



**OVERSTRAND MUNISIPALITEIT**  
**ERF 419, FOURIESTRAAT 3, WESTCLIFF,**  
**HERMANUS: OVERSTRAND MUNISIPALE**  
**AREA: AANSOEK OM OPHEFFING VAN**  
**BEPERKENDE TITELAKTEVOORWAARDES.**  
**ONDERVERDELING EN AFWYKING: WRAP**  
**NAMENS LHB BARLOW & SL BARLOW**

Kennis gepaal hiermee ingevolge Artikels 47 en 48 van die Munisipaliteit Overstrand Munisipaliteit se wysigingsverbetering oor Munisipale Grondgebruikbeplanning, 2020 (Verordening), dat die volgende aansoeke, van toepassing op Erf 416, Hermanus, ontvang is:

- \* Opheffing van Beperkende Titelaktevoorwaardes uit titelakte T16293/2020 ingevolge Artikel 16(2)(f);
- \* Onderverdeling van Erf 419 Hermanus om Gedeelte A (543m<sup>2</sup>) en die Restant (573m<sup>2</sup>) ingevolge Artikel 16(2)(d) te skep;
- \* afwyking op gedeelte van die straatboulyn vanaf 4m na 3m te verslap om die voorgestelde motorhuis ingevolge Artikel 16(2)(b) te akkommodeer.
- \* afwyking op die gedeelte van die van die syboulyn vanaf 2m na 0.3m te verslap om die voorgestelde motorhuis te akkommodeer.
- \* afwyking op die gedeelte van die syboulyn vanaf 2m na 1.4m om die bestaande slaapkamers en voorgestelde onderdak patio te akkommodeer;
- \* afwyking op gedeelte A vanaf die 2m syboulyn na 1,55 om die bestaande slaapkamer en badkamer te akkommodeer;
- \* Afwyking op Gedeelte A vanaf die 2m agterste boulyn na 1,53m om die voorgestelde slaapkamer, toilet, bestaande kombuis en badkamer te akkommodeer.

Volledige besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende wekedae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik ingevolge die bepalings van Artikels 51 en 52 van die Verordening ingedien word en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) voor of op **24 September 2021** bereik, met u naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar. Telefoniese navrae kan gerig word aan **Mnr. H Boshoff** 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.

**Munisipale Kennisgewing Nr. 115/2021**

**OVERSTRAND MUNICIPALITY**  
**ERF 419, 3 FOURIE STREET, WESTCLIFF,**  
**OVERSTRAND MUNICIPAL AREA: APPLICATION**  
**FOR REMOVAL OF RESTRICTIVE TITLE**  
**CONDITIONS, SUBDIVISION AND DEPARTURE:**  
**WRAP ON BEHALF OF LHB BARLOW & SL**  
**BARLOW**

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), that the following applications, applicable to Erf 416, Hermanus, have been received:

- \* Removal of Restrictive Title Deed conditions from title deed T16293/2020 in terms of Section 16(2)(f);
- \* Subdivision of Erf 419 Hermanus to create Portion A (543m<sup>2</sup>) and the Remainder (573m<sup>2</sup>) in terms of Section 16(2)(d);
- \* departure on the remainder from the 4m street building line to 3m to accommodate the proposed garage in terms of Section 16(2)(b)
- \* departure on the remainder from the 2m side building line to 0.3m to accommodate the proposed garage.
- \* departure on the remainder from the 2m side building line to 1.4m to accommodate the existing bedrooms and proposed covered patio;
- \* departure on portion A from the 2m side building line to 1,55 to accommodate the existing bedroom and bathroom;
- \* departure on Portion A from the 2m rear building line to 1,53m to accommodate the proposed bedroom, toilet, existing kitchen and bathroom.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, 16 Paterson Street, Hermanus. Any comments on the proposal must be submitted in writing in accordance with the provisions of Sections 51 and 52 of the By-Law and reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) on or before **24 September 2021** quoting your name, address and contact details, interest in the application and reasons for comment. Telephonic enquiries can be made to **Mr. H Boshoff** 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.

**Municipal Notice No. 115/2021**

**UMASIPALA WASE-OVERSTRAND**  
**ISIZA 419, 3 FOURIE STREET, EWESTCLIFF,**  
**UMMANDLA WOMASIPALA WASE-**  
**OVERSTRAND ISICELO SOKUSUSWA**  
**KWEMIQATHANGO ENESITHINTELO**  
**KWITAYITILE, UKWAHLULWA KWESIZA KUNYE**  
**NOKUPHAMBUKA: WRAP EGAMENI LIKA LHB**  
**BARLOW & SL BARLOW**


Isaziso sikhutshwa ngokwemiqathango yeSoloty 47 kwaye 48 loMthethwana oTshintshweyo kaMasipala waseOverstrand woYilo loku Setyenziswa koMhlaba wowama-2020 (uMthethwana) ngokwezicelo ezilandelayo, ezichaphazela iSiza 419, eHermanus (lepropati) ezifunyanweyo, ezizezi:

- Ukususwa Kwemiqathango Enezithintelo Kwitayitile T16293/2020 ngokumayela neCandelo 16(2)(f);
- Isahlulo seSiza 419 eHermanus ukuze kwenziwe Isahlulo A (543m<sup>2</sup>) neNtsalela (573m<sup>2</sup>) ngokumayela neCandelo 16(2)(d);
- ukuphambuka kwentsalela yomgca wesakhiwo ukusuka ku-4m ngasesitratweni ukuya ku-3m ukuze kwakhiwe igaraji ecetywayo ngokumayela neCandelo 16(2)(b)
- ukuphambuka kwentsalela yomgca wesakhiwo ukusuka ku-2m kwicala lomgca wesakhiwo ukuya ku-0.3m ukuze kwakhiwe igaraji ecetywayo.
- ukuphambuka kwentsalela yomgca wesakhiwo ukusuka ku-2m kwicala lomgca wesakhiwo ukuya ku-1.4m ukwenzela amagumb okulala asele ekho kunye neveranda evalekileyo ecetywayo;
- ukuphambuka kwentsalela yomgca wesakhiwo ukusuka ku-2m kwicala lomgca wesakhiwo ukuya ku-4.55m ukwenzela igumbi lokulala nelokuhlamba esele likho;
- ukuphambuka kwiNxalenye A ukususela kwi-2m kwicala lomgca ongasesemva wesakhiwo ukuya ku-1.53 ukwenzela kwakhiwe igumbi lokulala, igumbi langasese, ikhitshi kunye negumbi lokuhlamba esele likho.

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ukuze zihlolewe ngeentsuku zomsebenzi phakathi kweyure-08:00 ne-16:30 kwiSebe: locwangciso lweDolophu, 16 Paterson Street, Hermanus. Naziphi na izimvo ezibhaliweyc mazingeniswe ngokwezibonelelo zamaCandelo 51 nelama-52 alo Mthethwana ziithunyelwe kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) ngomhla okanye ngaphambi komhla **wama—24 uSeptemba 2021** unike igama lakho, iditesi neenkukache zonxibelelwano nawe, umdla wakho kwesi sicelc nezizathu zokunika izimvo. Xa ufuna ukubuza intc malunga nesi saziso ungasiphoni Umyili weDolophu **Mnu H Boshoff** ku-028-313 8900. Umasipala angale ukuzamkela izimvo ezifike emva komhla wokuvala Nabani na ongakwaziyo ukufunda okanye ukubhala makaye kwiSebe loYilo lweDolophu apho igosa likamasipala liya kumncedisa azibhale izimvo zakhe.

**Isaziso sikaMasipala esingunombolo. 115/2021**

# Plan 1: Locality Plan Erf 419 Hermanus

 Subject property (1115m<sup>2</sup>)

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Plan 1.1

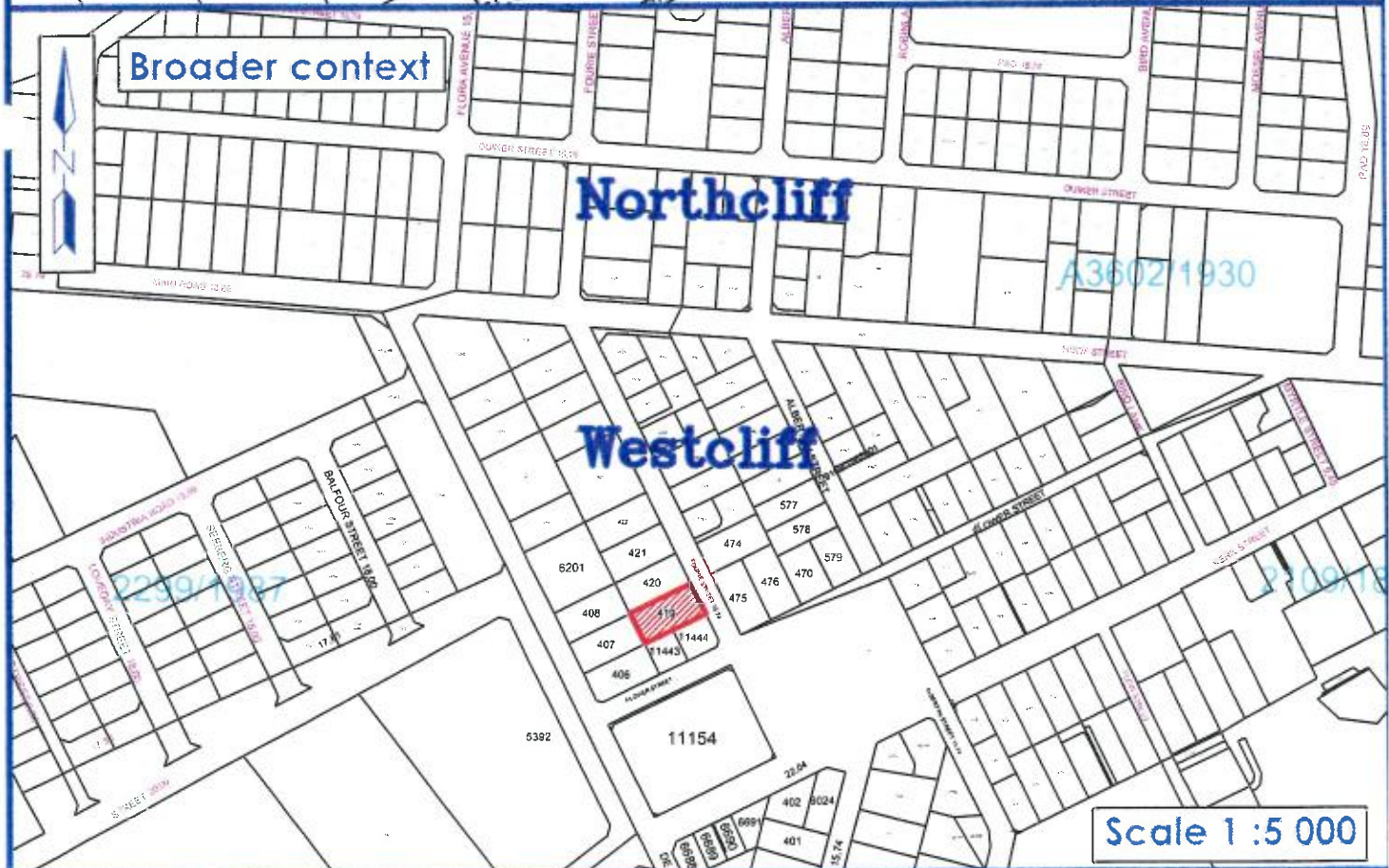
Unit B, Corner of Royal and Dirkie Uys Street Hermanus, 7200

