The promotion of tourism, economic and social development.

The IDP is crucial to take into consideration in any planning related application. It is the opinion of this office that the proposal promotes social development and creates a safe and healthy environment, not only for the property owner, but also for the surrounding residents of the area.

Overstrand Municipal Growth Management Strategy (2010)

The Growth Management Strategy does not refer to individual erven, however it does provide a guideline in terms of densification and additional community facilities. This proposal does not entail the densification of Erf 3921 and would thus not be in contradiction with the Growth Management Strategy. The proposal adds to the character and natural landscape of the surrounding area as a holiday destination and would thus not impact negatively on the promotion of tourism, economic development, and job creation.

The application site is not within a Heritage Overlay Zone as defined in the Growth Management Strategy and will thus not constitute any heritage related aspects.

Overstrand Municipality Amended By-Law on Municipal Land Use Planning (2020)

It is important to consider Section 66 of the Overstrand Municipality Amended By-Law on Municipal Land Use Planning in terms of the "General criteria for consideration of applications":

- When the Authorised Official or Municipal Planning Tribunal considers an application, it must have regard to the following:
 - the application submitted in terms of this By-law;
 - the procedure followed in processing the application;
 - the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding proposed land uses;
 - the comments in response to the notice of the application and the comments received from organs of state and internal departments;
 - the response by the applicant to the comments referred to in paragraph (d);
 - investigations carried out in terms of other laws which are relevant to the consideration of the application;
 - a registered planner, or a planner eligible for registration, written assessment, which includes:
 - an amendment of a Spatial Development Framework or land use scheme
 - an approval of an overlay zone contemplated in the land use scheme
 - a phasing, amendment or cancellation of a subdivision plan or part thereof
 - a determination of a zoning
 - a rezoning
 - the integrated development plan and Municipal Spatial Development Framework;
 - the applicable Local Spatial Development Frameworks adopted by the Municipality;
 - the applicable policies of the Municipality that guide decision-making;
 - the Provincial Spatial Development Framework;

- where applicable, the regional spatial development framework;
- the policies, principles, planning and development norms and criteria set by national and provincial government;
- the matters referred to in Section 42 of the Spatial Planning and Land Use Management Act;
- the principles referred to in Chapter VI of the Land Use Planning Act; and
- the relevant provisions of the land use scheme.
- An Authorised Official or Municipal Planning Tribunal must approve a site development plan submitted to the Municipality for approval in terms of applicable development parameters or conditions of approval if the site development plan—
 - is consistent with the development parameters of the zoning;
 - is consistent with the development parameters of the overlay zone;
 - complies with the conditions of approval; and
 - complies with this By-law.
- When a site development plan is required in terms of development parameters or conditions of approval—
 - the Municipality may not approve a building plan if the site development plan has not been approved; and
 - the Municipality may not approve a building plan that is inconsistent with the approved site development plan.

The proposal is not considered to be a deviation from the aforesaid requirements, however, is substantially in accordance with any residential neighbourhood, and is not deemed to pose a significant threat to the surrounding community.

Planning Principles

The proposed development supports the principles of Chapter VI (Article 59) of the Land Use Planning Act (LUPA), Act 3 of 2014, and Chapter 2 (Article 7) of the Spatial Planning and Land Use Management Act (SPLUMA), Act 16 of 2013, as follows:

Spatial Justice

Refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access opportunities, facilities, services, and land.

The proposed application will not contribute to the perpetuation of past apartheid spatial development imbalances.

Spatial Sustainability

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 landscape and ultimately limits urban sprawl.

The proposed development will continue to protect any environmentally sensitive areas and cultural landscapes, as it is in an already developed residential area, and will thus not alter any environmentally sensitive areas.



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Efficiency

Efficiency refers to the need to create settlements that optimise the use of space, energy, infrastructure, resources, and land.

The proposed development will optimally harness the potential that sustainably exists on the subject property as is evident on the proposed SDP.

Spatial Resilience

Spatial resilience in the context of land use planning refers to spatial plans, policies and land use management systems that should enable the communities to be able to resist, absorb and accommodate economic and environmental shocks and to recover from these shocks in a timely and efficient manner.

The proposed development is well aligned with the spatial plans and policies and that will enable the subject property to be able to resist, absorb and accommodate environmental and economic shocks and recover from shocks in a timely and efficient manner.

