



OVERSTRAND MUNISIPALITEIT
ERF 1828, BOUNDARY WEG 21,
PRINGLEBAAI: AANSOEK OM
OPHEFFING VAN BEPERKENDE
TITELAKTEVOORWAARDES EN
ONDERVERDELING: DIESEL &
MUNNS INC. (nms BC & C
ANDERSON)

Kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Gewysigde Verordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die volgende aansoek van toepassing op Erf 1828, Pringlebaai, naamlik:

Opheffing van Beperkende Titelaaktevoorwaardes

Aansoek ingevolge Artikel 16(2)(f) van die Verordening met verwysing na Klousules 1.V.(4)(a), 1.V.(4)(b), 1.V.(4)(c), 1.V.(4)(d), 1.V.(4)(e), en 1.V.(4)(f) van Titelaakte T14369/2020.

Onderverdeling

Aansoek ingevolge Artikel 16(2)(d) van die Verordening ten einde Erf 1828, Pringlebaai in 2 gedeeltes te onderverdeel, naamlik 'n Gedeelte A ($\pm 2369m^2$) en 'n Restant ($\pm 2336m^2$).

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus, en by die Bettysbaai Biblioteek, Clarencerylaan, Bettysbaai.

Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening by die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) voor of op **22 Oktober 2021** met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan die **Senior Stadsbeplanner, Me. H van der Stoep** by 028313 8900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer.

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

Munisipale Kennisgewing Nr. 135/2021

OVERSTRAND MUNICIPALITY
ERF 1828, 21 BOUNDARY ROAD,
PRINGLE BAY: APPLICATION FOR
REMOVAL OF RESTRICTIVE TITLE
DEED CONDITIONS AND
SUBDIVISION: DIESEL & MUNNS INC.
(obo BC & C ANDERSON)

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) of the following applications applicable to Erf 1828, Pringle Bay; namely:

Removal of Restrictive Title Deed Conditions

Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions with reference to Clauses 1.V.(4)(a), 1.V.(4)(b), 1.V.(4)(c), 1.V.(4)(d), 1.V.(4)(e), and 1.V.(4)(f) of Title Deed T14369/2020.

Subdivision

Application in terms of Section 16(2)(d) of the By-Law to subdivide Erf 1828, Pringle Bay into 2 portions, namely Portion A ($\pm 2369m^2$) and a Remainder ($\pm 2336m^2$).

Full 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, at the Betty's Bay Library, Clarence Drive, Betty's Bay.

Any written comments must be submitted to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) in accordance with the provisions of Sections 51 and 52 of the said By-law on or before **22 October 2021**, quoting your name, address and contact details, interest in the application and 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 to formulate their comment.

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

Municipal Notice No. 135/2021

UMASIPALA WASE-OVERSTRAND
ERF 1828, BOUNDARY ROAD,
PRINGLE BAY: ISICELO
SOKUSUSWA KWEMIQATHANGO
ETHINTELAYO KWITAYITILE KUNYE
NOLWAHLWA-HLULO: DIESEL &
MUNNS INC. (obo BC & C
ANDERSON)

Isaziso sikhutshwa ngokwemiqathango samaCandelo 47 nelama-48 loMthetho kaMasipala oLungisiweyo woMasipala waseOverstrand ongokuSetyenziswa koMhlaba kaMasipala, 2020 (uMthetho kaMasipala) wezi zicelo zilandelayo ezisebanza kwiSiza 1828, ePringle Bay; ezizezi:

Ukususwa kweMiqathango eThintelayo kwiTayitile

Isicelo ngokwemiqathango yeCandelo le-16 (2) (f) loMthetho kaMasipala wokususwa kwemiqathango ethintelayo kwitayitile ngokubhekisele kumagatya 1.V.(4)(a), 1.V.(4)(b), 1.V.(4)(c), 1.V.(4)(d), 1.V.(4)(e), kunye ne-1.V.(4)(f) yeTayitile T14369/2020.

Ulwahlulwa-hlulo

Isicelo ngokweCandelo 16 (2)(d) loMthetho kaMasipala sokwahlulwa-hlulo lweSiza 1828, ePringle Bay kwizahlulo ezi-2, ezizezi iSahlulo 1 ($\pm 2369m^2$) kunye neNtsalela ($\pm 2336m^2$).

linkcukacha ezipheleleyo mayela nesi sindululo ziyafumaneka ukuze zihlolewe phakathi evekini phakathi kwentsimbi yesi-08:00 neye-16:30 kwiSebe: loCwangciso lweDolophu (16 Paterson Street, Hermanus, nakwiThala leencwadi laseBetty's Bay, Clarence Drive, eBetty's Bay.