Plan prepared by: Reatlehle Jankie

All distances are approximate and subject to a survey



**Project Office**  
Town Planning & Project Management





## EXECUTIVE SUMMARY

### 1. ABBREVIATIONS

1.1	<b>OMLUS</b>	Overstrand Municipality Land Use Scheme, 2020
1.2	<b>SDF</b>	Overstrand Municipality Spatial Development Framework, 2020
1.3	<b>OM</b>	Overstrand Municipality
1.4	<b>OM By-Law</b>	Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended
1.5	<b>OMGMS</b>	Overstrand Municipality Growth Management Strategy, 2010
1.6	<b>LUPA</b>	Land Use Planning Act, 2014
1.7	<b>DEADP</b>	Western Cape Department of Environmental Affairs and Development Planning
1.8	<b>PSDF</b>	Western Cape Provincial Spatial Development Framework, 2014
1.9	<b>SDP</b>	Site Development Plan
1.10	<b>SRI</b>	Single Residential Zone 1: Single Residential

### 2. SUMMARY OF STATUS QUO PROPERTY DETAILS

2.1	<b>Property description</b>	Erf 419 Hermanus
2.2	<b>Registered owner</b>	Lancelot Herbert Brereton Barlow and Sharyn Lesley Barlow
2.3	<b>Consultant</b>	WRAP
2.4	<b>Restrictive title deed conditions</b>	C(2), C(3) and C(4)
2.5	<b>Property extent</b>	1115m <sup>2</sup>
2.6	<b>Current zoning</b>	<b>Zoning:</b> Residential Zone 1: Single Residential  <b>Primary rights:</b> crèche, <b>dwelling house</b> , guest rooms, home occupation, <b>second dwelling unit</b> and self-catering.  <b>Consent uses that may be applied for:</b> day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and intensive horticulture.

### 3. BACKGROUND AND APPLICANTS' INTENT

- 3.1 The owners of the subject property (hereafter referred to as the applicant) envisage subdividing the subject property into two portions. The applicant currently reside on the proposed Portion A and would like to transfer the Remainder into the ownership of the daughter; and
- 3.2 After purchasing the subject property, the applicant suspected that some of the buildings may encroach over the building line and appointed a land surveyor to establish the actual location of the existing buildings in relation to the cadastral boundaries. It was discovered that the existing buildings encroach on the side and rear building lines and the necessary departures will therefore be applied for as a remedial measure.



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#### **4. PROCEDURE TO ACHIEVE THE DEVELOPERS INTENT**

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The following technical procedures are proposed for the owner to achieve the intent highlighted in Section 3 of this report:

##### **4.1 Removal of restrictive title deed conditions C(2), C(3) and C(4) from title deed T16293/2020 in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.**

The title deed conditions are proposed for removal as these prohibit the applicant's intent highlighted in Section 3 of this report. The title deed conditions were inserted in 1940 in response to the prevailing development trends and pressures at the time. The current development trends and the pressures that are exerted by the applicant in response to a material change in conditions necessitate the removal of the restrictive title deed conditions and will be discussed in detail in Section 7 of this report and can be summarised as follow:

##### **4.1.1 "C(2) That the above erf be not subdivided without the approval of the Administrator."**

The applicant envisages subdividing the subject property and is the rationale for the application for the removal of this title deed condition.

##### **4.1.2 "C(3) That not more than one dwelling be erected on the above erf and that not more than one half the area of the above erf be built upon."**

The proposed Portion A lends itself to have two dwelling units in future which conflicts with this restrictive title deed conditions and therefore necessitates the removal thereof.

##### **4.1.3 "C(4) That all buildings to be erected on this property shall stand back not less than 3,15 meters from the line of the street or avenue on which the lot may abut; such space may be used as gardens but shall not be built upon."**

The proposed garage is located 3m from the street building line and encroaches on the title deed building line and is the rationale for the removal thereof.

##### **4.2 Subdivision of Erf 419 Hermanus to create Portion (A 543m<sup>2</sup>) and the Remainder (572m<sup>2</sup>) in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.**

**4.2.1** The rationale for the proposed subdivision is to enable the applicant to transfer the Remainder into the ownership of their daughter;

**4.2.2** The proposed subdivision promotes contextually appropriate densification within Westcliff and is not projected to adversely alter the residential character of the subject site and the character of the residential area;

**4.2.3** Access to Portion A is proposed via a panhandle that connects to the existing street. The panhandle is proposed on a portion of the subject property that is currently used by the applicant to gain access to the back of the property and will therefore retain the general character of the site from an access perspective;

**4.2.4** The approval of this subdivision is not projected to encourage similar applications in Westcliff as most of the properties are located on the individual erven in such a manner



## EXECUTIVE SUMMARY

where the subdivision thereof would not be feasible. The subject property is therefore one of the few erven in Westcliff where the subdivision thereof is practical and possible hence the desire for the applicant to pursue this development proposal;

- 4.2.5 The proposed sizes of the erven (Portion A 543m<sup>2</sup> and Remainder 572m<sup>2</sup>) are of similar sizes to other erven in Westcliff and will therefore not significantly alter the urban form of the area; and
- 4.2.6 There is a historic subdivision approval on the neighbouring Erf 418 Hermanus which illustrates conformity with historic subdivision approvals.

**4.3 Departure on the Remainder from the 4m street building line to 3m to accommodate the proposed garage in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and**  
**Departure on the Remainder from the 2m side building line to 0,3m to accommodate the proposed garage in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.**

- 4.3.1 The rationale for the proposal for a garage over the 4m street building line and the 2m side building line is due to space where the panhandle is proposed to provide access to the Remainder being impractical for the establishment thereof as that would prohibit access;
- 4.3.2 No windows or doors are proposed in the part of the garage that encroaches on the 2m side building line as it would be unacceptable for doors and windows from the Remainder to be opened into Portion A;
- 4.3.3 The proposed garage over the side building line will not interfere with the ability of vehicles to enter and egress Portion A as the panhandle used for access is proposed to be 3,42m wide and wide enough for a car to enter and egress Portion A;
- 4.3.4 The area in front of the entrance to the subject property can also not practically be used for the construction of a garage as the space is used as an entrance to the subject building which the applicant wish to remain in the current form. The proposed garage complies with the definition of an outbuilding in the OMLUS and will therefore not be used for habitable purposes. An outbuilding is defined as:

*"outbuilding" means a structure, whether attached or separate from the main building, which is ancillary and subservient to the main building on a land unit and includes a building designed to be used for the garaging of motor vehicles, for storage purposes and any normal activities in so far as these are usually and reasonably required in the connection with the main dwelling as well as the accommodation of recreational activities such as a pool room, braai room, lapa and gazebo and the practising of hobbies (which may not cause a nuisance and/or disturbance and/or noise and/or damage to a neighbouring property or properties or premises); outbuildings are primary uses under each zoning except in open space zones where the Municipality may permit outbuildings should it be deemed necessary;"*

- 4.3.5 Section 16.1.2 of the OMLUS contains some principles that the OM can take into account before considering the approval of a building line departure from the street building line for the establishment of a garage or carport. The conformity of this building line departure application with the principles contained in Section 16.1.2 of the OMLUS will be illustrated in Table 1; and



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	Parameter	Proposal	Compliance or non-compliance
4.3.5.1	"The Municipality may permit the construction of a garage over a street building line if, in the Municipality's opinion, the garage cannot reasonably be sited at the prescribed distance due to the slope of the land unit or for other reasons provided."	<ul style="list-style-type: none"> <li>• The garage cannot be located towards the rear of the Remainder as that would result in the panhandle that provides access to Portion A having to be used and manoeuvring occurring into the Portion A and would be unacceptable from a traffic flow perspective; and</li> <li>• The Remainder is improved with a dwelling house and the applicant intends to rent out two rooms in the dwelling house for guest rooms purposes. Four on-site parking bays must be provided. The proposed garage is the only feasible location where this can be located for the subject property to comply with the on-site parking requirements and prescribed manoeuvring space.</li> </ul>	Comply
4.3.5.2	The height of such garage from the natural ground level to the top of the structure does not exceed 4,5 m.	The highest part of the roof of the proposed garage that is located over the building line is 3,8m and is lower than the maximum 4,5m.	Comply
4.3.5.3	The front elevation of the garage may not be closer than 5,0 m to the road kerb or surface.	The proposed garage will be 3m from the street boundary and the road kerb is located 2m from the street boundary line. The total distance from the road kerb to the proposed garage is 5m. This space is intended to be used for stacking purposes and complies with the minimum regulatory requirements.	Comply

**Table 1:** Street building line departure principles.

**4.3.6** The proposed departure from the building lines complies with the principles prescribed, which the OM should consider when making a decision that pertains to a departure.