Good Administration

Good administration 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 a joint planning approach is pursued.

The proposed development will promote consultative planning as the Municipality will advertise the proposal to the public to allow the comments of the public to be taken into consideration. FVS Town and Regional Planners will also respond to the comments of the public and take the comments into consideration in the planning of the project.

This section outlines how the proposed development is aligned with the core planning principles as outlined in SPLUMA and LUPA. The proposed can therefore be viewed as encompassing and promoting all planning principles.

5. SECTION 5: CONCLUSION

5.1. REASONS FOR APPROVAL

- *No additional Municipal Services will be required. The application site is already serviced and will thus not require the creation of additional services capacity. Please refer to Section 2 of this motivation report.*
- *The proposal is deemed desirable in terms of the Overstrand Municipality Land Use Scheme of 2020, as set out under Section 3 of this Motivation report.*
- *No negative impact is foreseen on the abutting neighbours in terms of privacy as the proposal does not entail the construction of a living space.*
- *The proposal is in line with any residential neighbourhood, and similar instances can be found throughout the town of Kleinmond and surrounds.*
- *The proposal is further deemed to add value to the application site as it will increase the resell value.*
- *The proposal will ensure the safety and security of the property owners' property (motor vehicles).*

Considering the above information, Council is respectfully requested to favourably consider the application for the following:

Approval for the proposed building line relaxations in terms of the Overstrand Municipality Land Use Planning By-law on Erf 3921, Kleinmond.

Kind Regards,



Jaco van Schalkwyk

Director of FVS Town and Regional Planners

NOTES: Read together with drawing No. JC6011/102. These drawings are for information only. Do not check on site prior to setting out. Any discrepancies to be reported to the Architectural Technologist immediately.

All work to be done in accordance with the National Building Regulations.

ROOFS: To comply with SANS 10400 (part 1) Coloured K10-Lok 408 roof sheeting, from 1000mm x 400mm to 1000mm x 400mm. Rafters to be fixed to walls with galv. steel brackets. Roof slope at 3.0 degrees.

EAVES: Eaves projection to be flush. 220x20mm SYP timber fascia all round. Gutter to be Venerite stainless aluminium eaves profile, while epoxy coated installed by specialist, and downpipes to be 75mm Dia. UPVC.

(Notes continued on Drawing No. JC6011/102)

Owner: **HOUSE AGANBAG**

Architectural Designer: **Reg No ST1302**

Project: **PROPOSED ALTERATIONS AND ADDITIONS ON ERF 3921 No 128 2nd AVENUE AND 9th STREET KLEINMOND FOR "DIE HEICH BELEGGINGSTRUST"**