Naziphi na izimvo ezibhaliweyo mazingeniswe kuMasipala (16 Paterson Street Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ngokuhambelana nezibonelelo zamaCandelo 51 nele 52 lalo Mthetho kaMasipala uchaziweyo ngomhla okanye ngaphambi komhla wama-22 uOktobha 2021, unike igama lakho, idilesi yakho kunye neenkukacha zoqhagamshelwano, umdla wakho kwisicelo nezizathu zokubhala izimvo zakho. Imibuzo ngomnxeba ingatsalelwa kuMchwangcisi oPhezulu, Nksk H. van der Stoep kule nombolo 028-313 8900. UMasipala angala ukuzamkela izimvo ezifike emva komhla wokuvulwa. Nabani na ongakwaziyo ukufunda okanye ukubhala makaye kwiSebe loCwangciso lweDolophu apho igosa likamasipala liya kumncedisa azibhale izimvo zakhe.

Umlawuli kaMasipala, UMasipala wase-Overstrand, P.O. Box 20, **HERMANUS**, 7200

ISaziso sikaMasipala No. 135/2021

**ERF 1828 PRINGLE BAY:
LOCALITY PLAN**

Legend
 □ Erf
 □ The Property



Scale: 1:4 514
 Date created: April 7, 2021



Development and Land Reform: Chief Survey-General
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MOTIVATION REPORT

PROPOSED REMOVAL OF RESTRICTIVE TITLE CONDITIONS AND SUBDIVISION OF ERF 1828, PRINGLE BAY, OVERSTRAND MUNICIPALITY, ADMINISTRATIVE DISTRICT OF CALEDON

1 PROPERTY DESCRIPTION

The property in question is Erf 1828, Pringle Bay, situate in the Overstrand Municipality, Division of Caledon, Western Cape Province (Hereafter referred to as **The Properties**).

2 REGISTRATION DETAILS

Registered Owner: Brooke Collis and Cindy Anderson

Area: 4 705 square meters.

Title Deed: T14369/2020

Existing Zoning: Residential Zone 1

3 THE APPLICATION

Application is hereby made on behalf of the registered owner for the following:

- i) The removal of restrictive title conditions 1.V.(4) (a), (b), (c), (d), (e) and (f) from deed number T14369/2020 in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- ii) The subdivision of Erf 1828 Pringle Bay in terms of Section 16(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.



4 LOCALITY

The property is located within the urban area of Pringle Bay along Boundary Road. It is located on the southern side of Boundary Road, and is bordered on the eastern side by Erf 540 on the western side by Erf 537 and on the southern side by Erven 358 and 359. The locality plan indicating the location of the properties in relation to the surrounding properties has been attached in **Annexure 1**. Photo 1 below is an aerial image of the location of the properties.



Photo 1: Aerial image of the property.

5. LAND USE AND ZONING

The property is zoned as Residential Zone 1 and is currently being utilised according to its zoning as a single residential property containing one dwelling unit. All of the surrounding properties within the surrounding neighbourhood are also zoned for single residential purposes purposes, and the majority of them have been developed and are utilised according to their zoning. No alteration to the existing zoning of the property is being proposed as a result of this application.

6. FORWARD PLANNING

6.1 The Spatial Planning and Land Use Management Act, 2013 (SPLUMA).

Generally SPLUMA seeks to create a uniform and effective spatial planning and land development regime for the whole of the country. The details of the objectives of SPLUMA are set out in section 3 of the Act and include:

- to provide a uniform, effective and comprehensive system of spatial planning and land use management for the Republic;
- to ensure that the system of spatial planning and land use management promotes social and economic inclusion;
- to provide for development principles and norms and standards;
- to provide for the sustainable and efficient use of land;
- to provide for cooperative government and intergovernmental relations amongst the national, provincial and local spheres of government; and
- to redress the imbalances of the past and to ensure that there is equity in the application of spatial development planning and land use management systems.

In order to realise these objectives, SPLUMA requires that Spatial Development Frameworks be prepared and adopted by the national, provincial and municipal spheres of government. SPLUMA sets out numerous development principles, norms and standards that are to guide spatial planning, land use management and land development. These principles include:

- spatial justice, which includes a commitment to redress past spatial and other development imbalances;
- spatial sustainability, which requires land development to be aligned with fiscal and Institutional means;
- efficiency, requiring land development to optimally use existing resources and infrastructure;
- spatial resilience, which provides that flexibility in spatial plans, policies and land use management systems must be provided for specifically so that sustainable livelihoods is ensured in communities affected by development; and
- good administration.

The proposed subdivision of the property to provide for a denser neighbourhood that provides for a wider variety of residential options can be seen to be compliant to these policy criteria.

6.2 Provincial Spatial Development Framework (PSDF)

The WCPSDF was adopted in 2005 and is aimed at guiding development within the Western Cape province, and is a broad spatial policy that will inform more detailed district and local Spatial Development Frameworks.

The Provincial Spatial Development Framework (PSDF) also identifies an appropriateness for increased densities through urban restructuring which would allow (denser) urban areas to function in a more efficient manner (the PSDF identifies an average of 25 dwelling units per hectare as a density above which an urban area will perform adequately). The establishment of the Urban Edge supports this need for the increased densification of the existing urban areas, which in turn would facilitate the protection of the natural mountain slopes of the area from further development. The subdivision of the property will serve to facilitate this desired increase in urban densities within the Urban Edge whilst at the same time allowing the area to retain its existing (and originally intended) single residential character and sense of place, as the proposal is still generally in line with all the relevant forward planning policies for the area.

