

ERF 9808, 18 KIEWIET AVENUE, EASTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS WRAP PROJECT OFFICE ON BEHALF OF COOPER & HARRIS FAMILY TRUST

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:

- ❖ Determination of an Administrative Penalty in terms of Section 16(2)(q) of the By-Law.
- ❖ Departure in terms of Section 16(2)(b) for the following:
 - relaxation from the western building line from 2m to 1.196m to accommodate the proposed study on first floor;
 - relaxation from the western building line from 2m to 1.297m to accommodate the proposed fire hearth on ground floor;
 - relaxation from the southern building line from 2m to 1.765m to accommodate the new slab, timber deck and TV niche on ground floor;
 - relaxation from the eastern building line from 2m to 1.328m to accommodate the new main bedroom on first floor;
 - relaxation from the eastern building line from 2m to 1.536m to accommodate the new en-suite bathroom on first floor;
 - relaxation from the eastern building line from 2m to 1.536m to accommodate the new bathroom and scullery/laundry on the ground floor, and
 - relaxation from the eastern building line from 2m to 1.328 to accommodate the new first floor balcony.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, Paterson Street, Hermanus. Any written comments must be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law and be submitted at the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / alida@overstrand.gov.za) on or before **11 March 2022** quoting your name, address and contact details, interest in the application, as well as the reasons for comment. Telephonic enquiries can be made to **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 9808, KIEWIETLAAN 18, EASTCLIFF, HERMANUS, OVERSTRAND MUNISIPALE AREA: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: MNRE WRAP PROJECT OFFICE NAMENS COOPER & HARRIS FAMILY TRUST

Kennis word hiermee gegee ingevolge Artikel 48 saamgelees met Artikel 16(2)(b) van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) dat 'n aansoek om afwyking ontvang is vir die volgende:

- ❖ Die bepaling van 'n administratiewe boete ingevolge Artikel 16(2)(q).
- ❖ Afwyking ingevolge Artikel 16(2)(b) vir die volgende:
 - verslapping van die westelike boulyn van 2m tot 1.196m om die voorgestelde studeerkamer op eerste vloer te akkommodeer;
 - verslapping van die westelike boulyn van 2m na 1.297m om die voorgestelde vuurherd op grondvloer te akkommodeer;
 - verslapping van die suidelike boulyn van 2m na 1.765m om die nuwe blad, houtdek en TV-nis op grondvloer te akkommodeer;
 - verslapping van die oostelike boulyn van 2m na 1.328m om die nuwe hoof slaapkamer op eerste vloer te akkommodeer;
 - verslapping van die oostelike boulyn van 2m na 1.536m om die nuwe en-suite badkamer op eerste vloer te akkommodeer;
 - verslapping van die oostelike boulyn van 2m na 1.536 om die nuwe badkamer en opwaskamer/wasgoedkamer op grondvloer te akkommodeer, en
 - verslapping van die oostelike boulyn van 2m na 1.328 om die balkon op eerste vloer te akkommodeer.