DRAWING TITLE: **COUNCIL DRAWINGS: GROUND FLOOR PLAN, SECTION, DETAIL & SITE PLAN**

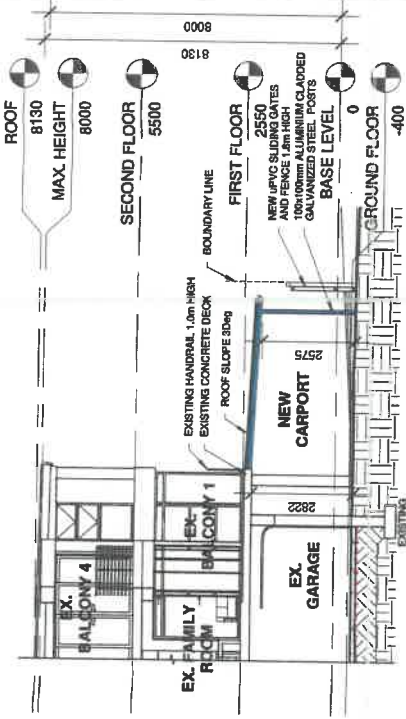
Date: **MAY 2022**

Drawn by: **JW**

Scale: **As Indicated** SHEET SIZE: **A2**

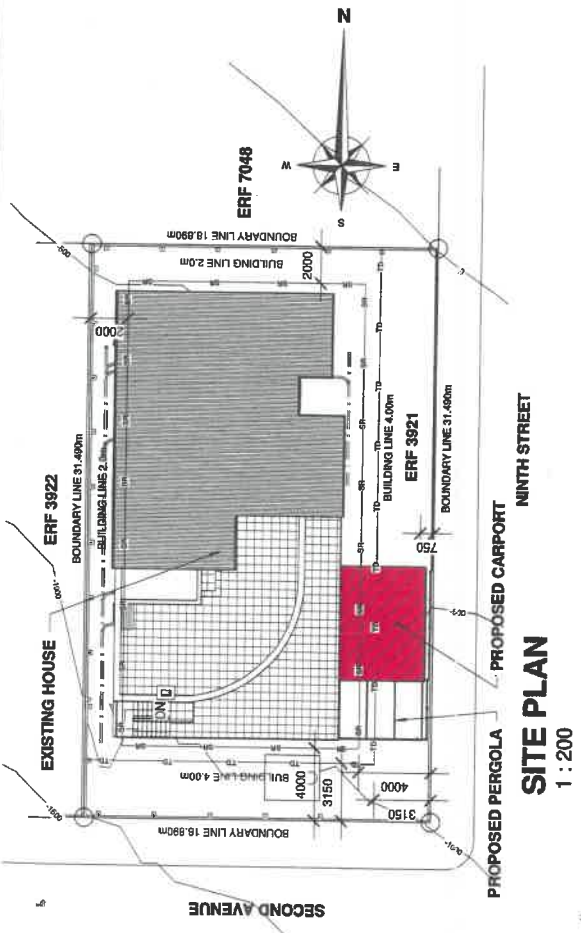
Project number: **JC6011/101** REV:

J.C. WEIDEMAN (P/SArchT) P.O. BOX 41 PRINGLE BAY 7196 Tel. 028 273 8302 Cel. 082 717 616 8 jc.weideman@gmail.com