The main objective of the PSDF in promoting increased densities within the urban areas is to halt the phenomenon of urban sprawl into the surrounding environmentally sensitive areas (such as up mountain slopes and onto agricultural land). The proposed subdivision of the property is in line with this principle of halting the further erosion of the scenic beauty of the area by creating increased housing opportunities within the Urban Edge. This will help to prevent the further need for future peripheral housing located outside the established urban boundaries, by providing such housing options within the existing Urban Edge boundary. The PSDF promotes the utilisation of subdivisions as a means to achieve the increased (appropriate) densification of the urban areas.

The property is a previous consolidation of two erven and is thus substantially larger than all of the surrounding residential properties in the neighbourhood. Thus the property is in a position where it can accommodate the desired increased densification of the urban fabric, whilst at the same time having no significant impacts on the existing single residential character of the surrounding neighbourhood. It is proposed that the property be subdivided into one portion and a remainder as indicated on the subdivision plan that has been attached hereto (Plan No. C6129/Sub2).

As the PSDF places a strong emphasis on the prevention of the phenomenon of urban sprawl, the subdivision of the property to allow for increased housing opportunities can be seen to be in line with this proposal, as it is providing for an essential need in a manner that will help to integrate land-use and transport and infrastructure planning, which in turn will ensure that the provision of essential services will be more affordable and sustainable. This can be seen as the main reason why the PSDF calls for the increase in the densities of the existing low density urban areas, as the provision of services to these urban areas becomes more cost effective the higher the densities.

There are aspects to urban restructuring other than densification that have also been identified, such as the efficient geographical location of activities in order to minimise the need for vehicular transportation. The location of additional housing stock in close proximity to essential services and infrastructure within an urban area is extremely important with regard to the delivery of services. The subdivision of the property will generate housing that is located within the existing urban framework situated in close proximity to many essential services (main roads, open spaces, town centre, etc.) This densification and development of the urban areas should also occur with due regard for the environmental and heritage concerns of the specific area. Policy UR2 of the PSDF makes the short to medium term achievement of this urban densification target (25 dwelling units per hectare) mandatory.

6.3 Overstrand Spatial Development Framework (SDF)

The property has been reserved for urban development within the Overstrand Spatial Development Framework (SDF). The SDF aims to ensure that development is confined within the urban edge and ensure the protection of the existing coastal village character of Pringle Bay. The SDF also calls for the protection of the natural environment within which Pringle Bay located. Ensuring that all development takes place within the established urban footprint will serve to meet these criteria.

As this proposal is merely for the subdivision of the property (which is actually a previous consolidation of Erven 538 and 539), and no alteration to the existing zoning rights is being applied for, this proposal can be seen to be in line with these policy criteria. The proposed portions will be similar in size to the original properties that were consolidated (albeit with a slightly different orientation), and will thus not impact on the role of Pringle Bay as a retirement village at all. Illustration 1 below is an extract from the SDF indicating the location of the properties.



Illustration 1: Extract from the Overstrand SDF.

6.4 Overstrand Growth Management Strategy (OGMS)

The OGMS is a draft technical document that is intended to inform the finalisation of a growth management strategy that will promote the longer term sustainability of the Overstrand municipal area. The document highlights the importance of densification as an important tool in achieving a growth management plan for the municipal area. The OGMS states that there are very limited densification opportunities in Pringle Bay with the strategy calling for the provision of a prominent green structuring element that will provide visual prominence and legibility to the suburban environment. Although no densification proposals are made within the Planning Unit within which the property is located, the subdivision of the consolidated property will essentially be returning the proposed portions to their originally planned densities. Thus the proposed subdivision of the property can be viewed to be in line with these policy criteria.

7. RESTRICTIVE CONDITIONS OF TITLE

There are restrictive conditions of title contained within the Title Deed that would impact on the proposed subdivision of the property. This is confirmed in the copy of the title deed which has been attached in **Annexure 2** of this application. Conditions 1.V.(4) (a), (b), (c), (d), (e) and (f) were imposed by the Administrator when approving of the extension of the subdivision of a

portion of the township. A copy of the General Plan of the subdivision has been attached in **Annexure 1**. These development parameters are now governed by the various forward planning policy documents and zoning schemes. Thus an application for the deletion of restrictive title conditions 1.V.(4) (a), (b), (c), (d), (e) and (f) contained within Title Deed T14369/2020 is being submitted as part of this application.

As is expanded in more detail below, the proposed removal of the restrictive condition of title can be seen to be in the public interest due to the proposal aiding in achieving the goals of residential densification as set out within the forward planning policies applicable to the area. This proposal will be beneficial in that it will help allow for a more efficient and cost effective bulk municipal services network that can be seen to be beneficial to the community as a whole. The application is also proposing a development that can be seen to be compatible with the surrounding uses that will in no way affect the existing rights of the surrounding residential properties. The proposal is also in line with the applicable SDF.