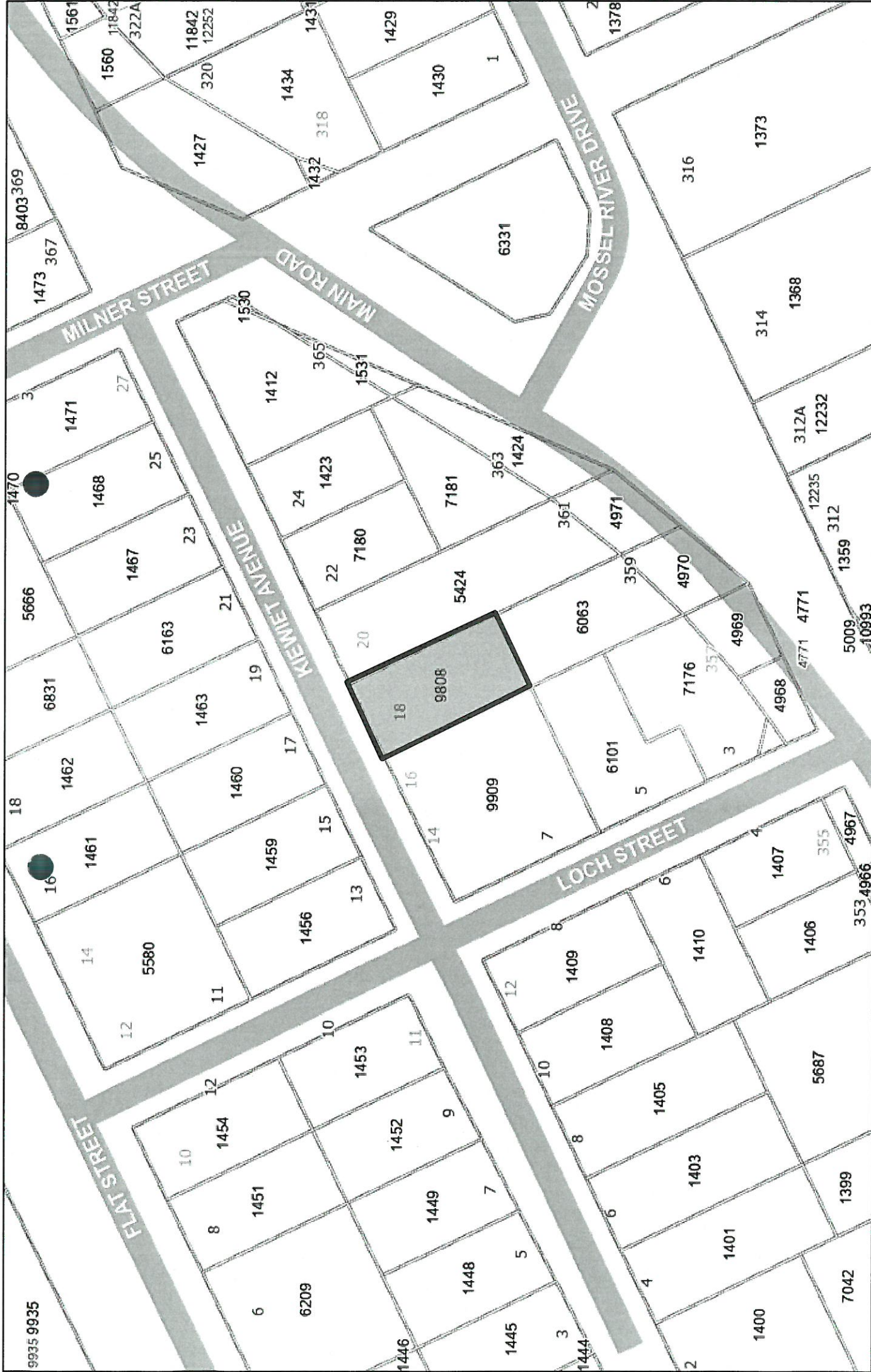
Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige skriftelike kommentaar op die voorstel moet ingevolge die bepalings van Artikels 51 en 52 van die Verordening ingedien word en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / alida@overstrand.gov.za) bereik voor of op **11 Maart 2022**, met vermelding van u naam, adres, kontakbesonderhede, belang in die aansoek, sowel as die redes vir kommentaar. Telefoniese navrae kan gerig word aan **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 9808, 18 KIEWIET AVENUE, EASTCLIFF, HERMANUS, KUMASIPALA WASE-OVERSTRAND: ISICELO SOKUNYENYISWA NOKUGQITYWA KWESOHLWAYO: ABAKWA WRAP PROJECT OFFICE EGAMENI LE COOPER & HARRIS FAMILY TRUST

Kukhutshwa isaziso ngokumayela neCandelo 48 loMthetho Otshintshiweyo woMasipala waseOverstrand ongokuSetyenziswa koMhlaba kaMasipala, 2020 (uMthetho kaMasipala), ukuba kufunyenwe isicelo sezi zinto zilandelayo:

- ❖ ukugqitywa kwesohlwayo emasibhatalwe ngokweCandelo 16(2)(q) loMthetho kaMasipala.
- ❖ Ukunyenyiswa ngokuhambelana malunga Candelo 16(2)(b) malunga noku kulandelayo:
 - ukunyenyiswa komgca wesakhiwo kwicala elingasentshona ukusuka ku-2m ukuya ku-1.196m ukuze kwakhiwe igumbi elinokustyenziselwa ushishino okanye ukufunda kumgangatho wokuqala;
 - ukunyenyiswa komgca wesakhiwo kwicala elingasentshona ukusuka ku-2m ukuya ku-1.297m ukuze kumgangatho osezantsi kwakhiwe iziko lomlilo obaswa ngaphakathi endlini;
 - ukunyenyiswa komgca wesakhiwo kwicala elingasemazantsi ukusuka ku-2m ukuya ku-1.765m ukuze kwakhiwe isilebhu, iqonga elenziwe ngamaplanga nendawo yokuxhoma i-TV eludongeni kumgangatho osezantsi;
 - ukunyenyiswa komgca wesakhiwo kwicala elingasempuma ukusuka ku-2m ukuya ku-1.328m ukuze kumgangatho wokuqala kwakhiwe igumbi lokulala elitsha eliyintloko;
 - ukunyenyiswa komgca wesakhiwo kwicala elingasempuma ukusuka ku-2m ukuya ku-1.1536m ukuze kwakhiwe igumbi lokulala elinegumbi langasese kumgangatho wokuqala;
 - ukunyenyiswa komgca wesakhiwo kwicala elingasempuma ukusuka ku-2m ukuya ku-1.536m ukuze kwakhiwe igumbi lokuhlamba kunye negumbi lokuhlamba impahla kumgangatho osezantsi kunye,
 - nokunyenyiswa komgca wesakhiwo kwicala elingasempuma ukusuka ku-2m ukuya ku-1.328m ukuze kumgangatho wokuqala kwakhiwe iveranda kumgangatho wokuqala.