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### **4.4 Departure on the Remainder from the 2m side building line to 1,4m to accommodate the existing bedrooms and proposed covered patio in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015, as amended.**

- 4.4.1** The building line departure is sought for the portion of the subject property that encroaches on the 2m side building line and comprises of 3 bedrooms and a proposed covered patio.
- 4.4.2** The approved building plans illustrate that the existing building is located 2,5m from the boundary line (refer to **Annexure C**). The contractor that was appointed to construct this building constructed it 1,4m from the side boundary line and therefore necessitates a departure. The motivation for this departure that is sought is as follow:
- 4.4.2.1** The subject property was registered in the deeds office in the name of the applicant in 2020. The applicant is therefore attempting to correct construction mistakes that were present before the property was bought;
- 4.4.2.2** The portion of the existing building that is located over the building lines measures 9,7m<sup>2</sup> which is minimal; and
- 4.4.2.3** The subject building existed at the current location for some time and the neighbours have become accustomed to the location of thereof in relation to the cadastral boundaries.
- 4.4.3** The location of the existing building 1,4 m from the boundary line is wide enough to enable firefighters to access the building on Portion A in cases of an emergency. The approval of this departure for the existing building is therefore not projected to hinder access in emergency situations.
- 4.4.4** The height of the existing boundary wall along Erf 418 Hermanus is 2,1m and the highest point of the window in the existing bedrooms that encroach on the side building line is 2,18m. This prevents the applicant from looking directly into the neighbouring property from the window thereby safeguarding their privacy that is currently enjoyed.
- 4.4.5** The portion of the patio that encroaches on the side building line measures 1,8m<sup>2</sup> and is minimal. The rationale for this proposed encroachment is to ensure that there is no step in the massing of the building as that would adversely alter the character of the building.

### **4.5 Departure on Portion A from the 2m side building line to 1,55m to accommodate the existing bedroom and bathroom in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.**

- 4.5.1** The building line departure is sought for the portion of the subject property that encroaches on the 2m side building line and comprises of a bedroom and a bathroom.
- 4.5.2** The approved building plans illustrate that the existing building is located 2,5m from the boundary line (refer to **Annexure C**). The contractor that was appointed to construct this building constructed it 1,55m from the side boundary line and therefore necessitates a departure. The motivation for this departure that is sought is as follows:
- 4.5.2.1** The construction of the existing building over the building line was done before the property was registered in the name of the applicant in 2020. The applicant is therefore attempting to remedy this;
- 4.5.2.2** The portion of the existing building that encroaches over the building line measures 3m<sup>2</sup> which is minimal. Most of the portion of the building that encroaches on the side building line is a wall that comprises 60% of the 3m<sup>2</sup>;

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**4.5.2.3** With the encroachments being there for some time, the neighbours have become accustomed to this; and

**4.5.2.4** The 1,55m distance from the boundary line is sufficient for firefighters to access the property in case of an emergency.

### **4.6 Departure on Portion A from the 2m rear building line to 1,53m to accommodate the proposed bedroom, toilet, existing kitchen and bathroom in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.**

**4.6.1** The approved building plans illustrate that the existing building is located 2,5m from the boundary line (refer to **Annexure C**). The contractor that was appointed to construct this building, constructed it 1,53m from the side boundary line and therefore necessitates a departure. The motivation for this departure that is sought is as follows:

**4.6.1.1** The construction of the existing building was done before the subject property was registered in the name of the applicant in 2020. The applicant is attempting to remedy these building line encroachments;

**4.6.1.2** The portion of the existing building that encroaches on the building line measures 3,3m<sup>2</sup> which is minimal. Most of the portion of the building that encroaches on the rear building line is a wall that comprises 70% of the 3,3m<sup>2</sup> size;

**4.6.1.3** The rationale for the proposed location of the bedroom and toilet being over the building line is to ensure that the proposed extension conforms to the existing shape of the dwelling unit to avoid a building that has a step. A building that has a step would adversely alter the character of the existing building due to the non-conformity thereof with the existing building massing; and

**4.6.1.4** The portion of the proposed building that encroaches on the rear building line measures 1,8m<sup>2</sup> which is minimal. Most of the portion of the building that encroaches on the rear building line is a wall that comprises 77% of the 1,8m size.

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

**4.7.1** The existing dwelling unit which has already been constructed, encroaches on the side and rear building lines as mentioned above. 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 into this application.

**4.7.2** The applicant would like to request Overstrand Municipality to waive the administrative penalty as this application serves as method to rectify the encroachment that had occurred when the dwelling unit was constructed.

**4.7.3** There was no mal intent when the encroachment occurred, it was not done deliberately, as mentioned above this application serves as reference to rectify the wrongdoing.



### 5. APPLICATION

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Considering the motivation, the following is applied for:

- 5.1 Removal of restrictive title deed conditions** C(2), C(3) and C(4) from title deed T1 6293/2020 in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.2 Subdivision** of Erf 419 Hermanus to create Portion A (543m<sup>2</sup>) and the Remainder (572m<sup>2</sup>) in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.3 Departure** on the Remainder from the 4m street building line to 3m to accommodate the proposed garage in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.4 Departure** on the Remainder from the 2m side building line to 0,3m to accommodate the proposed garage in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.5 Departure** on the Remainder from the 2m side building line to 1,4m to accommodate the existing bedrooms and proposed covered patio in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.6 Departure** on Portion A from the 2m side building line to 1,55m to accommodate the existing bedroom and bathroom in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 5.7 Departure** on Portion A from the 2m rear building line to 1,53m to accommodate the proposed bedroom, toilet, existing kitchen and bathroom 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. URBAN FORM/FABRIC

6.1 The compatibility of this proposal in the immediately adjacent urban form/fabric will herewith be illustrated.

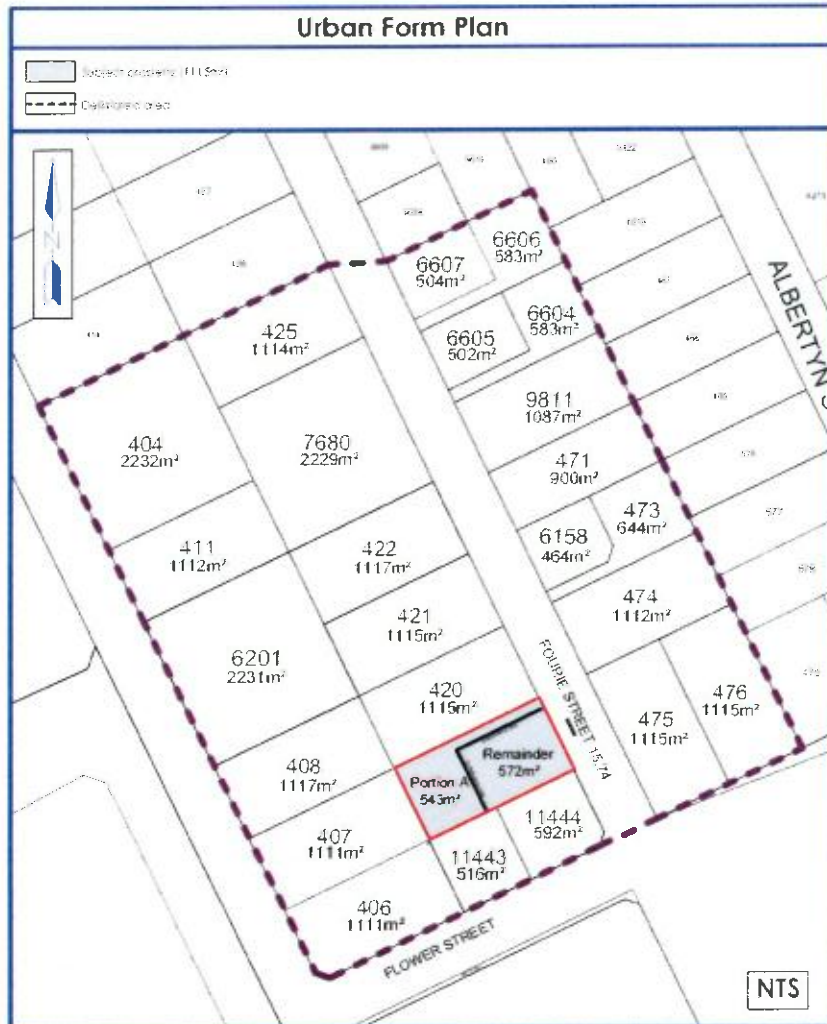


Figure 1: illustrates that the urban form and erf sizes of the properties within the immediate surrounding of the subject property.

An evaluation of the urban form of the delineated area reveals that the subject property is located in an area that has a variation of erf sizes which range from 464m<sup>2</sup> to 2231m<sup>2</sup>. The proposed subdivision of the subject property to create (Portion A 543m<sup>2</sup>) and (Remainder 572m<sup>2</sup>) is within the erf size variation of the immediate surrounding and can therefore be regarded as compatible.



**Figure 2:** illustrates the land use fabric of the properties within the immediate surrounding of the subject property.

The approval and implementation of the proposed removal of restrictive title deed conditions, subdivision and building line departures will not alter the residential character of the surroundings and can therefore be regarded as compatible from this perspective. There are also 3 existing panhandle subdivisions in the delineated area.

## 7. TITLE DEED

Title deed T16293/2020 was perused, and the following restrictive title deed conditions are proposed for removal which prohibits the land use rights which are sought in this application.

### 7.1 Title deed restriction

C(2) "That the above erf be not subdivided without the approval of the Administrator."



## MOTIVATION

<p><b><u>Motivation</u></b></p> <p><b>The rationale for the proposed removal</b></p> <p>This proposal entails the subdivision of the subject property to create Portion A and the Remainder. This can only be achieved with the removal of this restrictive title deed condition.</p> <p><b>Background</b></p> <p>This restrictive title deed condition was inserted in 1940 in an era when the prevailing form of suburban development was low-density development characterised by large erven.</p> <p><b>Status quo</b></p> <p>The population growth experienced in the Overstrand which was not foreseen when this restrictive title deed was inserted has placed pressure on the outward growth and urban sprawl of settlements. To reduce the pressure, modern spatial planning policies promote densification due to the broader societal benefits which can be accrued from it. The proposed subdivision is a mechanism that the property owner wishes to use to respond to the densification pressures which are experienced in the Overstrand.</p>
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<p><b>7.2</b> <b><u>Title deed restriction</u></b></p> <p><i>C(3) That not more than one dwelling be erected on the above erf and that not more than one half the area of the above erf be built upon.</i></p>
<p><b><u>Motivation</u></b></p> <p><b>The rationale for the proposed removal</b></p> <p>The rationale for the removal of this restrictive title deed condition is due to the proposal for two dwelling units on Portion A as the property lends itself more to that.</p> <p><b>Background</b></p> <p>The restrictive title deed condition which allows one dwelling only was inserted in 1940 in an era when low-density development which entailed a single dwelling on each plot was the prevailing model of urban development at the time.</p> <p><b>Status quo</b></p> <p>This restrictive title deed condition was inserted to limit the number of dwellings that are permitted on erven to one to harmonise development with intentions of low density which promoted urban sprawl. Low-density development and urban sprawl have been subject to widespread criticism in the planning fraternity as it causes environmental degradation, increases travel time/costs, pollution etc. The rationale for the removal of this restrictive title deed condition is for Portion A to be allowed to have a second dwelling unit. This would combat some of the adverse consequences associated with urban sprawl.</p>

<p><b>7.3</b> <b><u>Title deed restriction</u></b></p> <p><i>C(4) That all buildings to be erected on this property shall stand back not less than 3,15 meters from the line of the street or avenue on which the lot may abut; such space may be used as gardens but shall not be built upon.</i></p>
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<p><b>Motivation</b></p> <p><b>The rationale for the proposed removal</b></p> <p>The proposed garage is located 3m from the street boundary and will contravene this title deed restriction.</p> <p><b>Background</b></p> <p>This restrictive title deed condition was inserted in 1940 when building lines created a peculiar suburban built fabric.</p> <p><b>Status quo</b></p> <p>The current development trend in Westcliff entails garages being located approximately 3m or even closer to the street boundary line so that vehicular access thereto can be on the shortest distance possible. This trend is to ensure that more land on individual erven is developable and is necessary considering the densification pressures present in the neighbourhood.</p>
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**8. AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE CONDITIONS**

The compliance of this proposal was assessed in conjunction with considerations for the removal of restrictive title deed conditions which is a relevant consideration in terms of Section 35(4) of the By-Law.