8. MOTIVATION

8.1 Physical characteristics of the site

The property is approximately 4705m² in extent and is a consolidation of two erven (538 and 539) and is thus far larger than the majority of the surrounding single residential properties within the area. The property consists of one residential dwelling that is located adjacent to the southern boundary of the property with the majority of the property either being utilised as garden area or standing vacant. The property slopes very gently towards the north (towards Boundary Road) and will not pose any problems with respect to the construction of a dwelling unit on the proposed portion.

8.2 Subdivision

All of the surrounding properties that have been developed have been done so according to their single residential zonings. It is proposed that the property be subdivided into one portion (measuring approximately 2369m² in extent), and a remainder (measuring approximately 2336m² in extent). The main dwelling will be located on the remaining extent and will continue to function as a single residential property as no alterations to the zoning of the property is proposed as a result of this application. The proposed portion will also function as a single residential property according to its zoning. The dimensions of the proposed portions would be more than adequate for an erf in an exclusive residential neighbourhood, and the proposed areas of around 2350m²

are more than generous by today's standards, where the care and maintenance of large gardens is becoming prohibitively expensive (not to mention socially irresponsible in light of water shortages).

The proposed subdivision will be done according to the subdivision plan (Plan No.: C6129/Sub2) as attached in **Annexure 1**. The proposed remaining extent will gain access onto Boundary Road via a 16m wide servitude right of way panhandle adjacent to the eastern boundary of the property. It is proposed that this servitude will accommodate both the access and services to the remaining extent. The proposed portion will then gain access directly onto Boundary Road. Thus the proposed subdivision will create two properties that are similar in size to the original two properties that were consolidated to form Erf 1828. The only difference being that they will be orientated differently with one property being located behind the other (instead of next to each other as Erven 538 and 539 were).

The property is located within a well established urban residential neighbourhood, and is considerably larger than all of the surrounding single residential erven. A copy of the Surveyor General Noting Sheet and Locality Plan have been attached in **Annexure 1**, which indicate the extent of the surrounding properties. Although the proposed subdivision of the property will accommodate a slight increase in the existing residential densities, it will not provide any more erven than what were originally planned for as it will essentially only be returning the property to its original components. As the proposal will lead to the creation of only one additional single residential property (that was actually originally planned for), the proposal can also be seen to be in line with the established single residential character of the area.

8.3 Character of the surrounding area

Although this subdivision will lead to a slight increase in the residential densities of the area, the proposed properties that will be generated as a result of this application will not be totally out of character with what already exists within the surrounding residential neighbourhood at all. This proposal is seen to be in line with the SDF in that it is only re-subdividing a property that was previously consolidated

The proposed development of the property can thus be seen as a prime example where the development potential of underutilised residential land located within the urban fabric will be utilised/developed to its fullest potential, whilst at the same time not being entirely contrary to any forward planning policy applicable to the area.

All of the surrounding properties are still currently zoned for single residential purposes, and their uses (those that have been developed) are in line with their zonings. It is being proposed that the property be subdivided into two single residential properties that have the same land use zone as all of the adjoining properties. A copy of the proposed subdivision plan (Plan No.: C6129/Sub2) has been attached in **Annexure 1** which indicates the location of the proposed subdivided portions, as well as the existing structures located thereon.

The proposed subdivision of the property into two single residential properties will not detract from the quality of the surrounding environment, as the proposed properties will measure $\pm 2369\text{m}^2$ and $\pm 2336\text{m}^2$ in extent. The existing dwelling unit will be retained on the remaining extent, thus ensuring that the existing visual character of the property is largely maintained. The property can thus be subdivided into two large erven without compromising the integrity of the existing dwellings/structures or the character of the surrounding neighbourhood. The subdivision of the property will lead to the productive use of residential land as a scarce urban resource that will provide for additional housing opportunities within the urban edge by returning a consolidated property to its original components. The proposal is thus compliant with the various applicable forward planning policies.

The proposed development will also have a minimal impact on the existing streetscape as there will only be one additional entrance created onto Boundary Road. This proposal will also only lead to the creation of one additional single residential property and a change of zoning will not be required. This will thus not lead to a substantial alteration to the existing streetscapes along the adjoining road.

The inherent high value of the land (and hence the individual portions) will ensure that any future development of the proposed portion will be done in such a manner so as to provide for a high quality product that will not detract from the surrounding property values. The recent trend of owners of larger properties wishing to economise on the sizes of their properties due to escalating maintenance costs will also ensure that the smaller properties will not be seen to be an inferior product, but rather the inherent value of a more economically sized property located within the neighbourhood is readily acknowledged. This holds especially true for properties that have been recently consolidated and are far larger than any of the surrounding erven. The proposal will also lead to the creation of a new residential property that will introduce inhabitants to the area with a similar socio-economic profile to the existing residents. It is not being proposed to change the use of the property, but merely to introduce incremental residential densification which is not out of context with the surrounding neighbourhood.