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ngeentsuku zomsebenzi phakathi kweyure-08:00 ne-16:30 kwiSebe: Town Planning, Paterson Street, Hermanus. 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 **11 uMatshi 2022** unike igama lakho, idilesi neenkukacha zonxibelelwano nawe, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Xa ufuna ukubuza into malunga nesi saziso ungatsalela umnxeba 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.



ERF 9808, 18 KIEWIET AVENUE, EASTCLIFF, HERMANUS



Date: 2021/04/23



1. ABBREVIATIONS

1.1	OM	Overstrand Municipality
1.2	OMLUS	Overstrand Municipality Land Use Scheme, 2020
1.3	OM By-Law	Overstrand Municipality By-Law on Municipal Land Use Planning, 2015, as amended
1.4	DEADP	Western Cape Department of Environmental Affairs and Development Planning
1.5	PSDF	Western Cape Provincial Spatial Development Framework, 2014
1.6	LUPA	Western Cape Land Use Planning Act, 2014.
1.7	MSDF	Overstrand Spatial Development Framework, 2020
1.8	SDP	Site Development Plan
1.9	SR1	Residential Zone 1: Single Residential

2. SUMMARY OF STATUS QUO AND PROPOSED PROPERTY DETAILS

2.1	Consultant	WRAP Project Office
2.2	Restrictive title deed conditions	None
2.3	Erf extent	496m ²
2.4	Current zoning	Residential Zone 1: Single Residential

3. BACKGROUND

A town planning application for departure was submitted in March 2021. Since the original submission the application went through public participation and followed due process, after which it was identified that these departures being requested have already occurred, as these structures and additions were already constructed.

As a result of this, this application serves as method to amend the original town planning application that was submitted in terms of section 45 (4) of the OM By-Law that states the following – *'An applicant may amend his or her application at any time after notice of the application has been given in terms of this by-law and prior to the submission of the planning report to the Authorised Official or Municipal Planning Tribunal—*

- (a) at the applicant's own initiative;*
- (b) as a result of objections and comments made during the public notification process; or*
- (c) at the request of the Municipality.'*

This amendment report serves as method to motivate and provide clarity on the status of Erf 9808 – Hermanus (the subject property).

The applicant (Cooper & Harris Family Trust) had the vision to do some alterations to the subject property to make it more functional for their family.

12 NOV 2021

File 21/19
Erf 9808 Hermanus
Amended November 2021



MOTIVATION

On the **ground floor** the applicant had the following renovations done –

- A fire hearth, that encroach on a side building line;
- The new slab and uncovered timber deck, which is higher than 1m, that encroaches on a side building line;
- The TV niche that encroaches on the side building line; and
- A new bathroom and laundry/scullery that encroaches on the side building line.

On the **first floor** the applicant had the following renovations done –

- Converted the existing deck to a new study, which encroaches on the side building line;
- Constructed a new main bedroom, which encroaches on the side building line;
- Constructed a new en-suite, which encroaches on the side building line; and
- Constructed a new balcony, which encroaches on the side building line.

In addition to the departure applications, a determination of administrative penalty is also required to be submitted as the contraventions have already occurred.

4. PROCEDURE TO ACHIEVE THE APPLICANT'S INTENT

WRAP was appointed to compile and submit a land use planning application to rectify the actions highlighted in Section 3 of this report.

4.1 Departure from the 2m western building line to 1,196m to accommodate the study in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;

The applicant constructed a study in the position of the existing deck that was previously approved. A portion of the study encroaches on the side building line and it measures **3,4m²** and 35% of this area comprises of the outside wall.

The existing approved building adjacent to the study is located 1,196m from the side boundary line. The rationale for the study's location and it being located 1,196m from the side boundary is to be aligned with the existing approved building. To retain the current building massing and form of structure and will consequently contribute towards increasing the architectural integrity of the building. The option of a study outside of the building line that creates a step has been avoided as that would disfigure the architectural styling of the building on the subject property.

The study may be a habitable room, but the use thereof is however not a noise generating land use. Studies are generally the quietest land use in a dwelling as the occupants use it as a tranquil environment for work and leisure purposes.

The conversion of the existing deck into a study did not entail the expansion of the footprint of the subject property but only the construction of a wall to enclose it.

File 21/19
Erf 9808 Hermanus
Amended November 2021

12 NOV 2021



MOTIVATION

The small size of the study and the non-disruptive nature of the land use is not projected to result in having a negative impact on surrounding properties.