**8.1 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.**

It is unlikely that the existing restrictive title deed conditions add any value to the owners of Westcliff for the following reasons;

- 8.1.1** Title deed condition C(2) was inserted to ensure that subdivisions do not adversely alter that character of the neighbourhood which would have an impact on the built form of the area. There are historic approvals for subdivisions on the neighbouring Remainder of Erf 418 Hermanus and other properties along Fourie Street. These subdivisions and consequent construction of dwellings on the subdivided portions have not adversely altered the urban and built form of the area. The removal of this restrictive title deed condition is therefore not projected to lead to the reduction of the property value of the subject property and that of neighbours considering the consistency of this proposal with the surrounding.
- 8.1.2** Title deed condition C(3) was intended to prevent Westcliff from having second dwelling units as that was seen to have the potential of altering the single residential look and feel which the neighbourhood has. The existing dwelling located on Portion A is located towards the rear of the building on the Remainder and is smaller than the dwelling on the Remainder and is not visible from the street, thereby retaining the single residential character of the subject property. The approval of the subdivision will therefore not alter the single residential look and feel of the subject property from the street which makes this condition superfluous and unlikely to lead to the reduction of property values in Westcliff.
- 8.1.3** Title deed condition C.(2)(d) was inserted to have minimum space distances from street boundaries to have a peculiar suburban look and feel. That look and feel have



## MOTIVATION

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already been undermined by the location of several buildings that are closer than 3,15m to the street boundary line. The removal of the title deed condition to permit the proposed garage 3m from the street boundary is not in conflict with the historic trends in terms of the location of buildings close to the street boundary.

### **8.2 The personal benefits which accrue to the holder of rights in terms of the restrictive condition.**

The primary land use rights in the SR1 zoning protect the residential character of Westcliff and current development trends maintain the historic urban fabric of the area. Considering this no personal benefit would be lost to the holders of the rights in Westcliff if the title deed restrictions are removed.

### **8.3 The personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed.**

The applicant will be able to subdivide the subject property, make additional renovations and transfer the Remainder to the daughter.

### **8.4 The social benefit of the restrictive condition remaining in place in its existing form.**

There are no social benefits that will accrue from retaining the restrictive title deed conditions. If the title deed conditions are not removed, an opportunity for the property owner to subdivide the property, make necessary renovations and improvements to the property would be lost. This would invariably hamstring the ability of the owner from being one of the catalysers who actively seek to contribute towards the continual improvement of a home which is a hallmark of good neighbourhood transformation.

### **8.5 The social benefit of the removal or amendment of the restrictive condition.**

The removal of the restrictive title deed conditions will have social benefits as it will enable surrounding property owners to draw inspiration from the improvements which would be brought about on the subject property and encourage renovations on respective properties. The removal of the restrictive title deed conditions should however not be seen as automatically having the potential to encourage all other property owners in Westcliff to subdivide respective properties as the location of most dwellings are of such a nature that further subdivision on most erven is impractical.

### **8.6 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.**

The removal of the restrictive title deed conditions will not completely remove the residential rights enjoyed by surrounding property owners as the SR1 zoning regulates the permissible residential land uses, permissible envelope which makes the retention of the title deed conditions superfluous.

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## **9. ZONING**

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This proposal was assessed in conjunction with the SR1 zoning as this is a relevant consideration in terms of Section 66 (1) (q) of the OM By-Law.



## MOTIVATION

Portion A				
Residential Zone 1: Single Residential				
		Parameters	Proposal	Deviate or comply
9.1	(a) Primary use	crèche, <b>dwelling house</b> , guest rooms, home occupation, second dwelling unit and self-catering.	Dwelling house	Comply
9.2	(b) 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	Comply
Development rules				
9.3	Coverage	50%	24,8%	Comply
9.4	Street building line	4m	N/A	N/A
9.5	Side building line	2m	<ul style="list-style-type: none"> <li>• <b>Departure</b> from the 2m side building line to 1,55m to accommodate the existing bedroom and bathroom; and</li> <li>• <b>Departure</b> from the 2m rear building line to 1,53m to accommodate the proposed bedroom, toilet, existing kitchen and bathroom.</li> </ul>	Departure motivated
9.6	Height	8m	4,55m	Comply
9.7	Parking	Dwelling house Two on-site parking bays per dwelling unit.	2 parking bays provided	Comply
Remainder				
Residential Zone 1: Single Residential				
		Parameters	Proposal	Deviate or comply
9.8	(a) Primary use	crèche, <b>dwelling house</b> , <b>guest rooms</b> , home occupation, second dwelling unit and self-catering.	Dwelling house	Comply



## MOTIVATION

9.9	<b>(b) Consent use (which may be applied for)</b>	day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and intensive horticulture	N/A	Comply
<b>Development rules</b>				
9.10	<b>Coverage</b>	50%	44,7%	Comply
9.11	<b>Street building line</b>	4m	<b>Departure</b> from the 4m street building line to 3m to accommodate the proposed garage;	Departure motivated
9.12	<b>Side building line</b>	2m	<b>Departure</b> from the 2m side building line to 1,4m to accommodate the existing bedrooms and proposed covered patio; and <b>Departure</b> from the 2m side building line to 0,3m to accommodate the proposed garage;	Departure motivated
9.13	<b>Height</b>	8m	5,28m	Comply
9.14	<b>Parking</b>	Dwelling house Two on-site parking bays 2 Guest rooms Two on-site parking bays	A double garage and 2 on-site parking bays are provided.	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.

## 10. SERVICES

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

### 10.1 Solid waste

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

### 10.2 Electricity

The approval and implementation of this proposal would entail the buildings on Portion A and the Remainder having separate electricity connections and billed separately.



## MOTIVATION

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### 10.3 Water

The approval and implementation of this proposal would entail the buildings on Portion A and the Remainder having separate water connections and billed separately.

### 10.4 Sewage

The approval and implementation of this proposal would entail the buildings on Portion A and the Remainder having separate sewage connection points and billed separately.

### 10.5 Access and egress

Access to the subject property is gained from Fourie Street and the approval and implementation of this proposal will retain this. The approval of the subdivision would entail the creation of an additional access point on the subject property and is not projected to cause traffic-related problems.

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## 11. SPLUMA MOTIVATION REQUIREMENTS

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The following are relevant requirements in terms of Section 42 (c) of SPLUMA and are motivated as follows:

### 11.1 Public interest

**11.1.1** The approval and implementation of this proposal would encourage the property owner to make additional renovations and improvements to the subject property which will further enhance the architectural integrity of the subject site and is in the public interest.

**11.1.2** The proposed expansion of the existing dwelling on Portion A and the Remainder will also increase the rateable value of the property which will increase rates collected by the OM and will be used for service delivery and can be regarded as being in the public interest.

### 11.2 Opportunity costs

Opportunity cost in the context of land use planning refers to the devaluation or foregoing a valued land use right of interested and affected parties when an application is approved and implemented. This proposal is in harmony with similar proposals that have been approved in Westcliff and is in harmony with how the character and density of the neighbourhood changed over time and is therefore not projected to unlock any opportunity costs.

### 11.3 Respective rights and obligations of all those affected

This proposal entails retaining the residential land uses on the subject property and will not unlock commercial or industrial land uses that could be a nuisance to surrounding property owners. This will ensure that surrounding property owners do not occupy respective properties in discomfort.

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## 12. POLICY FRAMEWORK

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**12.1** The compliance of this proposal with the applicable spatial development policies was assessed. These policies are instrumental in guiding spatial development and providing



## MOTIVATION

prescripts of what constitutes sound town planning development patterns. The compliance of this proposal in conjunction with provincial and local policies which are key development informants will be illustrated.

	<b>Applicable policy</b>	<b>Administrative authority</b>
<b>12.1.1</b>	Western Cape Provincial Spatial Development Framework, 2014 (PSDF)	Provincial
<b>12.1.2</b>	Overstrand Municipality Spatial Development Framework, 2020 (SDF)	Municipal
<b>12.1.3</b>	Overstrand Municipal Growth Management Strategy, 2010 (OMGMS)	Municipal

### 12.2 PSDF

#### 12.2.1 **Policy preface**

The PSDF is a product of a provincial inter departmental and inter-governmental collaboration under the guidance of the interdepartmental steering committee with the private sector, academia, and non-governmental organisations. This broad participatory process has created a shared spatial vision that is intended to inform spatial development patterns of urban areas in the province.

#### 12.2.2 **Broad policy objectives**

The objective of the policy is to promote liveable settlements with quality infrastructure and high architectural integrity. The development principles in the PSDF are informed by other spatial planning policies which are aimed at creating a policy alignment between different spheres of government. The intent is to ensure that spatial development is uniformly guided according to spatial development principles which have been agreed upon by the relevant stakeholders.