8.4 Removal of Restrictive Title Conditions

As stated previously, the title deed for the property does contain restrictive conditions that will impact on the subdivision of the property, and will have to be removed in order to be able to accommodate the proposed development of the property. It is thus being proposed that conditions 1.V.(4) (a), (b), (c), (d), (e) and (f) be deleted from deed number T14369/2020 as contemplated in Section 39 of the Land Use Planning Act (LUPA) No. 3 of 2014, as well as Section 35 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020. In order to be able to subdivide the property, conditions 1.V.(4) (a), (b), (c), (d), (e) and (f) need to be removed from the title deed.

The proposal will also not deprive any person of property as contemplated in Section 25 of the Constitution of South Africa. The proposed removal of the restrictive condition will in no way lead to any degradation of the social benefits as currently enjoyed by the surrounding property owners, as the application proposes a development that is seen to be compatible with the surrounding land uses. The proposed removal of the restrictive condition will also not lead to any loss of development rights by adjoining owners.

As stated in Section 39(5) of LUPA, when a municipality considers the removal, suspension or amendment of a restrictive condition, it must give due regard to the following:

8.4.1 The financial or other value of the rights.

The proposal is for the subdivision of the property with the removal of a restrictive title condition that prohibits this proposal (although it does make provision for a relaxation of the condition should it be deemed to be acceptable). As the proposal is for the subdivision of a consolidated property into its original portions (albeit with a slightly different orientation), it cannot be seen to have any negative impacts on any surrounding property or their existing rights. The original intention of this condition would have been to protect the low density residential character of the area. They were introduced as a planning management mechanism at a time when no other such systems existed. The subsequent introduction of various spatial policies and municipal zoning schemes has negated the need to duplicate such management systems in the title deeds of the properties.

No person or entity can argue that they will suffer any financial loss (value) as a result of the removal of these restrictions as they are not in favour of any property and/or individual. They are development restrictions that will still be governed by the parameters as set out within the various forward planning policies applicable to the area and the

Overstrand Municipality Zoning Scheme, which is similarly applicable to all of the properties within the Overstrand municipal area. Thus it can be argued that these restrictions hold no financial value to any surrounding property. They also do not pose a financial or other right implication on the person or entity which imposed the condition.

8.4.2 The personal benefits which accrue to the holder of the rights.

As these restrictions are not for the benefit for any specific property or person, and the development parameters will still be governed by the applicable spatial planning policies and zoning schemes, the deletion of these conditions will not negatively impact on the personal benefits of any surrounding property owner. Thus the deletion of these conditions will not be removing any benefits to the holder of these rights in terms of the restrictive conditions.

8.4.3 The personal benefits which will accrue to the owner removing the conditions.

The proposed removal of the restrictive title conditions will allow the owner of the property to develop the property further and apply the parameters as set out within the applicable spatial planning policies and zoning scheme. This will allow for the owner to maximise the value of the property and hence obtain some personal financial benefit. Any further development of the property will be subject to the submission of a Land Use application to the Local Authority. Furthermore, this personal financial gain will not lead to any loss in value (loss of benefits) of any of the surrounding properties.

8.4.4 The social benefit of the restrictive conditions remaining in place.

These restrictive conditions were typically placed within title deeds of properties in order to place development controls within newly established townships in the past. These conditions were aimed at protecting a certain character and guiding the further development of the properties in a certain direction. The need for such conditions to be placed within title deed has been replaced by the drafting of forward planning policies and zoning schemes. Thus these development restrictions no longer need to be duplicated within the title deeds of individual erven. Sufficient land use controls now exist so as to ensure that the property will not be developed to an inappropriate scale and density in the local context. Furthermore, the proposal (that requires the removal of these restrictive title conditions) is not seen to be out of character to that what exists within the surrounding urban framework. Thus it can be argued that there would be no social benefit if the restrictive conditions were to remain in place.

8.4.5 Social benefit of the removal of the restrictive conditions.

As discussed above, there are many benefits associated with the proposed land use intensification of the property, ranging from a more efficient urban structure to increased rates and taxes revenue for the Local Authority which can be utilised to meet a variety of social needs. These are also being achieved in this instance by merely returning a consolidated property to its original components. All of these benefits of residential densification will essentially lead to a social benefit to the municipal area as a whole through the more efficient utilisation of the surrounding bulk municipal services infrastructure and the provision of additional housing opportunities within the urban area.

These conditions are also seen to be outdated in terms of both the character of the area and the various forward planning policies that have now been promulgated, which are now seen to be more appropriate land use use management mechanisms. The introduction of such conditions into title deeds are no longer seen to be necessary in managing land use developments. Although the owners of the property will initially obtain the initial financial benefit of the proposed subdivision of the property, the social benefits associated with the densification of the property will be in the interests of the wider community.

8.4.6 Whether the removal of the restrictive conditions will completely remove all rights enjoyed by the beneficiary, or only some of these rights.

The proposed removal of the restrictive title conditions will not remove any development rights as enjoyed by any other property, as the relevant forward planning policies will govern any further development of the property and surrounding urban area. Thus the property would be subject to the same development parameters to all of the adjoining properties (beneficiary of these restrictions), and will hence have no real impact on their rights at all.

It is being proposed that conditions 1.V.(4) (a), (b), (c), (d), (e) and (f) be deleted from deed number T14369/2020. The reasons for the removal of each of these conditions will be discussed below.