4.2 Departure from the 2m western building line to 1,297m to accommodate the fire hearth in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;

The applicant converted the existing covered stoep into an extended living area and the location thereof is 2m from the side and rear building line and therefore does not encroach on the building line.

The applicant constructed a fire hearth that houses a stove that is higher than 1m that is attached to the extended living area. This location was specifically selected as a living area and land use of the fire hearth is compatible and complementary to each other.

The portion of the fire hearth that encroaches on the side building line measures **1,5m²** of which 65% consists of a wall and the size of the remainder consists of a void where a stove was placed. This encroachment over the building line is minor and not visually intrusive to surrounding property owners.

The fire hearth is only used occasionally and not daily and is not a noise generating land use. The nature and intensity of this land use is therefore not projected to lead to surrounding property owners occupying the respective properties in discomfort.

The small size of the portion of the fire hearth that encroaches on the side building line coupled with the non-disruptive nature of the land use will ensure that surrounding property owners do not occupy respective properties in discomfort.

4.3 Departure from the 2m eastern building line to 1,175m and departure of the southern building line from 2m to 1.765m to accommodate the new slab, timber deck and TV niche in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The applicant constructed a new slab, timber deck and TV niche and a portion thereof encroaches on the rear building line. The encroachment measures **2,8m²**.

The existing approved building adjacent to the slab and timber deck is located 1.175m from the side boundary line and 1.765 from the rear building line. The rationale for the location of the timber deck being 1,175m from the side boundary was to ensure it is aligned with the adjacent approved building and also retain the current building massing and form of the structure and it increased the architectural integrity of the subject property.

The rationale for the location of the slab and timber deck towards the rear of the subject property is for the applicant to have a better view of the ocean and the mountains.

12 NOV 2021

File 21/19
Erf 9808 Hermanus
Amended November 2021



MOTIVATION

The slab and timber deck will not be used daily but occasionally when the occupants of the subject property gather socially. Most of the portions of the subject deck that will be used will be the portions that are located outside of the building line, thereby ensuring that the use of the portion of the deck outside of the building lines is minimal.

The small size of the portion of the timber deck that encroaches on the side building line and the unlikely disruptive nature of the land use is unlikely to cause surrounding property owners to occupy respective properties in discomfort.

4.4 Departure from the 2m eastern building line to 1,328m to accommodate the new main bedroom in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The applicant constructed a new main bedroom on the first floor on the same profile as the garage on the ground floor and it encroaches on the side (eastern) building line. The encroachment has already occurred and measures **4,169m²**.

The rationale for this position of the new main bedroom was to utilise the approved foundation structure already in place on the ground floor. This is to also retain the current building massing and form of the structure and it increased the architectural integrity of the subject property.

As previously mentioned, the entire encroachment area is 4,169m², and 49% of this area comprises of the outside wall, only creating 2,2138m² of habitable space over the side building line. Bedrooms are considered as a place of rest and areas where occupants rest and sleep, not utilising it as a place of loud noise generating activities.

The renovation of the existing roof area and converting it into a new main bedroom does not entail the expansion of the footprint of the subject property.

4.5 Departure from the 2m eastern building line to 1,536m to accommodate the new en-suite bathroom in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The applicant constructed a new main bedroom on the first floor on the same profile as the garage on the ground floor. To ensure privacy, the applicant also included a new en-suite bathroom to their renovation of the subject property, that encroaches on the side (eastern) building line by 0,464m. The encroachment has already occurred and measures **2,596m²**.

The rationale for the position of the new en-suite bathroom is to utilise the foundation structure already in place from the ground floor. This is to also retain the current building massing and form of the structure and it increased the architectural integrity of the subject property.

File 21/19
Erf 9808 Hermanus
Amended November 2021

12 NOV 2021



MOTIVATION

As previously mentioned, the entire encroachment area is 2,596m², and 66% of this area comprises of the outside wall, creating only 0,857m² of habitable space over the side building line. An en-suite bathroom is considered as an ancillary use to the bedroom and no loud noises are predicted to be generated from the en-suite bathroom.

The renovation of the existing roof area and converting it into a new en-suite bathroom does not entail the expansion of the footprint of the subject property.

4.6 Departure from the 2m eastern building line to 1,536m to accommodate the new bathroom on the ground floor and scullery/laundry in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The applicant constructed a new bathroom and scullery/laundry on the existing footprint of an uncovered stoep. The new en-suite bathroom is located on top of the new ground floor rooms. The bathroom and scullery/laundry encroaches on the side (eastern) building line by 0,464m. The encroachment has already occurred and measures 2,596m².

The rationale for the position of the rooms were to utilise is to utilise the approved foundation of the uncovered stoep that was already in place from the ground floor. This is to also retain the current building massing and form of the structure and it increased the architectural integrity of the subject property.