#### 12.2.3 **Consistency of the proposal with the policy**

**12.2.3.1** The PSDF proposes that the average density of 12 dwelling units a hectare be increased to 25 dwelling units a hectare. The existing density on the subject property is 17,9 dwelling units a hectare. The approval and implementation of this proposal would permit the proposed second dwelling unit on Portion A. This will increase the density on the subject property to 26,9 dwelling units a hectare and is aligned with the targeted density of 25 dwelling units a hectare;

**12.2.3.2** The policy promotes a transition of the urban fabric from low-density sprawl to increased densities in appropriate locations. The proposed subdivision is a form of densification which has the potential to contribute towards reducing pressure on urban sprawl due to the potential of the site in terms of unlocking the proposed second dwelling unit on the Remainder; and

**12.2.3.3** The PSDF cites that the benefits of densification include the reduction in overall energy use, lower costs as travel distances are shorter and enable inclusivity and diversity through the availability of additional residential units which are unlocked. The proposed subdivision should therefore be

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Erf 419 Hermanus

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assessed in conjunction with the broader positive societal impacts that are associated with densification.

### 12.3 SDF

#### 12.3.1 Policy preface

The SDF intends to ensure compliance with national, provincial and district legislation policies and principles. The SDF aims to provide sufficient guidance regarding what constitutes appropriate spatial development, land uses and direction within the urban edge. The SDF was drafted after considering input from other state departments and the public and provides a shared spatial vision which development proposals should ideally attempt to synchronise with.

#### 12.3.2 Broad policy objectives

The broad policy objectives of the SDF include enhancing the image of the Overstrand as a liveable urban and rural area that accommodates a variety of life. Development proposals should also capitalise on the unique sense of place which settlements and urban areas in the Overstrand are renowned for. The SDF promotes developments that enhance the visual quality and attraction of the built environments while preserving the social and cultural attributes which are valued by inhabitants.

#### 12.3.3 Consistency of the proposal with the policy

**12.3.3.1** The SDF cites that the unique character of Hermanus needs to be retained. The approval of the subdivision will not alter the character of the subject site as the dwelling on the proposed Remainder blocks the view of the dwelling on Portion A. The position of the dwellings therefore maintains the single residential look from the street. The location of the proposed panhandle is currently used to access Portion A. The approval of this proposal will therefore not alter the status quo in terms of access and can be regarded as maintaining the unique character of the subject site;

**12.3.3.2** The SDF cites that all new developments should occur within the well-defined urban edge. The proposed removal of restrictive title deed conditions, subdivision and building line departures are intended to optimise the use of the subject property within the urban edge. The unlocking of a possible additional dwelling unit as proposed on Portion A, should therefore be evaluated in conjunction with the contribution which the subject property makes towards potentially relieving the pressures for the expansion of the urban edge;

**12.3.3.3** The policy cites that densification in Hermanus is advocated as a spatial planning mechanism. The proposed removal of restrictive title deed conditions and subdivision constitutes densification as prescribed by the SDF; and

**12.3.3.4** The subject property is designated as an urban development area which is the same designation that is conferred on all other residential properties in Hermanus. The removal of restrictive title deed condition, subdivision and building line departures will retain the SR1 zoning of the subject property and conform to the land use designation pertinent to the subject property.



**12.4 OMGMS**

**12.4.1 Policy preface**

The policy was created to manage the urban growth of the OM where densification would play a pivotal role in the effective implementation of infrastructure and community facilities provision. The policy carefully considered market cycles, municipal budgeting and capital spending. Although the OMGMS was repealed, the document is currently a policy of Council and is in the process of being reviewed and this development proposal will be evaluated in conjunction with the development proposals that are pertinent to the subject property.

**12.4.2 Broad policy objectives**

The policy acknowledges that low densities are expensive and inefficient and that certain economic activities can only be attained once densities reach a certain threshold. The overall rationale for the document is to create an enabling environment for residents in the OM to attain an enhanced quality of life.

**12.4.3 Consistency of the proposal with the policy**

**12.4.3.1** The policy cites that densification can be achieved through instruments such as subdivision and second dwelling units (dual occupancy). The proposed subdivision and establishment of a second dwelling unit on Portion A, is aligned with the policy prescripts of the OMGMS.

**12.4.3.2** The subject property is designated for residential purposes and the proposed removal of restrictive title deed conditions, subdivision and building line departures are in harmony with this prescript;

**12.4.3.3** The subject property is located in Planning Unit 11. The existing density of the Planning unit is 8,7 dwelling units per hectare and the average density is proposed to be 31,1 dwelling units per hectare. The density on the subject property is currently 17,9 dwelling units a hectare as there are two dwelling units on the property. The proposed subdivision that entails the establishment of a possible second dwelling unit on Portion A, would increase the density on the subject property to 26,9 dwelling units a hectare. This is still below the average density prescribed in planning unit 11 of 31,1 dwelling units a hectare. Considering that the establishment of more than 2 dwelling units on a property zoned SR1 is prohibited, a subdivision is the only mechanism that can be applied to increase the density on the subject property to be closer to the average density envisaged in the planning unit 11;

**12.4.3.4** The OMGMS cites that if the densification prescripts of the policy are followed by property owners, an additional 258 dwelling units can potentially be unlocked. The subject property currently has 2 dwelling units and the applicant seeks to unlock an additional dwelling unit on the proposed Portion A. This one additional dwelling unit is therefore evaluated in conjunction with the prescript of the policy that 258 additional dwelling units should be unlocked in the planning unit;

**12.4.3.5** The policy highlights that densification should occur in a manner that is sensitive to the scale and architectural character of the immediately adjacent areas. As stated earlier, the approval of the proposed removal of



## MOTIVATION

restrictive title deed conditions, subdivision and building line departure will have no additional impact on how the property looks from the street as the dwelling on Portion A with the proposed associated expansions is not visible from the street. The subdivision sought can therefore be regarded as being in harmony with the scale and architectural character of immediate adjacent areas; and

- 12.4.3.6** The development of attractive and safe environments is promoted by the SDF. The SDP (refer to **Plan 6**) indicates that the property owner envisages doing some renovations on the property which entail increasing the visual attractiveness of the subject property which is projected to visually benefit surrounding property owners.

**NB:** It has been illustrated that the proposed removal of restrictive title deed conditions, subdivision and building line departures have not been arbitrarily invented but were informed and guided by relevant policy prescripts of the OM.

## 13. PLANNING PRINCIPLES

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

### 13.1 Spatial Justice

**13.1.1** Spatial justice in the context of land use planning refers to addressing spatial development imbalances caused by apartheid planning. The proposed renovations and expansion of the dwelling on Portion A and Remainder will entail some construction which will be a labour-intensive process that will primarily entail the employment of the historically economically marginalised people. The income that will be earned by the employees will be used to enable access to housing, services and land which is a hallmark of spatial justice. The approval and implementation of this proposal is particularly needed in the face of economic hardships which employees in the construction industry faced due to the Covid 19 regulations; and

**13.1.2** Low-density suburban sprawl was another characteristic of apartheid planning and the negative consequences of this type of development include traffic congestion, land consumptions pollution and high infrastructure maintenance costs incurred by Municipalities. Westcliff is one of the settlements which were established on the principles of urban sprawl. The proposed removal of restrictive title deed conditions and subdivision is intended to slightly densify the subject property with the intent of contributing towards lessening the negative consequences of suburban spawl which is a hallmark of spatial justice.

### 13.2 Spatial Sustainability

Spatial sustainability refers to development proposals that enable the creation of viable communities. This proposal generally entails the slight densification of the subject property. The benefits associated with densification result in the creation of communities that provide more dwelling diversity and abundance and caters to a wider spectrum of people in terms of affordability/choice and contributes towards the creation of viable communities and is a hallmark of spatial sustainability.



### 13.3 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. The proposal for the removal of restrictive title deed conditions, subdivision and building line departures entails the optimal use of the subject property within the engineering and services capacities of the site which are hallmarks of efficiency.

### 13.4 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 resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner. This proposal is aligned with the spatial resilience principles contained in the PSDF, SDF and OMGMS.

### 13.5 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. The OM has an excellent and credible history of upholding the principles of good administration.

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## 14. NEED AND DESIRABILITY

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The need and desirability for the approval and implementation of this proposal will be illustrated in accordance with Section 66 (1) (c) of the OM By-Law and DEADP Provincial Support Document on Relevant Considerations.

### 14.1 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 the proposed type of land use/activity? The removal of the restrictive title deed conditions is proposed at the right time as that would enable the property owner to exercise the primary rights which are conferred by the SR1 zoning and enable the property owner to flexibly respond to prevailing urban development pressures. The subdivision is proposed at the right place as that enables the property owner to attain a higher density at an appropriate location while retaining the urban form of the area.

### 14.2 Impact on views, sunlight and character of the area

The removal of the restrictive title deed conditions, subdivision and building line departures will not unlock development rights which could result in a visually imposing building as the SR1 zoning is proposed to be retained. This will ensure that the character of the site is retained in the current format and that the views and sunlight enjoyed by surrounding property owners are not adversely impacted.

### 14.3 Economic impact

The approval of this proposal will enable the property owner to do renovations and an expansion to the buildings on Portion A and the Remainder. This will contribute towards employment creation which is a positive economic impact.



### **14.4 Impact on safety and wellbeing**

**14.4.1** The proposed expansion of the dwelling on Portion A will enable a larger family to reside on the premises if deemed necessary;

**14.4.2** The proposed second dwelling unit on Portion A will enable a second family to reside on the subject property; and

**14.4.3** The approval and implementation of this proposal therefore has the potential to increase the number of people that will reside on the subject property who will be additional surveillance into the street and the neighbourhood. This will therefore contribute towards increasing the safety and wellbeing of residents in the area.

### **14.5 Environmental considerations**

The subject property is not environmentally sensitive and no negative environmental consequences will be accrued with the approval and implementation of this proposal.



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### 15. EVALUATION

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- 15.1** This motivation report has illustrated that the rationale for this proposal is for the applicant to transfer the Remainder into the ownership of the daughter; and
- 15.2** It has also been illustrated that this proposal was carefully crafted and aligned with relevant planning policies, statutory legal requirements contained in SPLUMA and general principles of what constitutes desirability. The approval and implementation of the proposal can therefore be regarded as contextually appropriate.