8.4.7 Condition 1.V.(4) (a)

This condition states that the property may not be subdivided, and thus will have to be removed in order to be able to subdivide the property as proposed. The reasons (motivation) for this subdivision, and hence the removal of the restrictive condition, has been discussed further elsewhere in this motivation report.

8.4.8 Condition 1.V.(4) (b)

This condition states that the property may only be used for residential purposes. As discussed above, these conditions were typically placed within title deeds of properties in order to place development controls within newly established townships in the past. The introduction of the Overstrand Zoning Scheme Regulations has introduced development controls to SR1 erven that include some business uses (i.e. home occupation, guest house and day care centre) as primary uses. Thus this restriction will have to be removed to allow the property to have access to the primary uses of SR1 erven as applied to the entire Overstrand Municipal area. The removal of the restriction will also allow for the properties to make application for the applicable Consent Uses that are permitted with the approval from Council on the properties as well.

8.4.9 Condition 1.V.(4) (c)

This condition states that only one dwelling may be erected on the property. Once again, these conditions were typically placed within title deeds of properties in order to place development controls within newly established townships in the past. The introduction of the Overstrand Zoning Scheme Regulations has introduced development controls to SR1 erven that includes a second dwelling unit as a primary use. Thus this restriction will have to be removed to allow the properties to have access to the primary uses of SR1 erven as applied to the entire Overstrand Municipal area, including the construction of a second dwelling thereon (should the owners choose to do so).

8.4.10 Condition 1.V.(4) (d)

This condition states that only half the area of the property may be built upon. The introduction of the Overstrand Zoning Scheme Regulations has introduced development controls to SR1 that state that the maximum coverage on erven larger than 400m² is 50%. As stated above, this development control now exists within the Overstrand Zoning Scheme Regulations and there is no need to duplicate this in the title deed of the property. Any deviation of this will be subject to the submission of the necessary Land Use applications.

8.4.11 Condition 1.V.(4) (e)

This condition prescribes building lines that have to be adhered to. Once again, the Overstrand Zoning Scheme Regulations has introduced development controls to SR1 that prescribe minimum street and side and rear building lines for SR1 erven. Also the zoning scheme does make allowance for certain structures to be constructed within the building lines of SR1 erven. The removal of this restriction will allow the properties to have access

to these development parameters without having to make application for the removal and/or relaxation of these restrictions.

8.4.12 Condition 1.V.(4) (f)

This condition relates to the discharge of sewerage from the property. This condition was inserted to ensure that the development of dwellings would discharge sewerage in a certain manner. The development of the proposed portion will be governed through the approval of a building plan and the necessary sewerage reticulation will have to be dealt with during this process. The municipal engineering department will ensure that any approvals (of dwellings) will meet the most recent municipal standards with regard to sewerage reticulation/discharge from the property. This condition was also imposed as a control mechanism pending the establishment of a Local Authority for Pringle Bay. Such a Local Authority now exists and will be responsible for the management of sewerage reticulation in the area. Once again, there is no need to duplicate the management responsibilities of the Local Authority within the title deeds of individual erven.

8.5 Planning Principles

As part of the motivation for this application the following criteria as set out within Section 42 of the Spatial Planning and Land Use Management Act, 2013 (ACT 16 of 2013) and Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014) were regarded.

Spatial Justice

The subdivision of the property will allow for the creation of a wider variety of residential options in the area, which will not contribute further to any spatial injustice. By increasing the number of residential opportunities in the area, the proposal will, to a degree, aid in redressing past spatial injustices through the generation of increased rates and taxes, which can be utilised by the Local Authority in the provision of services to previously disadvantaged areas.

Spatial Sustainability

The proposal is for the subdivision of a large property into two single residential erven. As this property is also a previous consolidation of two erven, the proposal will propose a more sustainable utilisation of the land without impacting the existing (intended) residential character of the neighbourhood. This proposal will allow for the creation of additional residential opportunities that would fulfil a demand within the existing urban footprint. This would ensure that the need for such opportunities are met within the existing urban footprint, thus negating the need for such developments to be located in

the surrounding sensitive countryside and up visually and environmentally sensitive mountain slopes. Such a development would easily be able to achieve this without impacting on the existing village character of Pringle Bay.

Efficiency

The proposed subdivision of the property would allow for a more appropriate intensification of the land use on the property by returning the erf to its original components. This would increase the efficiency of the property in that the proposed urban typology (located within an established residential area) would be far more efficient to service. Placing such a development within an existing urban residential area will also serve to minimise negative financial, social, economic and environmental impacts through the efficient geographical location of such facilities to prevent urban sprawl and excessive travel distances.

Spatial Resilience

The provision of additional housing opportunities within the established urban residential area of Pringle Bay will serve to facilitate the promotion of the development of sustainable livelihoods for the poor. The proposal would generate additional rates and taxes which can be utilised by the Local Authority to uplift the living conditions of the poorer communities through service delivery. The provision of additional housing opportunities would also increase employment opportunities for domestic staff. By obtaining employment, the poor are able to uplift their current socio-economic situation and will also be more resilient to the impacts of economic and environmental shocks.