As previously mentioned, the entire encroachment area is 2,596m², and 66% of this area comprises of the outside wall, creating only 0,857m² of habitable space over the side building line. A bathroom and scullery/laundry are not considered as loud noises producing uses and it is not expected to be a nuisance to the surrounding property owners.

4.7 Departure from the 2m eastern building line to 1,328m to accommodate the new first floor balcony in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The applicant constructed a new main bedroom on the first floor on the same profile as the garage on the ground floor. The applicant had the vision to add to the aesthetic of the house by constructing an uncovered balcony. The balcony will be used occasionally and will not increase the habitable space of the structure.

The balcony encroaches on the side (eastern) building line by 0,633m. The encroachment has already occurred and measures 0,92m² of uncovered balcony. The balcony is not foreseen to affect the surrounding properties as it is an occasional land use.

12 NOV 2021

File 21/19
Erf 9808 Hermanus
Amended November 2021



4.8 Determination of an administrative penalty in terms of Section 16(2)(q) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The study, fire hearth, new slab, TV niche, scullery/laundry, new balcony, new main bedroom and new en-suite have all been constructed without the required land use approval for the departures from the building line.

To ensure compliance with the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended it is of importance to include the determination of an administrative penalty in this application.

Our request is that no, or the minimum administrative penalty be imposed as this application serves as method to legalise the encroachments that have occurred.

The encroachments are not obtrusive and not out of character for the residential area where the subject property is located.

5. APPLICATION

Considering the above, application is made for the following:

- 5.1 Departure** from the 2m western building line to 1,196m to accommodate the study in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.2 Departure** from the 2m western building line to 1,297m to accommodate the fire hearth in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.3 Departure** from the 2m eastern building line to 1,175m and departure of the southern building line from 2m to 1.765m to accommodate the new slab, timber deck and TV niche in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.4 Departure** from the 2m eastern building line to 1,328m to accommodate the new main bedroom in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.5 Departure** from the 2m eastern building line to 1,536m to accommodate the new en-suite bathroom in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.6 Departure** from the 2m eastern building line to 1,536m to accommodate the new bathroom on the ground floor and scullery/laundry in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;

File 21/19
Erf 9808 Hermanus
Amended November 2021

5.7 Departure from the 2m eastern building line to 1,328m to accommodate the new first floor balcony in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and

5.8 Determination of an administrative penalty in terms of Section 16(2)(q) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