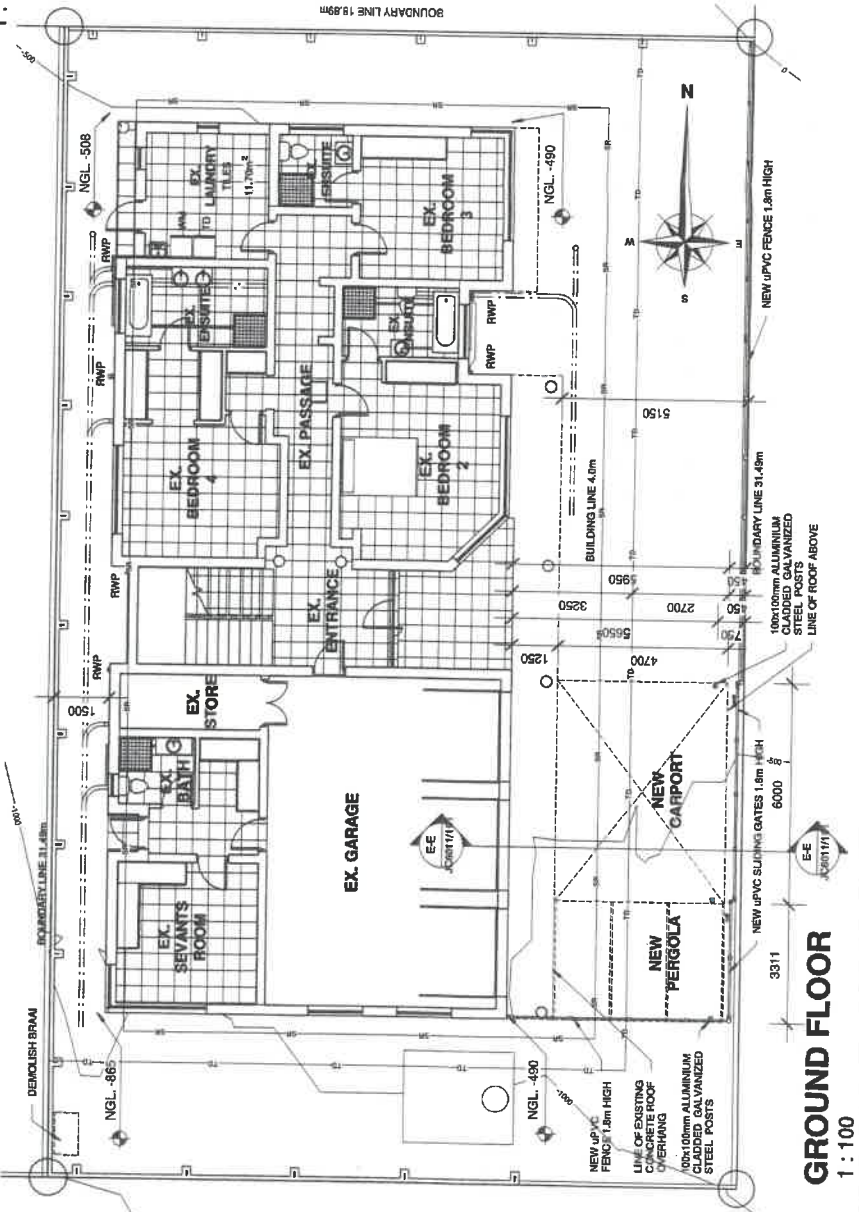


SECTION E-E
1 : 100

AREAS	SQUARE METERS
SITE AREA	582.00 Sqm
EXISTING BUILDING (ALL FLOORS)	490.54 Sqm
EXISTING DECK	157.81 Sqm
PROPOSED WORK	
NEW CARPORT	28.20 Sqm
TOTAL NEW WORK	
COVERAGE	
BUILDING FOOT PRINT	290.54 Sqm
SITE AREA	582.00 Sqm
% COVERAGE	44.00 %



SITE PLAN
1 : 200



GROUND FLOOR
1 : 100

(Please reproduce with drawing No. JC6011/101)

Owner :

Architectural Designer :

Project :

HOUSE AGANBAG

PROPOSED ALTERATIONS AND ADDITIONS ON ERF 3921 No. 128 2nd AVENUE AND 9th STREET KLEINMOND FOR "DIE HEICH BELEGGENSTRUST"