Good Administration

Although the owner of the property is not responsible for the administration of the planning practices of the Local Authority, the proposal will help the Local Authority facilitate this through the approval of an application that would help with good governance through the facilitation of a development that would also serve the broader community as discussed above.

8.6 Services

No problems are foreseen with regard to the provision of services to the proposed development, as the property is already serviced (as a single residential unit) and located within a well established urban area. The proposal is for the creation of only one additional single residential property which would not place any undue strain on the surrounding services network.

It is envisaged that the remaining extent will utilise the proposed 16m services and right of way servitude to both gain access to the property and to connect to the services that run along Boundary Road. Any internal services that traverse the proposed portion will be relocated to be located within this servitude.

As the proposed portion already has a dwelling (and outbuildings) located on it, the total nett area of hard surfacing will not be substantially increased. Thus there should not be any substantial increase in the stormwater run-off from the property either. The topographical attributes of the property are also seen to be suitable for the proposed subdivision as there are no concerns regarding the slopes and geotechnical stability of the proposed portion and the existing dwelling that has been constructed thereon.

8.7 Access and Traffic

It is being proposed that a 16m wide services and right of way servitude will be registered over Portion 1 in order to allow for access (and services) to the remaining extent of the property (existing dwelling). The existing gate will be retained within this servitude and this will only require a slight adjustment of the location of the existing driveway on the property. The location of the driveway can be seen on the attached subdivision plan (Plan No: C6129/Sub2) that has been superimposed onto the aerial photograph of the property. The proposed portion will gain access directly onto Boundary Road from its street frontage. Photo 2 below indicates the location of the existing gate.



Photo 2: Existing gate that will be utilised to give access to the proposed remaining extent.

The adjoining street reserve, combined with the relatively substantial street frontages of the proposed portion, as well as the ample sight distances will allow for the creation of a suitably safe vehicular access point onto the proposed Portion 1. The vertical and horizontal road alignments will also pose no problems with respect to these vehicular access points.

It is also envisaged that the additional traffic that will be generated as a result of this proposal will not lead to any unacceptable levels of traffic congestion on the surrounding road network as only one additional single residential property is being created. The surrounding roads are not seen to be overly busy roadways, and are wide enough to be able to adequately accommodate the additional access points and traffic that will be generated as a result of this proposal.

8.7 Other Applications

The the National Heritage Resources Act (Act No. 25, 1999) states that any development or activity that will change the character of a site exceeding 5 000 m² in extent will require the submission of an application in terms of the act. As the property is only ±4705m² in extent the proposal does not constitute a listed activity in terms of this act, and therefore a Notification of Intent to Develop application in terms of Section 38 of the National Heritage Resources Act (Act No. 25, 1999) will be not required.

9. EVALUATION CRITERIA

Section 66(1) of The Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 sets out certain general criteria for consideration of applications which determine the desirability of a proposed development. These criteria include, inter alia, the following:

- desirability of the proposal;
- impact on municipal plans and policies;
- applicable provisions of the zoning scheme;
- other investigations/applications required by other legislation;
- compatibility with surrounding uses;
- impact on the external engineering services;

Taking into account all of the above it is clear that the proposed development will have no impact on the surrounding environment which can be construed to be undesirable in respect of the safety, welfare and amenity value of the specific site conditions and the preservation of the