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### 16. RECOMMENDATION

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It is recommended that the following is approved:

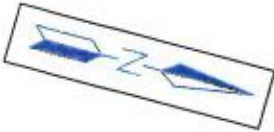
- 16.1 Removal of restrictive title deed conditions** C(2), C(3) and C(4) from title deed T16293/2020 in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 16.2 Subdivision** of Erf 419 Hermanus to create Portion A (543m<sup>2</sup>) and the Remainder (572m<sup>2</sup>) in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 16.3 Departure** on the Remainder from the 4m street building line to 3m to accommodate the proposed garage in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 16.4 Departure** on the Remainder from the 2m side building line to 0,3m to accommodate the proposed garage in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 16.5 Departure** on the Remainder from the 2m side building line to 1,4m to accommodate the existing bedrooms and proposed covered patio in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 16.6 Departure** on Portion A from the 2m side building line to 1,55m to accommodate the existing bedroom and bathroom in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 16.7 Departure** on Portion A from the 2m rear building line to 1,53m to accommodate the proposed bedroom, toilet, existing kitchen and bathroom in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and
- 16.8 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.

# Amended Plan 6: Site Development Plan Erf 419 Hermanus

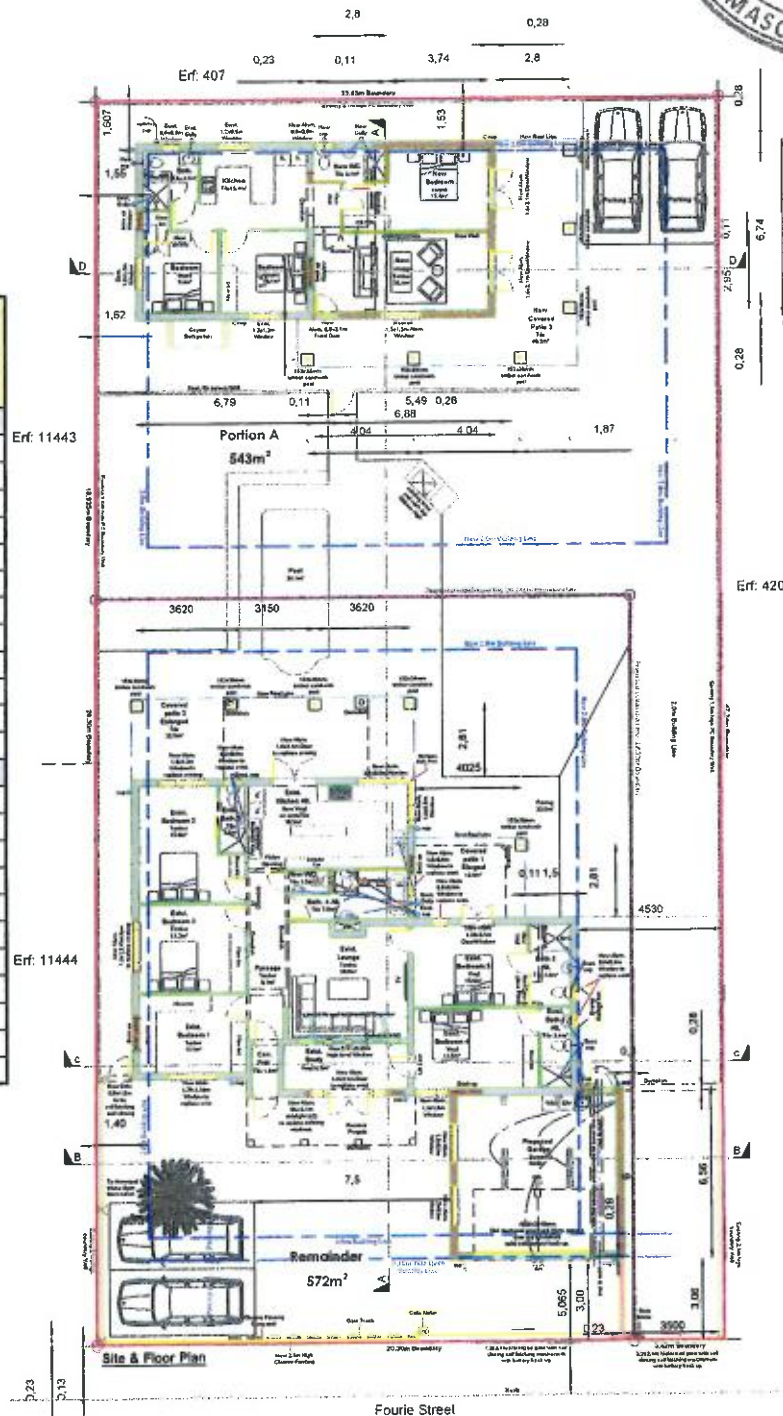
Tel: 028 313 1411  
 Email: admin@wrapgroup.co.za  
 Plan 6.1  
 Unit B, Standard House Corner of Royal and  
 Dirkie Uys Street Hermanus, 7200  
 Based on plans by:  
 Engelbrecht & Scorgie Architectural Office  
 Plan prepared by: Reathenle Jankie &  
 amended by: Thian Jansen  
 All distances are approximate  
 and subject to a survey



**Project Office**  
 Town Planning & Project Management



Development Parameters Calculations	
Portion 'A' Site area:	543m <sup>2</sup>
Existing Building	53.9m <sup>2</sup>
Geyser Storage Box	2.4m <sup>2</sup>
Proposed Addition	38.2m <sup>2</sup>
Proposed Patio Cover	40.2m <sup>2</sup>
<b>Total covered floor area:</b>	<b>134.7m<sup>2</sup></b>
<b>Total coverage:</b>	<b>134.7m<sup>2</sup> = 24.8%</b>
Required parking:	2 bays
Proposed parking:	2 bays
Remainder Portion Site area:	572m <sup>2</sup>
Existing Building	168.2m <sup>2</sup>
Geyser Storage Box	1.3m <sup>2</sup>
Proposed Garage Addition	41.7m <sup>2</sup>
Proposed Patio Cover 1	12.8m <sup>2</sup>
Proposed Patio Cover 1	32.9m <sup>2</sup>
<b>Total covered floor area:</b>	<b>256.9m<sup>2</sup></b>
<b>Total coverage:</b>	<b>256.9m<sup>2</sup> = 44.7%</b>
Required parking:	2 bays
Proposed parking:	4 bays



**Scale 1:200**

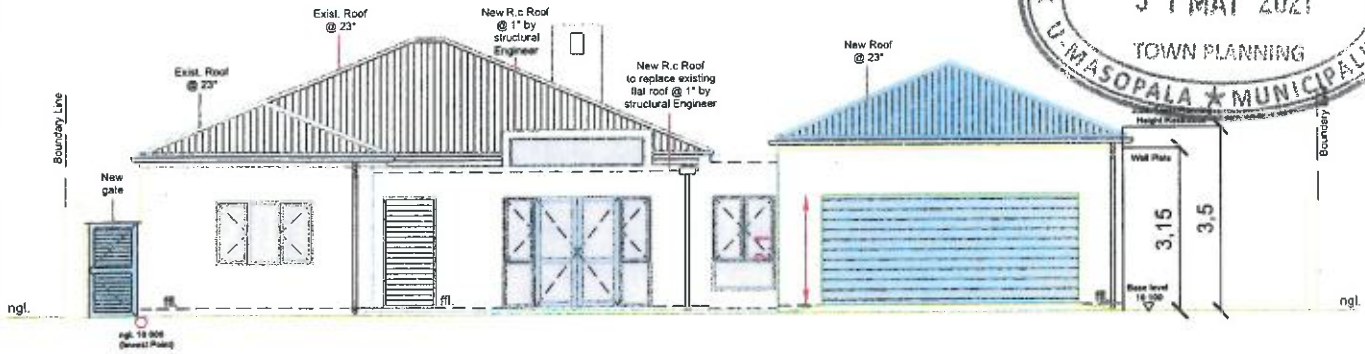
# Amended Plan 8.1: Elevations and Sections of the Remainder Plan Erf 419 Hermanus

Tel: 028 313 1411  
 Email: admin@wrapgroup.co.za  
 Plan 8.1  
 Unit 8, Standard House Corner of Royal and  
 Dirkie Uys Street Hermanus, 7200  
 Based on plans by:  
 Engelbrecht & Scorgie Architectural Office  
 Plan prepared by: Keatlehe Jankie  
 & amended by: Thian Jansen  
 All distances are approximate  
 and subject to a survey



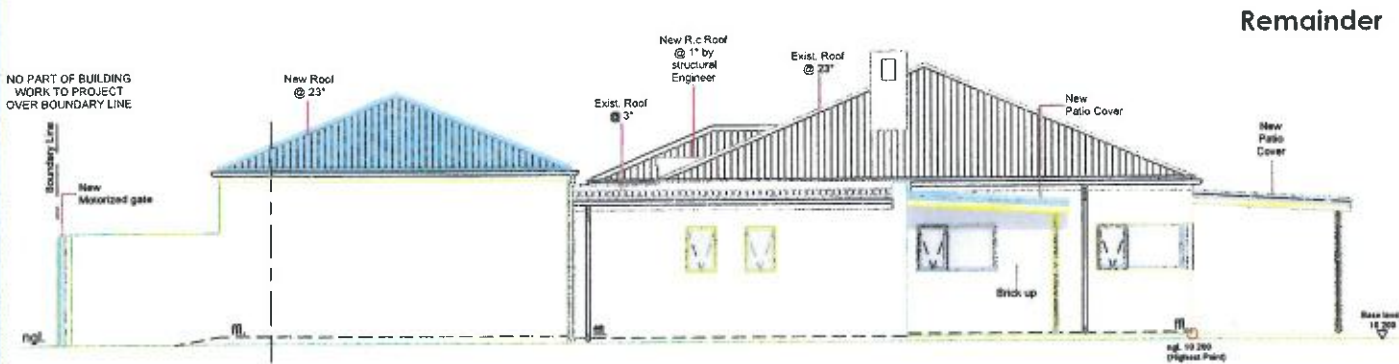
**Project Office**  
 Town Planning & Project Management

8.0m Height Restriction (18 100)



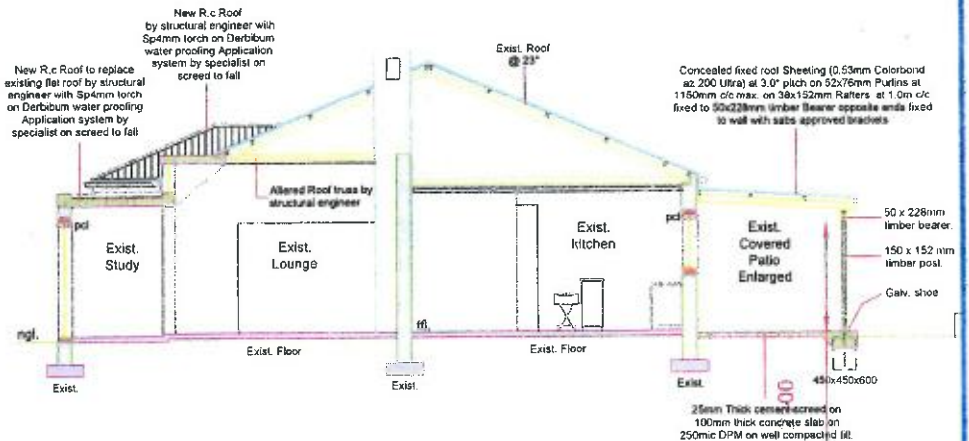
**East Elevation**

8.0m Height Restriction (18 100)



