

**ERF 1495, LYNX ROAD, VERMONT: APPLICATION FOR SUBDIVISION AND EXEMPTION OF SUBDIVISION (RIGHT OF WAY SERVITUDE): WRAP (obo V COLATRUGLIO, P COLATRUGLIO AND A PIETERSE)**

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 that an application has been received for a Subdivision in terms of Section 16(2)(d) of the By-Law of Erf 1495, Vermont into 2 portions, namely Portion A ( $\pm 4583\text{m}^2$ ) and a Remainder ( $\pm 9166\text{m}^2$ ).

Application has also been made for an exemption of subdivision in terms of Section 26(1)(h)(v) of the By-Law to register a right of way servitude over the Remainder in favour of proposed Portion A.

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 may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) on or before **18 February 2022**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the Town Planner, **Mr. H Olivier** 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 1495, LYNXWEG, VERMONT: AANSOEK OM ONDERVERDELING EN VRYSTELLING VAN ONDERVERDELING (REG-VAN-WEG SERWITUUT): WRAP (nms V COLATRUGLIO, P COLATRUGLIO EN A PIETERSE)**

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 dat 'n aansoek ontvang is vir 'n Onderverdeling ingevolge Artikel 16(2)(d) van die Verordening om Erf 1495, Vermont in 2 gedeeltes te onderverdeel, naamlik Gedeelte A ( $\pm 4583\text{m}^2$ ) en 'n Restant ( $\pm 9166\text{m}^2$ ).

Aansoek is ook ontvang om vrystelling van onderverdeling ingevolge Artikel 26(1)(h)(v) van die Verordening om 'n reg-van-weg serwituut te registreer oor die Restant ten gunste van voorgestelde Gedeelte A.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) voor of op **18 Februarie 2022**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan die Stadsbeplanner, **Mnr. H Olivier** 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.

**ISIZA 1495, LYNX ROAD, VERMONT: ISICELO SOKWAHLULA NOKUKHULULWA KWESAHLULO (IMITHETHO-MVUME): WRAP (EGAMENI LIKABO V COLATRUGLIO, P COLATRUGLIO KUNYE A PIETERSE)**

Kukhutshwa isaziso ngokuvumelana neCandelo 48 loMthetho ka-2020 kaMasipala wase-Overstrand omalunga Nokucetywa Kokusetyenziswa Komhlaba kaMasipala, ukuba kufunyenwe isicelo Sokwahlulwa kwe-Erf 1495, Vermont ukuba ibe ngamacala amabini ukuze isahlulo- A ( $\pm 4583\text{m}^2$ ) neNxalenye ( $\pm 9166\text{m}^2$ ). ngokumayela neCandelo 16(2)(d) leMithetho Yedolophu.

Isicelo sokukhululwa ngokwemigaqo yolwahlulo sifunyenwe ngokweCandelo lama-26 (1) (h) (v) leMithetho kaMasipala yokubhaliswa kwelungelo lokungena ngokungqinelana necandelo A elifunekayo.

inkcukacha mayela nesindululo siyafumaneka ukuze sihlolwe phakathi evekini ngamaxasha omsebenzi ukusuka kwintsimbi ye08:00 ukuya kweye16:30 kwiSebe: Izicwangciso Zedolophu kwanombolo 16 Paterson Street, eHermanus. Naziphi na izimvo ezibhaliweyo zingangeniswa ngokwezibonelelo zamaSolotyama-51 nama-52 kwaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) ngoLwesihlanu okanye ngaphambi koLwesihlanu, **18 EyoMdumba 2022**, ukhankanye igama lakho, idilesi, iinkcukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Imibuzo ngefowuni ingabhekiswa kuMphathi kuCwangciso lweDolophu, **uMnu. H Olivier** ku-028-313 8900. UMasipala angala ukwamkela izimvo ezifike emva komhla wokuvala. Nabani na ongakwazi ukufunda okanye ukubhala angaya kwiCandelo leDolophu apho igosa likamasipala liza kumnceda avakalise izimvo zakhe ngokusemethethweni.