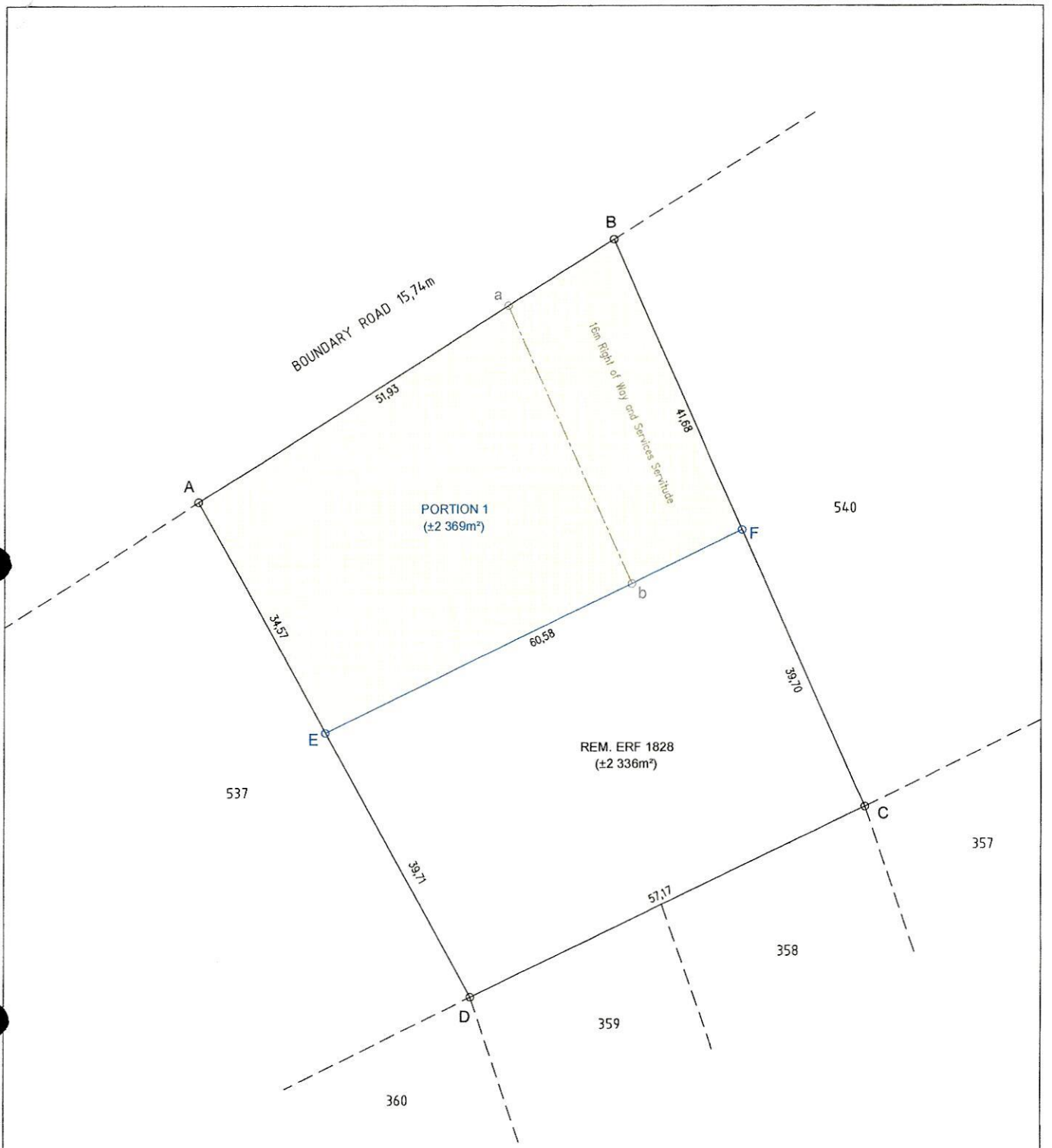
surrounding built and natural environment. The proposal will also in no way impact on any existing rights.

The proposal can be seen to be compliant with these evaluation criteria for the following reasons:

- The proposal complies with the guidelines as set out in the higher order spatial planning policies which promote socio-economic integration.
- The proposed development is of an appropriate scale and form that relates to the surrounding urban fabric, development pattern and land use character of the adjoining residential erven.
- The proposal will relate directly to the existing built form of the adjoining residential properties and will thus fit into the surrounding urban context.
- The placement of the proposal within an existing residential district is seen to be compatible with the existing character and represents an acceptable land use intensification in the area.
- The proposed development will not detract from any existing rights of the surrounding erven.
- Increased human activity will help ensure increased passive surveillance of the adjoining public realm (street).
- There is adequate servicing capacity to accommodate the proposed development and adequate on-site parking can be provided for.
- The application will not undermine the public interest.

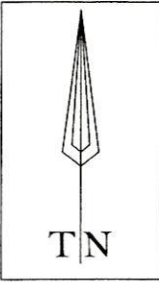
10. CONCLUSION

The proposed deletion of restrictive title conditions and subdivision of Erf 1828 Pringle Bay is considered to be a compatible use in the specific area and it will result in the optimal utilisation of the property. It will thus constitute a desirable development in terms of The Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020. With this in mind, it is therefore honourably considered that the proposed application will be endorsed with Council's consent.



LEGEND:

- ABCD ——— ERF 1828 PRINGLE BAY
- EFCD ——— REMAINDER ERF 1828
- ABFE ——— PROPOSED PORTION 1



**SUBDIVISION PLAN OF
ERF 1828 PRINGLE BAY**

Overstrand Municipality
Administrative District of Caledon
Province Western Cape.

NOTES:

- 1) ALL AREAS AND DIMENSIONS ARE APPROXIMATE
- 2) COMPILATION SHEET: AH- 4BC/X43 (355)
- 3) ZONING: RESIDENTIAL ZONE 1
- 4) BFba INDICATES A 16m WIDE SERVICES AND RIGHT OF WAY SERVITUDE AS SHOWN

SCALE 1/750
DATE : JUNE 2021
PLAN NO: C6129/Sub2

DIESEL & MUNNS Inc.

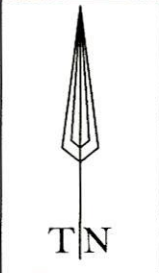
PROFESSIONAL LAND SURVEYORS : TOWN AND REGIONAL PLANNERS
PROFESIONELE LANDMETERS : STADS- EN STREEK BEPLANNERS
SECTIONAL TITLE CONSULTANTS : ENGINEERING AND TOPOGRAPHICAL SURVEYORS
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20 ST. JAMES STREET/STRAAT - P O BOX/POSBUS 475 - SOMERSET WEST 7129
TEL. : (021) 852-3800/852-3759



LEGEND:

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