**Remainder**

**North Elevation**



**Scale 1 : 100**

**Section A-A**

# Plan 7: Roof Plan Erf 419 Hermanus

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Plan 7.1

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

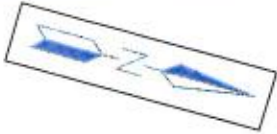
Based on plans by:  
Engelbrecht & Scorgie Architectural Office

Plan prepared by: Reatlehle Jankie

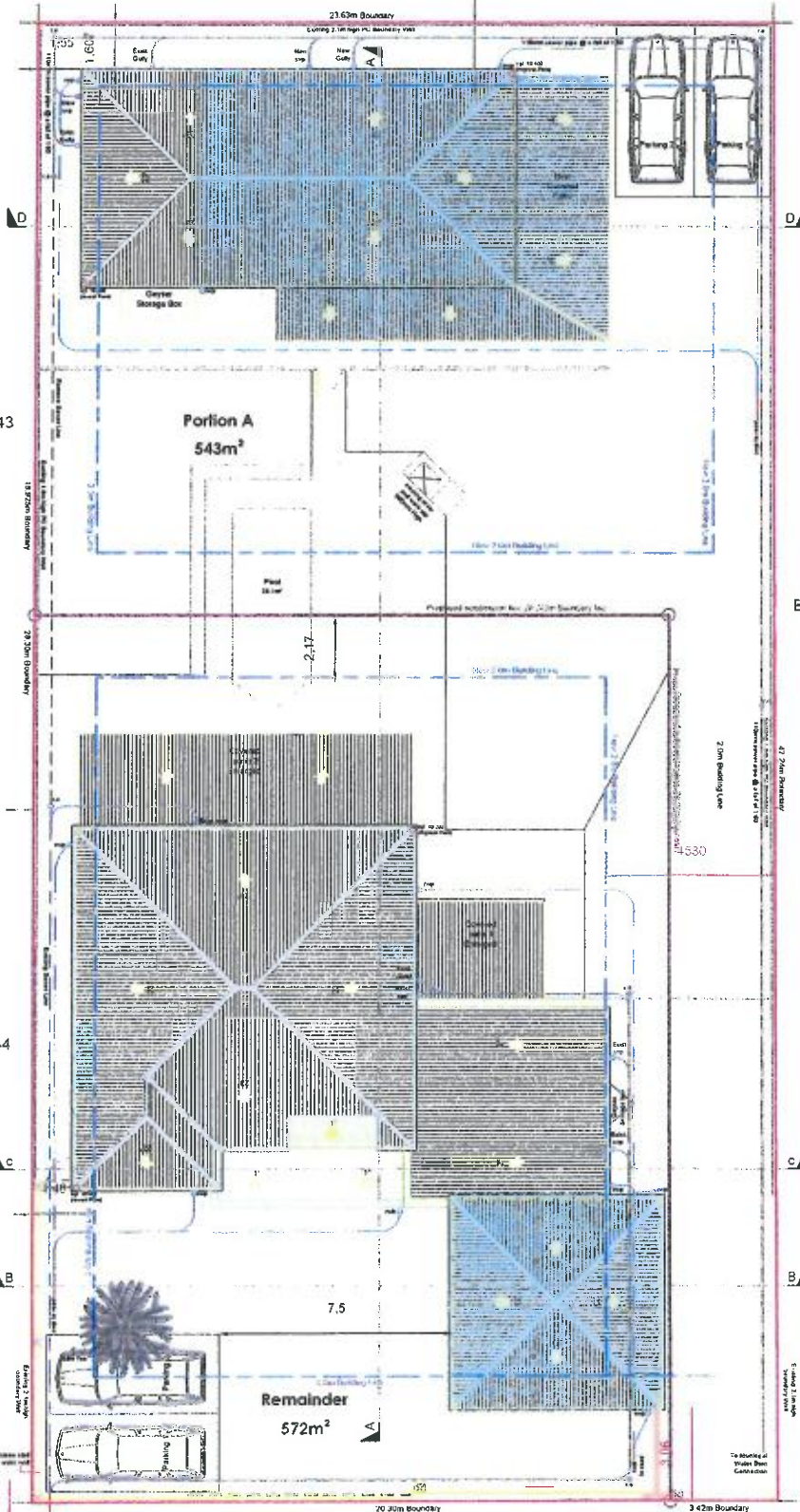
All distances are approximate  
and subject to a survey



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Erf: 407  
1:500



Development Parameters Calculations	
Potion 'A' Site area:	543m <sup>2</sup>
Existing Building	53.9m <sup>2</sup>
Geyser Storage Box	2.4m <sup>2</sup>
Proposed Addition	38.2m <sup>2</sup>
Proposed Patio Cover	40.2m <sup>2</sup>
<b>Total covered floor area:</b>	<b>134.7m<sup>2</sup></b>
<b>Total coverage:</b>	<b>134.7m<sup>2</sup> = 24.8%</b>
Required parking:	2 bays
Proposed parking:	2 bays
Remainder Portion Site area:	572m <sup>2</sup>
Existing Building	168.2m <sup>2</sup>
Geyser Storage Box	1.3m <sup>2</sup>
Proposed Garage Addition	41.7m <sup>2</sup>
Proposed Patio Cover 1	12.8m <sup>2</sup>
Proposed Patio Cover 1	32.9m <sup>2</sup>
<b>Total covered floor area:</b>	<b>256.9m<sup>2</sup></b>
<b>Total coverage:</b>	<b>256.9m<sup>2</sup> = 44.7%</b>
Required parking:	2 bays
Proposed parking:	4 bays

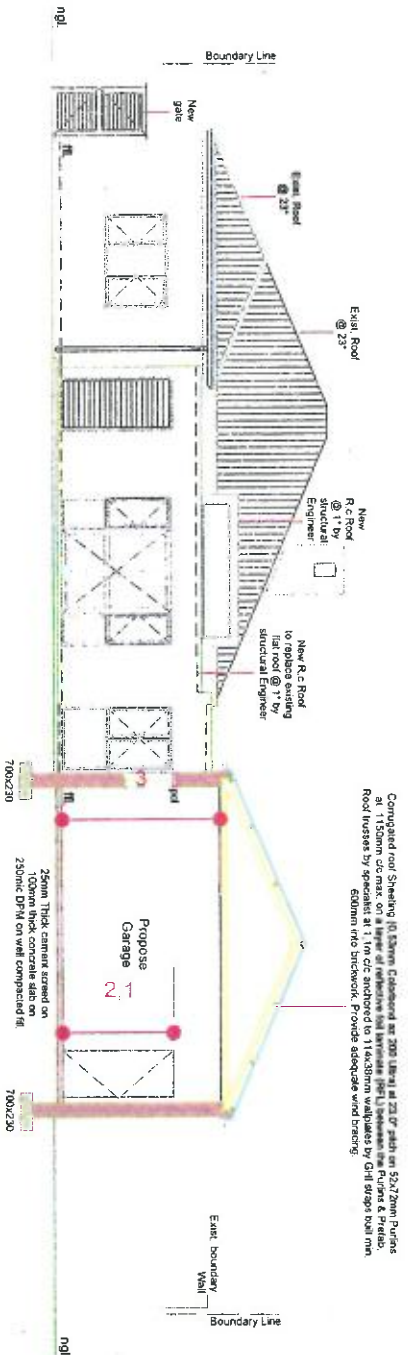


Site & Floor Plan

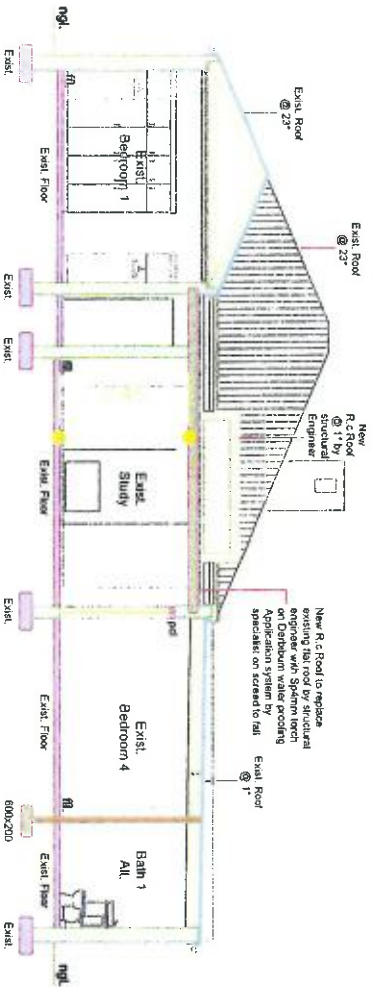
1:100

Fourie Street

# Plan 8.2: Elevations and Sections of the Remainder Plan Erf 419 Hermannus



**Section B-B**



**Section C-C**

**Scale 1 : 100**



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Plan 8.2  
Unit B, Corner of Royal and Dirkie Uys  
Street Hermannus, 7200  
Based on plans by:  
Engelbrecht & Scorgie Architectural Office  
Plan prepared by: Reathlelle Janjie  
All distances are approximate  
and subject to a survey