# Locality Plan

## Erf 1495 - Vermont

 Subject property

Plan prepared by: Thian Jansen

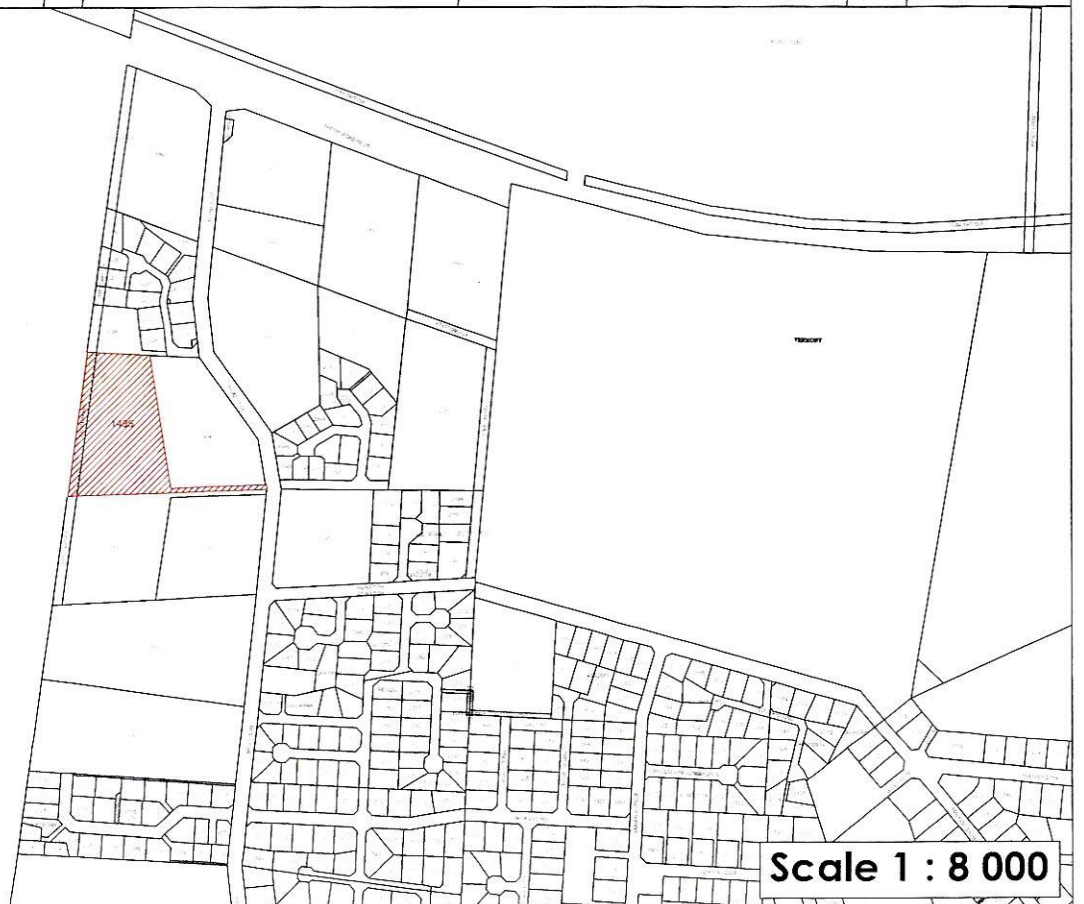
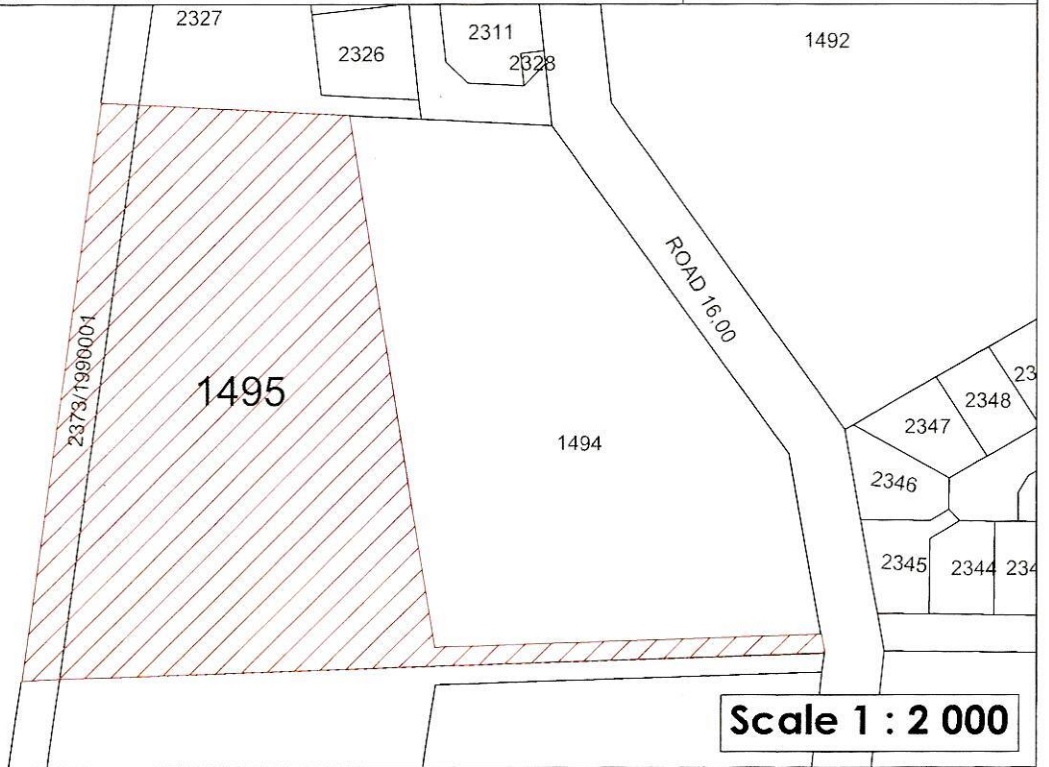
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**Project Office**  
Team Planning & Project Management