6. LAND USE ENVIRONMENT

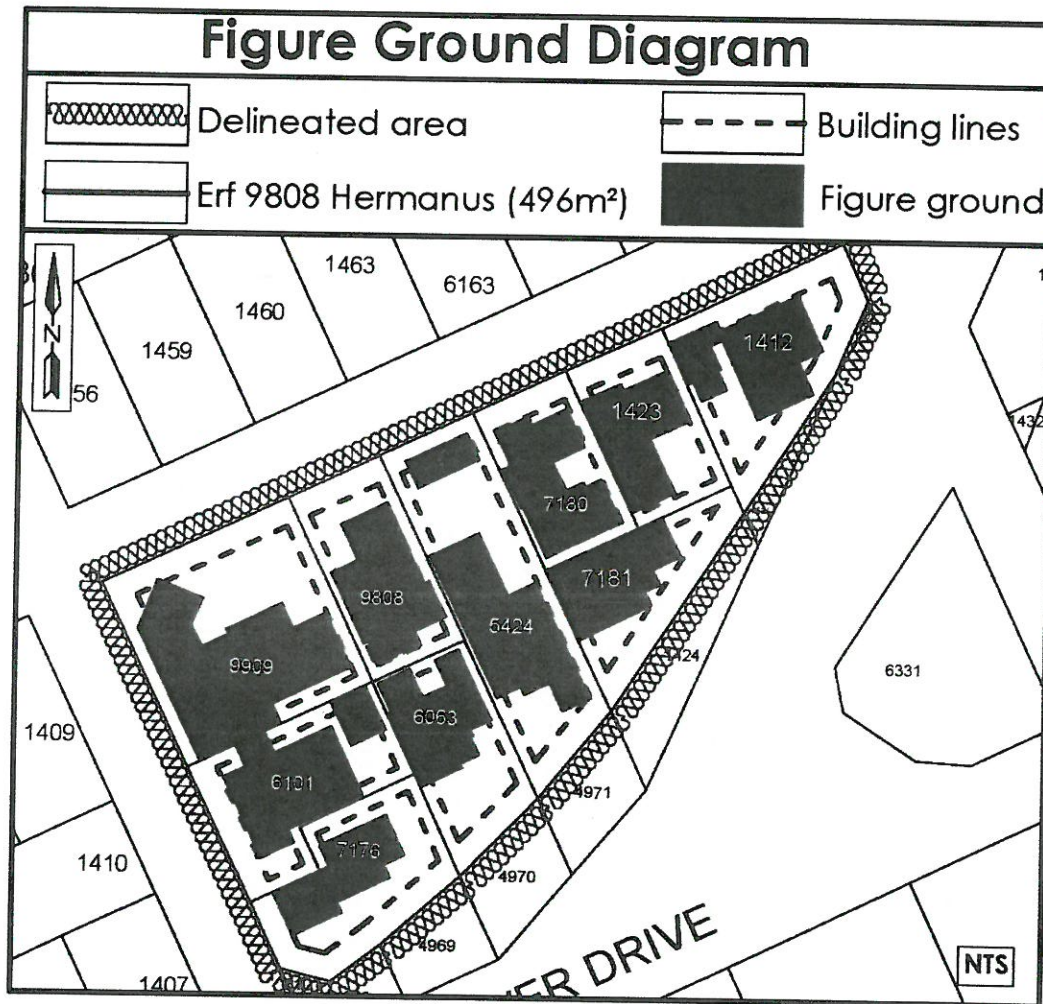


Figure 1: Figure ground plan.

The properties surrounding the subject property are also zoned Residential Zone 1: Single Residential. The surrounding area's zoning is illustrated in Plan 2 (zoning plan). Figure 1 illustrates that all properties within the delineated area encroach on the side building lines. This therefore illustrates the built form that is valued by residents within the area that is delineated in figure 1; and

12 NOV 2021

File 21/19
Erf 9808 Hermanus
Amended November 2021



MOTIVATION

The encroachment of the study, fire hearth, new timber deck, new bedroom and new en-suite over the building lines constitutes a minor land use expansion and therefore conforms to the prevalence of buildings that are located over the building lines in the area delineated in figure 1. The approval and implementation of this proposal will therefore retain the built form illustrated in figure 1.

7. TITLE DEED

Title deed T60011/2016 (refer to Annexure B) was perused and there are no restrictive title deed conditions that prohibit the land use rights which are sought in this application. No application for the removal of restrictive title deed conditions is therefore required.

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:

Residential Zone 1: Single Residential			
	Parameters	Proposal	Deviate or comply
Primary use	crèche, dwelling house, guest rooms, home occupation, second dwelling unit and self-catering.	Dwelling house	Comply
Consent use (which may be applied for)	day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and intensive horticulture.	N/A	N/A
Development rules			
Coverage	50%	49,3%	Comply
Building lines	Street building line 4m	7,2m	Comply
	Side building lines 2m	Departure from the 2m western building line to 1,196m to accommodate the study. Departure from the 2m western building line to 1,297m to accommodate the fire hearth.	Applied for and motivated

File 21/19

Erf 9808 Hermanus
Amended November 2021

12 NOV 2021



MOTIVATION

		<p>Departure from the 2m eastern building line to 1,175m to accommodate the new slab and timber.</p> <p>Departure from the 2m southern building line to 1,765m to accommodate the new slab, timber deck and TV niche.</p> <p>Departure from the 2m eastern building line to 1,328m to accommodate the new main bedroom.</p> <p>Departure from the 2m eastern building line to 1,536m to accommodate the new en-suite bathroom.</p> <p>Departure from the 2m eastern building line to 1,536m to accommodate the new bathroom and scullery/laundry.</p> <p>Departure from the 2m eastern building line to 1,328m to accommodate the first floor balcony.</p>	
Height	The maximum height of a building measured from the base level to the top of the structure is 8,0 m.	8m	Comply
Parking	<p>Parking and access shall be provided on the land unit in accordance with Chapter 17.1.</p> <p>Dwelling house 2 parking bays</p>	There is a double garage on the subject property.	Comply

The subject property is not designated as heritage sensitive in the Heritage Protection Overlay Zone or as environmentally sensitive in the Environmental Management Overlay Zone.

File 21/19

Erf 9808 Hermanus
Amended November 2021

12 NOV 2021



9. SERVICES

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

Solid waste

Solid waste is collected on the premises by the OM on a weekly basis and the approval and implementation of this proposal will not alter that.

Electricity

The existing building is connected to the existing electricity network in Hermanus, and the approval and implementation of this proposal will not alter that.

Water

The existing building is connected to the reliable potable water network available in Hermanus that is supplied by the OM and the approval and implementation of this proposal will not alter that.

Sewage

The existing building is connected to a conservancy tank and the approval and implementation of this proposal will not alter that.

Access and egress

Access to the subject property is gained from Kiewiet Street and the approval and implementation of this proposal will not alter that.

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

Desirability, amongst others, refers to two components where need refers to "time" and desirability refers to "place". In other words, is it the right time and is it the right place for locating this type of land use/activity? The Covid 19 regulations over the past year and a half have forced the applicant to increasingly work from home and therefore necessitated the establishment of a study on the subject property. The study is therefore required at the right time as it would enable the applicant to respond to the work conditions that have forced employees to do an increasing amount of work from home. The study is built towards the rear of the property and will provide the applicant with the necessary privacy and quiet environment when working and clearly separate the working and living space.