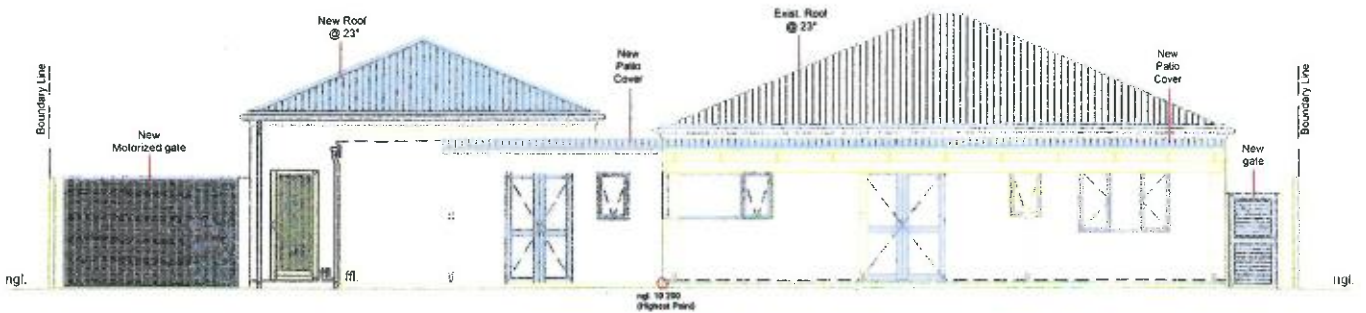
# Plan 9.1: Elevations and Sections of the Portion A Erf 419 Hermanus

Tel: 028 313 1411  
 Email: admin@wrapgroup.co.za  
 Plan 9.1  
 Unit B, Corner of Royal and Dirkie Uys  
 Street Hermanus, 7200  
 Based on plans by:  
 Engelbrecht & Scorgie Architectural Office  
 Plan prepared by: Reallehile Jankie  
 All distances are approximate  
 and subject to a survey



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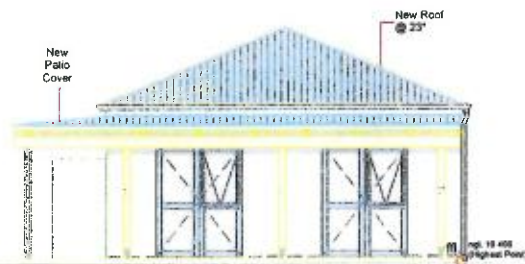
8.0m Height Restriction (18 100)



**West Elevation**

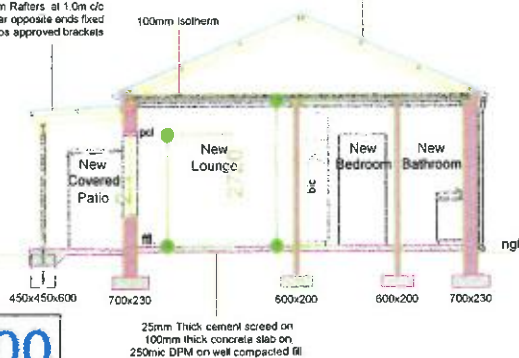
8.0m Height Restriction (18 350)

## Portion A



Concealed fixed roof Sheeting (0.53mm Colorbond az 200 Ultra) at 3.0° pitch on 52x78mm Purlins at 1150mm c/c max. on 38x152mm Rafters at 1.0m c/c fixed to 50x228mm timber Beamer opposite ends fixed to wall with sabs approved brackets

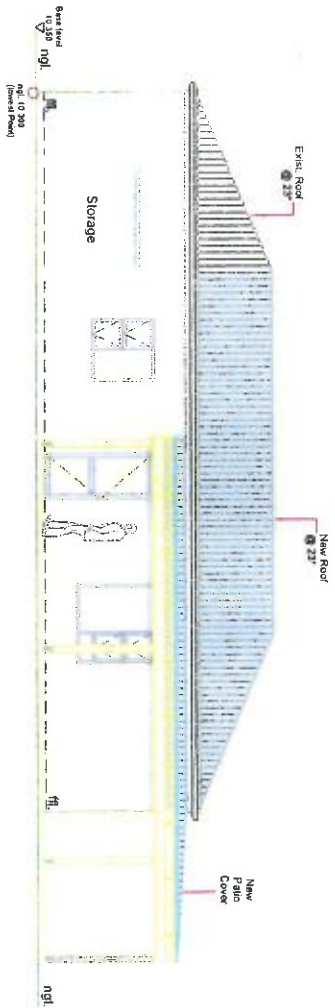
Corrugated roof Sheeting (0.53mm Colorbond az 200 Ultra) at 23.0° pitch on 50x72mm Purlins at 1150mm c/c max. on a layer of reflective foil laminate (RFL) between the Purlins & Posts. Roof trusses by specialist at 1.1m c/c anchored to 114x38mm wall/plates by QH1 straps but min 600mm into brickwork. Provide adequate wind bracing



**Scale 1 : 100**

25mm Thick cement screed on 100mm thick concrete slab on 250mc DPM on well compacted fill

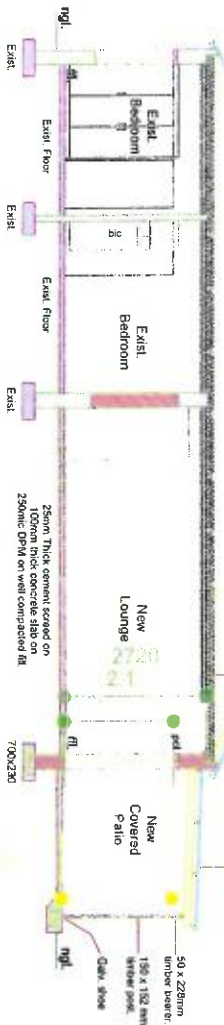
# Plan 9.2: Elevations and Sections of Portion A Plan Erf 419 Hermanus



## East Elevation

Corrugated roof Spanning 10.53mm Galvalume at 300 U/m<sup>2</sup> at 23° pitch on 52x27mm Purlins at 1150mm c/c max. on a layer of reflective insulation (R=1) between the Purlins & Profile. Roof trusses by speciality at 1.1m c/c anchored to 114x38mm wallposts by GHI straps 300mm into brickwork. Provide adequate wind bracing.

Corrugated fixed roof Spanning 10.53mm Galvalume at 300 U/m<sup>2</sup> at 3.0° pitch on 52x27mm Purlins at 1150mm c/c max. on 36x152mm Rafter spaced at 1.0m c/c fixed to 50x27mm timber beam opposite each end (to wall with sides approved brackets)



## Section D-D

Scale 1 : 100

Tel: 028 313 1411

Email: admin@wrappgroup.co.za

Plan 9.2

Unit B, Corner of Royal and Dirke Uys  
Street Hermanus, 7200

Based On plans by:

Engelbrecht & Scorgie Architectural Office

Plan prepared by: Reedsmitte Janke

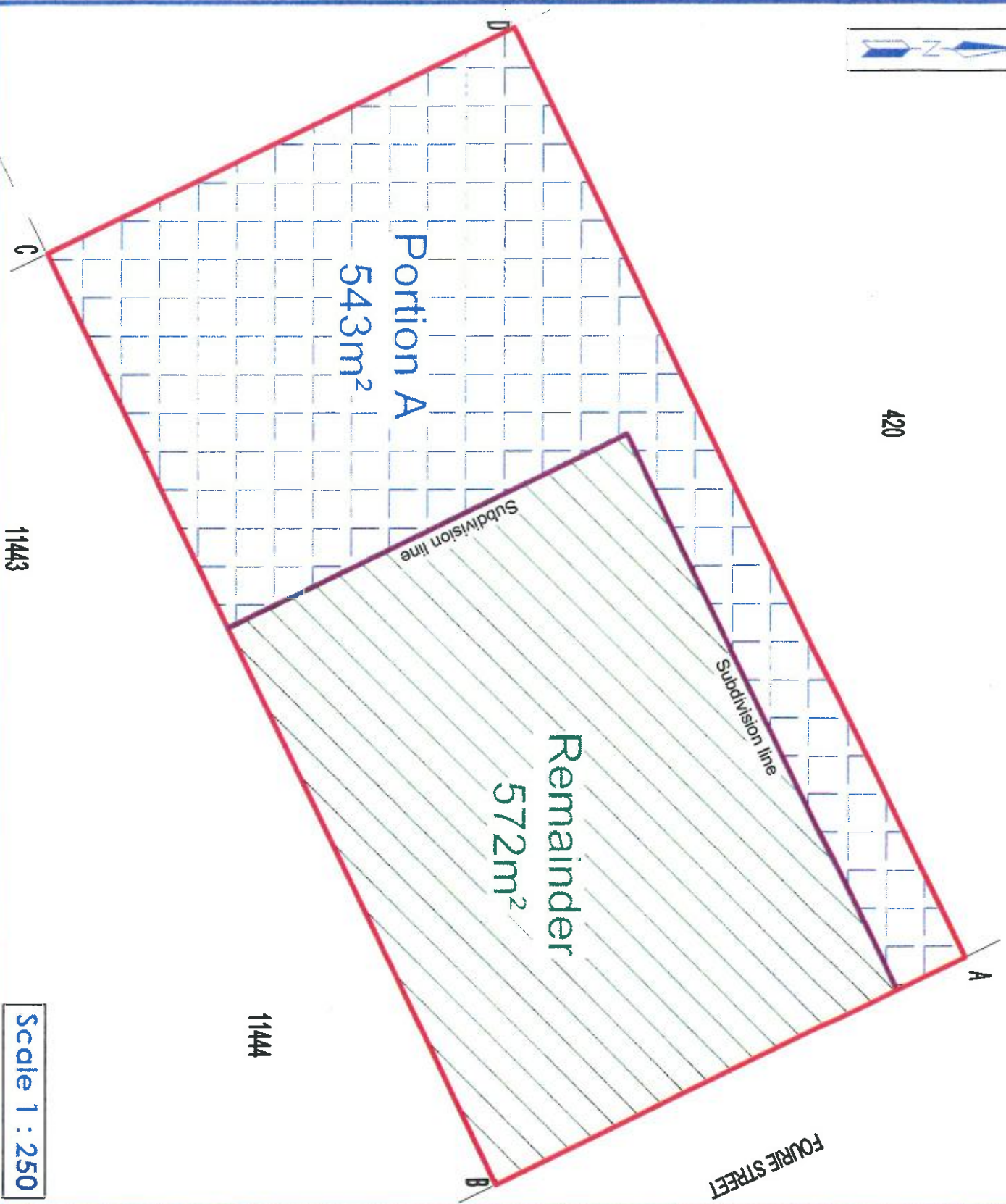
All distances are approximate  
and subject to a survey



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420



**Plan 4: Subdivision Plan  
of Erf 419 Hermannus**

Tel: 028 313 1411

Email: [admin@wrapgroup.co.za](mailto:admin@wrapgroup.co.za)

Plan 4.1

Unit B, Corner of Royal and Dikie Uys  
Street Hermannus, 7200

Plan prepared by: Reclentle Jonkie  
All distances are approximate  
and subject to a survey

Scale 1 : 250



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