**1. ABBREVIATIONS**

<b>OM</b>	Overstrand Municipality
<b>OMLUS</b>	Overstrand Municipality Land Use Scheme, 2020
<b>BY-LAW</b>	Overstrand Municipality By-Law on Municipal Land Use Planning, 2015, as amended
<b>PSDF</b>	Western Cape Provincial Spatial Development Framework, 2014
<b>LUPA</b>	Western Cape Land Use Planning Act, 2014.
<b>MSDF</b>	Overstrand Spatial Development Framework, 2020
<b>SR1</b>	Residential Zone 1: Single Residential

**2. PROPERTY DETAILS**

<b>Consultant</b>	WRAP Project Office
<b>Erf Number</b>	Erf 1495, Vermont
<b>Extent</b>	13 749m <sup>2</sup>
<b>Zoning</b>	Residential Zone 1: Single Residential

**3. BACKGROUND AND INTENT**

Erf 1495 Vermont, hereafter referred to as the subject property (Refer to **Plan 1** for the locality), is owned by three siblings Vincenzo Colatruglio, Patrizia Colatruglio, Angelina Pieterse hereafter referred to as the applicants.

The subject property has been in the Colatruglio family for several years, after the passing of Mr Colatruglio, his three children inherited the subject property. After consideration, the applicants decided that they want to subdivide the property into two portions. These portions are proposed to be one-third, and two-thirds as one of the applicants are opting to keep his share of the property.

Currently, the subject property is a panhandle erf that acquires access to the street network on Lynx Road through a 5m wide panhandle. The main objective of the application is to ensure all three applicants achieve their desired outcome. The second objective is to ensure the entire property has access to the street network. Both objectives will be achieved by the approval of this land use application and the registration of a proposed right of way servitude, that will ensure both properties have sufficient access. This application also includes an exemption application in terms of Section 26(1)(h)(v) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended, for the proposed right of way servitude.

To ensure the applicants' objectives are met, the following applications are required:

- Subdivision of Erf 1495 Vermont into two portions; and
- Exemption of the right of way servitude.

**4. PROCEDURE TO ACHIEVE THE APPLICANT'S INTENT**

WRAP compiled this report to ensure the applicant's vision is achieved. The following is proposed:

**4.1 Subdivision** of Erf 1495 Vermont into Portion A,  $\pm 4583\text{m}^2$  and the Remainder of Erf 1495 Vermont,  $\pm 9166\text{m}^2$  in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The subject property has an extent of  $13\,749\text{m}^2$  which is proposed to be subdivided into two portions. This will allow the main objective of the applicants to be achieved and allow one of the applicants to keep his share of the property. The other portion will be sold on the open market by the other two applicants.

The proposal will include subdividing the subject property into the Remainder portion of Erf 1495 Vermont,  $\pm 9166\text{m}^2$  in extent and Portion A,  $\pm 4583\text{m}^2$  in extent (Refer **Plan 4**). These proposed portions could comfortably accommodate a residential development with several residential properties.