The Covid 19 regulations have also forced people to spend increasing amounts of time at home. This has consequently fuelled the applicant to continue with the renovations to establish the new renovations to the subject property. Although not approved these additions are not obtrusive uses that will affect any other surrounding property owners.



Impact on views, sunlight and character of the area

The study, fire hearth, new timber deck, new bedroom and new en-suite bathroom that are located over the building line are lower than the 8m which is the height restriction that is applicable on the subject property and will therefore not be visually imposing on the surrounding properties; and

The location of the land uses over the building line is in harmony with the character of the residential area that is characterised by buildings located over the building line and will therefore retain the existing character of the area.

Economic impact

The building alterations that occurred on the subject property generated some employment opportunities during the renovation phase. Although the employment that was generated was only temporary, every employment opportunity that is created amid the current economic climate that is characterised by job losses is a great feat.

Impact on safety and wellbeing

The existing land uses that are located over the building line are not noise generating activities and it is therefore not projected to compromise on the safety and wellbeing of surrounding property owners.

Environmental Considerations

The area of the subject property where the building line departures are sought is not located on environmentally sensitive land.

Heritage considerations

The subject property is not listed in the heritage register.

11. POLICIES AND REGULATIONS

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 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 in the context of spatial and land use planning refers to development proposals that redress the past apartheid spatial development imbalances. The apartheid spatial development pattern was characterised by low-density suburban sprawl where residents did not practice any home occupations. The monofunctional

12 NOV 2021



MOTIVATION

zoning codes of the apartheid era therefore reinforced this spatial development trend. The post-apartheid spatial development pattern is characterised by residential development having a greater mix of land uses and this is reinforced by the multifunctional zoning codes. The new study on the subject property enables the applicant to work from home which is contrast with apartheid spatial development imbalances and is a hallmark of spatial justice.

The labourers that were employed utilised the income to access housing, services and ensure upward socio-economic mobility which is a hallmark of spatial justice. Although the nature of the employment was temporary, any employment created amid the current turbulent economic climate is a great feat.

Spatial Sustainability

Spatial sustainability refers to development proposals that enable the creation of viable communities. The ability of the applicant to work from home reduces the extended travel distances between work and residential areas. This is projected to contribute to the alleviation of congestion and pollution.

The ability for property owners to make improvements to respective portions of the property over the building lines as motivated in this application increases the comfort with which property can be occupied and contributes towards the enhancement of the architectural integrity of buildings within the neighbourhood.

Efficiency

Efficiency in the context of land use planning refers to the need to enable urban areas to optimally make use of space, land and resources. Although already established the study, fire hearth, new timber deck, new main bedroom and new en-suite promotes the optimal use of space and land within the engineering services capacity of the subject site and is therefore a hallmark of efficiency.

Spatial Resilience

Spatial resilience in the context of land use planning refers to spatial plans, policies and land use management systems that should enable settlements to reach the maximum potential in terms of access to opportunities. The subject property is designated for residential purposes in the SDF and OMGMS. The opportunity that the owner must work from home in the study, unlocked the maximum potential and opportunities on the subject property in a manner that is sensitive to the immediate surrounding residential context.

Good administration

The OM is the organ of state which is responsible for good administration by means of public participation and complying with the prescribed time frames in the By Law and the OM has a credible history of upholding the principles of good administration.

File 21/19
Erf 9808 Hermanus
Amended November 2021

12 NOV 2021



13. EVALUATION

The applicant has contravened in terms of the Overstrand Municipality By-Law and this application is attempting to rectify and legalise the transgressions.

The application needs to be evaluated on the basis that the encroachments that have occurred are not out of context for the area and the proposal does not have a negative impact on the surrounding property owners. No additional application will be required after this.

We propose that the no, or the minimum administrative penalty is imposed as the applicant is, with the submission of this application, aiming to rectify the encroachments that have occurred.

It would be appreciated if the OM would consider the nature of the application and the way the applicant has reacted to the contraventions to what have occurred.