DRAWING TITLE

COUNCIL DRAWINGS: ELEVATIONS

Date MAY 2022

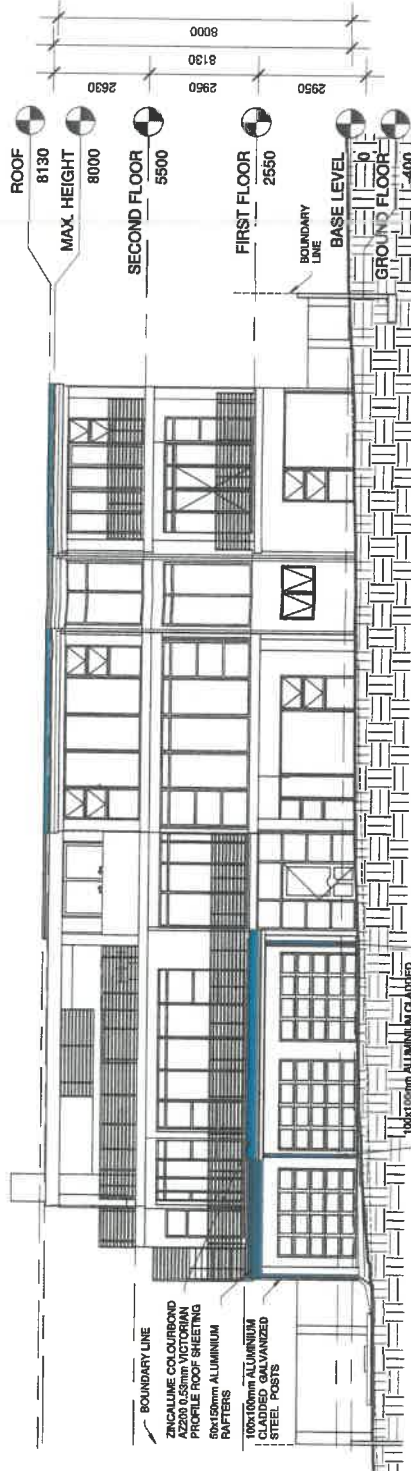
Drawn by JW

Scale 1 : 100 SHEET SIZE A2

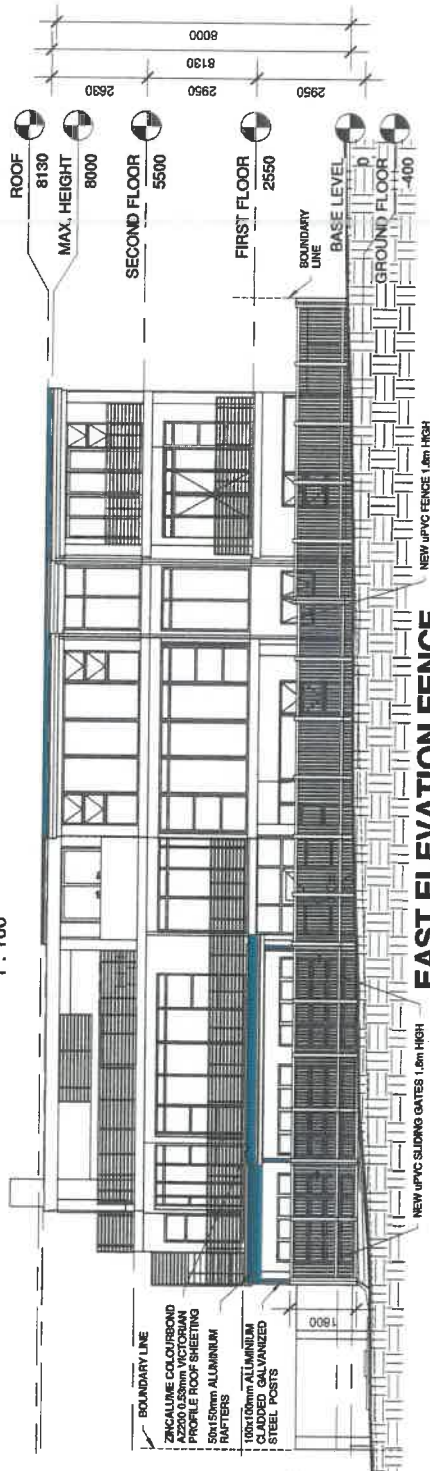
Project number **JC6011/102** REV:

J.C. WEIDEMAN (P/SA/Arch) P.O. BOX 41 PRINGLE BAY 7196

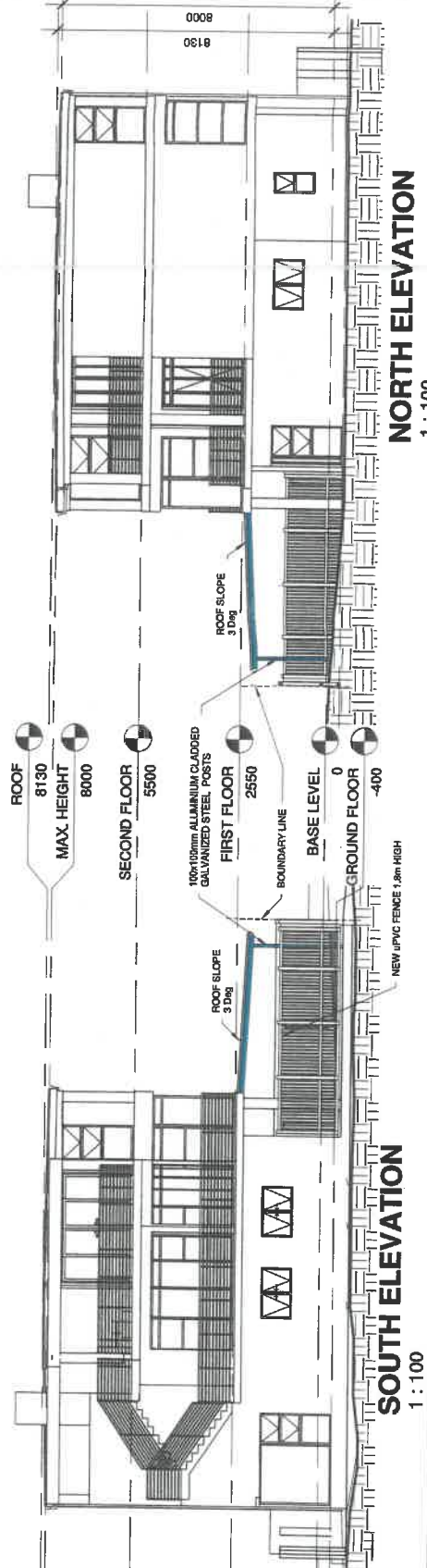
Tel. 028 273 8302 Cell. 082 717 616 8 Jc.Weideman@gmail.com



EAST ELEVATION
1 : 100



EAST ELEVATION FENCE
1 : 100



SOUTH ELEVATION
1 : 100

NORTH ELEVATION
1 : 100