The existing dwelling house will be retained on the Remainder of Erf 1495 Vermont, and Portion A will be a vacant erf. Refer to Figure 1 that illustrates the proposed subdivision:

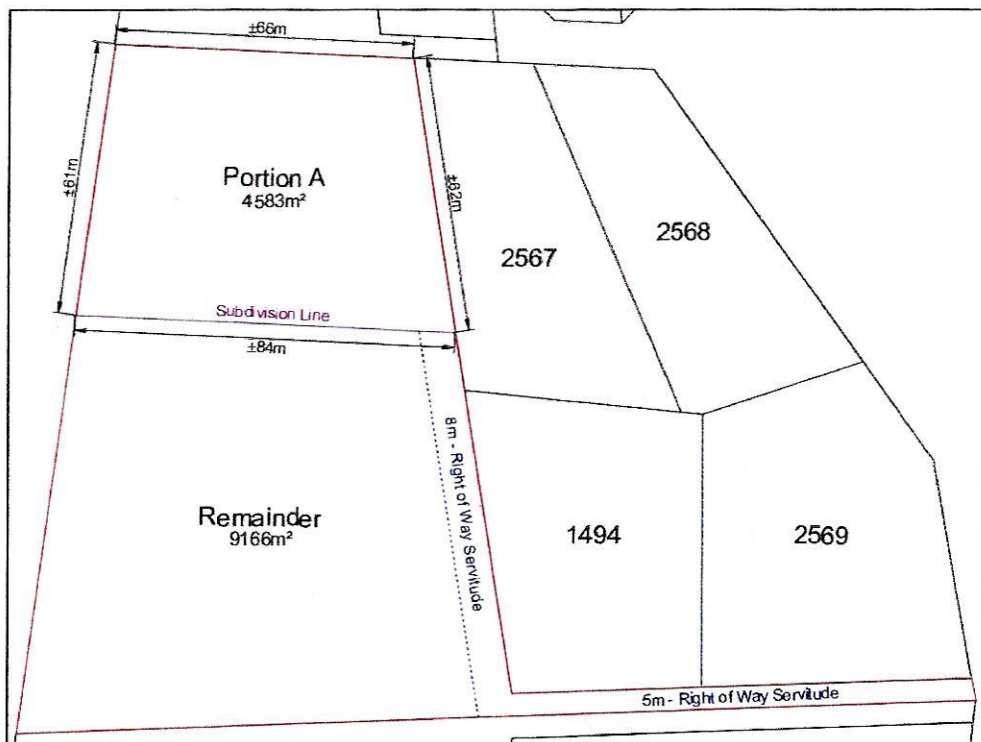


Figure 1: Extract of Plan 4 – Proposed Subdivision

With the growth of the population in the Overstrand area, additional properties should be welcomed. Referring to the MSDP, Section 2.4.5, the population of the entire Overstrand Municipal area has experienced an increase of 46,9% from 2001 – 2011 and if the growth trend continues, the population is set to have doubled from 2001 – 2021.



This increases the pressure on the OM to continue to assist with the provision of new properties and housing opportunities in areas where options are limited. Creating new properties that are available for development in the Vermont area should be welcomed. Refer **Plan 4** for the proposed subdivision.

**4.2 Exemption of right of way servitude** in terms of Section 26(1)(h)(v) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

Portion A, to be created by the proposed subdivision requires access over the Remainder portion of Erf 1495 Vermont. The proposed right of way servitudes in favour of Portion A are a 5m right of way servitude from the street (Lynx Road) and an 8m right of way servitude across the Remainder of Erf 1495 Vermont.

Considering the future development trends of the area is also important. Erf 1494 Vermont was recently approved for subdivision and the proposal was to create smaller erven (Erf 2567, 2568 and 2569 Vermont) as illustrated in **Figure 2** below. A condition of approval was that a right of way servitude is registered over Erven 1494 and 2569 Vermont, in favour of Erf 1495 Vermont. It is anticipated that the existing panhandle and right of way servitude over Erven 1494 and 1495 Vermont, will in future be combined to provide a 10m wide access road reserve.

See Figure below:

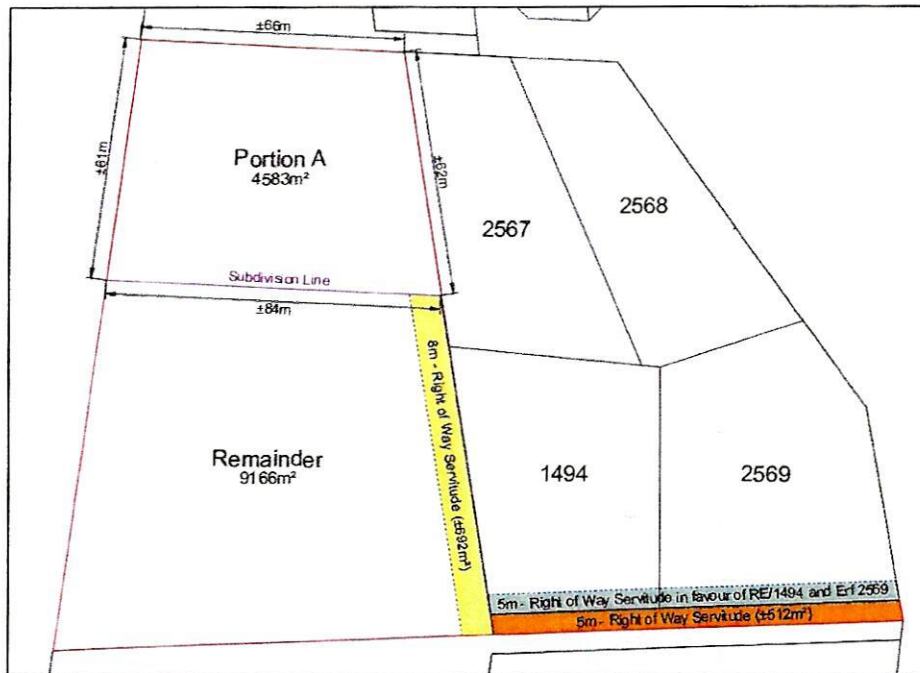


Figure 2: Right of way servitudes

Right of way servitudes are not out of character for the area as several subdivisions and other developments in the surrounding area also gain access through this method. It is therefore applied that the proposed right of way servitudes is exempted.



## MOTIVATION

The Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended makes provision for the exemption of certain subdivisions (including servitudes) and consolidations.

Section 26. (1)(h) "The subdivision or consolidation of land in the following circumstances does not require the approval of the Municipality:

"(h) the registration of a servitude or lease agreement for the provision or installation of—

- i. water pipelines, electricity transmission lines, sewer pipelines, gas pipelines or oil and petroleum product pipelines, and boreholes by or on behalf of an organ of state or service provider;
- ii. telecommunication lines by or on behalf of a licensed telecommunications operator;
- iii. the imposition of height restrictions;
- iv. storm water channels, ditches and channels, and
- v. **the granting of right of way.**"

Application is hereby made in terms of Section 26(1)(h)(v), that when the proposed subdivision is approved, a certificate is issued that the proposed right of way servitude is exempted in terms of Section 26 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

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### 5. APPLICATION

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Considering the above, the application is made for the following:

**5.1 Subdivision** of Erf 1495 Vermont into Portion A, ±4583m<sup>2</sup> and the Remainder of Erf 1495 Vermont, ±9166m<sup>2</sup> in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and

**5.2 Exemption of the right of way servitude** in terms of Section 26(1)(h)(v) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

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### 6. LAND USE ENVIRONMENT

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The subject property is located adjacent to the Hoek-van-die-berg Private Nature Reserve. Other properties in the surrounding area are primarily residential developments with a mixture of single residential and general residential zoning. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan).

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### 7. TITLE DEED

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The title deed of the subject property was perused (T19370/2013, refer **Annexure B**) and it contains no restrictive conditions.

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### 8. ZONING

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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:



**MOTIVATION**

<b>RESIDENTIAL ZONE 1: SINGLE RESIDENTIAL (SR1)</b>	
<b>Land Use Restrictions</b>	
<b>Primary use</b>	Crèche, Dwelling House, Guest Rooms, Home Occupation, Second Dwelling Unit and Self-Catering. Dwelling House
<b>Consent use 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. Comply
<b>Development parameters</b>	
<b>Parameters</b>	<b>Proposal</b>
<b>Coverage</b>	The maximum coverage for all buildings on the land unit is determined in accordance with the net erf area: 400m <sup>2</sup> and greater = 50%
<b>Height</b>	The maximum height of a building, measured from the base level to the top of the structure, is 8,0 m. To be determined
<b>Building lines</b>	(i) The street building line is determined in accordance with the net erf area: 400 m <sup>2</sup> and greater = 4m (ii) The side and rear building lines are determined in accordance with the net erf area: Greater than 400 m <sup>2</sup> = 2m Comply
<b>Garages and carports</b>	Garages and carports may be constructed within building lines in accordance with Chapter 16.1.2. To be determined
<b>Parking</b>	Two on-site parking bays per dwelling unit, provided that on erven less than 400 m <sup>2</sup> , only 1 on-site parking bay needs to be provided. To be determined
	<b>Comply/ deviate</b>



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## 9. SERVICES

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

### **Electricity**

The subject property is connected to the ESKOM electricity network.