14. RECOMMENDATION

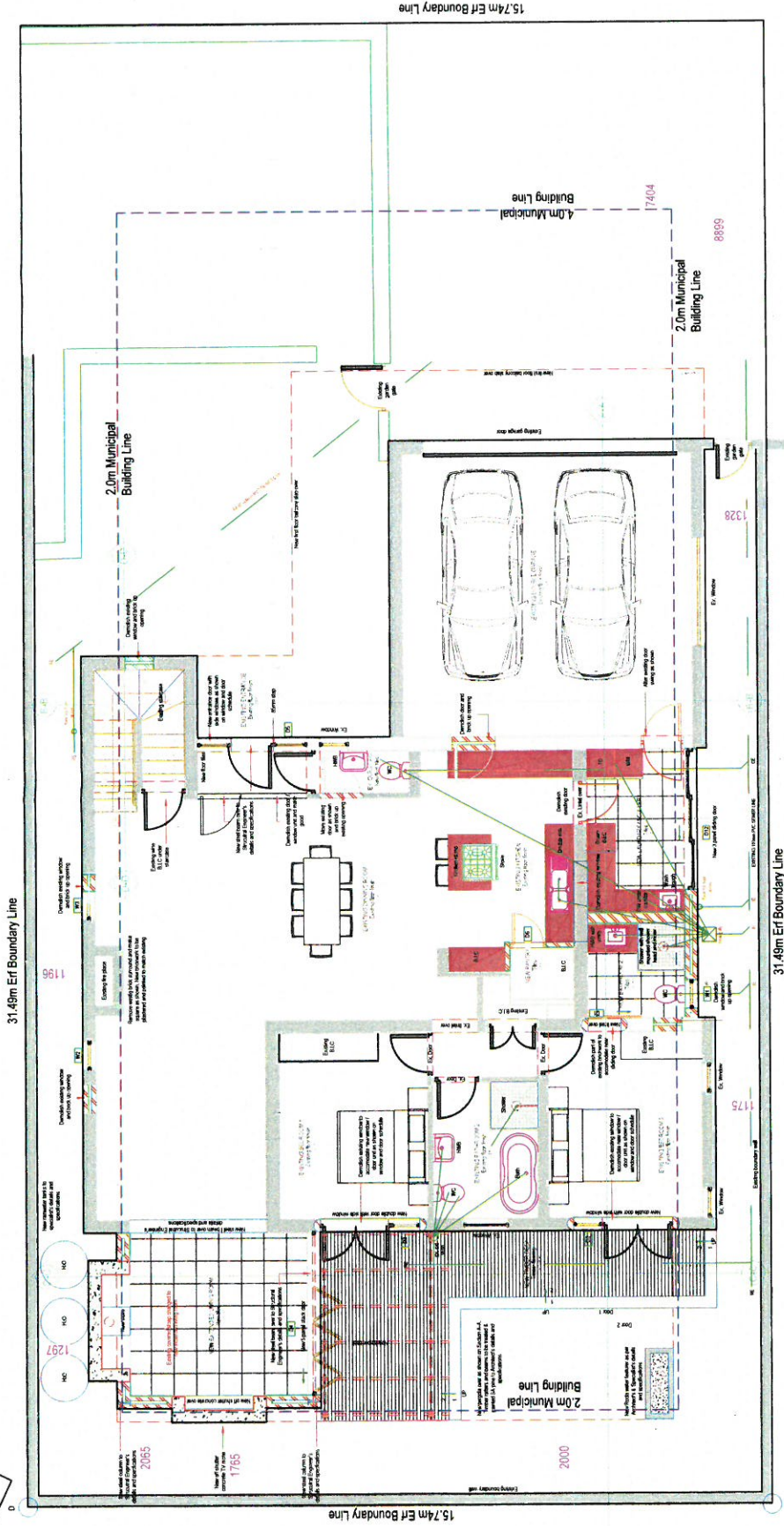
Based on the abovementioned motivation, it is recommended that the following be approved:

- 14.1 Departure** from the 2m western building line to 1,196m to accommodate the study in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 14.2 Departure** from the 2m western building line to 1,297m to accommodate the fire hearth in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 14.3 Departure** from the 2m eastern building line to 1,175m and departure of the southern building line from 2m to 1.765m to accommodate the new slab, timber deck and TV niche in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 14.4 Departure** from the 2m eastern building line to 1,328m to accommodate the new main bedroom in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 14.5 Departure** from the 2m eastern building line to 1,536m to accommodate the new en-suite bathroom in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 14.6 Departure** from the 2m eastern building line to 1,536m to accommodate the new bathroom on the ground floor and scullery/laundry in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 14.7 Departure** from the 2m eastern building line to 1,328m to accommodate the new first floor balcony in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and
- 14.8 Determination of an administrative penalty** in terms of Section 16(2)(q) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

File 21/19

Erf 9808 Hermanus
Amended November 2021

Scale 1 : 100



Plan 3.1: Ground Floor Plan Erf 9808 Hermanus

Tel: 028 313 1411
 Email: admin@wrapgroup.co.za
 Plan 3.1
 Unit B, Corner of Royal and Dirkie Uys
 Street Hermanus, 7200
 Based on plans by: LukeArchitect
 All distances are approximate
 and subject to a survey



Subject property	496m ²
Parameter	Compliance
Permissible coverage	50%
Proposed coverage	49,3%
Required parking	2
Proposed parking	2
Maximum height	8m
Proposed height	8m