### **Water, Sewage and Solid Waste**

The subject property is connected to the OM's networks, these include water and sewage. The proposal of this application will not have a negative impact on the area.

Solid waste is collected every week by the OM.

### **Access and Egress**

The subject property currently obtains access and egress from Lynx Road.

### **Portion A**

Access to Portion A will be gained via the proposed 8m and 5m wide right of way servitudes.

### **Remainder**

Access to Remainder of Erf 1495 Vermont, will still be gained via the 5m wide panhandle.

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## 10. NEED AND DESIRABILITY

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The need and desirability of the approval and implementation of this proposal in accordance with Section 66 (1) (c) of the OM By-Law can be illustrated as follow:

### **Need and desirability**

The need for the land use application arose from two of the applicants who wants to sell their portion of the property and one of the applicants who wants to retain his portion of the property. As previously mentioned, the applicants inherited the subject property which has been in the family for several years. The desirability is more often a personal feeling of the applicants, and subdividing the property allows the applicants to achieve their desired outcome. The proposal will not directly benefit any other person, but it will give closure to the applicants.

To achieve their vision, the applicant has appointed WRAP Project Office to submit this application to ensure the proposed subdivision is not in contradiction to any policies, legislation, or title deed conditions.

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

The proposal is not to develop the property, but only to subdivide. This specific area of Vermont is experiencing a gradual pocket development model where owners opt to subdivide larger erven to develop into smaller developments. The proposal to subdivide is not out of character for the area and is therefore in conformity with how the urban form of the suburb changes over time.



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**Economic impact**

Currently, the proposed subdivision will not have an economic impact. Once the proposed subdivision is implemented, the two portions can be developed separately, which could generate additional income for the OM.

**Opportunity cost**

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or foregoing of valued land use rights of interested and affected parties when an application is approved. The proposed subdivision is in line with the occurrences of the surrounding area, and it is predicted that it will not negatively affect the area.

**Impact on heritage**

The subject property is not listed in the OM Heritage Register.

**Environmental impact**

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

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**11. POLICIES AND REGULATIONS**

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**11.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)**

The subject property is not located within this zone.

**11.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)**

**Significant landscape**

The subject property is located in the Heritage Protection Overlay Zone within the 'Significant landscape' zone and it is predicted the subject property will not have an impact on the HPOZ.

To ensure the application may be considered, compliance with the HPOZ is of importance and certain aspects need to be provided and addressed in terms of Overstrand Municipality Heritage Protection Overlay Zone Regulations, 2020:

Section 20 – 22 states the following -

*'20 The Overstrand Municipality By-Law on Municipal Planning, 2020, will apply in respect of all applications, processes and decisions contemplated in these regulations.*

*21 In considering an application for written consent in order to undertake an activity in terms of the Heritage Protection Overlay Zone, the Municipality may require from an applicant whatever information it deems necessary in order for an informed decision to be made regarding the application.*

*22 This could include, inter alia:*

*22.1 statements of significance;*

*22.2 heritage research;*

*22.3 photographs, including contextual photographs;*

*22.4 results of public consultation;*

*22.5 impact assessments; and*

*22.6 comment from affected and interested bodies.'*



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**Statements of significance**

The proposal is only to subdivide the subject property which will not alter the heritage of the subject property.

**Heritage research**

No heritage research was done for purposes of this application.

**Photographs, including contextual photographs**

An aerial map was included into this application refer **Plan 3**.

**Results of public consultation**

With regard to this application a public participation process will be held. If any comments are received with reference to the heritage aspect it will be addressed accordingly.

**Impact assessments**

No impact assessment has been done for purposes of this application.

**Comment from affected and interested bodies**

The application will be circulated to affected and interested bodies for comment.

**11.3 Spatial Planning Policies**

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

**PSDF**

**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.

**Consistency of the proposal with the policy**

Throughout the framework, the process of infill planning is emphasized. The proposal could in the future lead to infill planning and should be the first choice when densification is proposed. These portions are ideally situated for residential development and could be pursued in the future.

The proposal to create an additional erf is in line with the proposal to densify an existing area. By creating an additional erf on an existing property maximises the existing urban area. By densifying existing areas, these areas can benefit from higher economic activity.



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**MSDF**

**Policy Preface**

The SDF's intention is 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 the development proposal should ideally attempt to synchronise with.

**Consistency of the proposal with the policy**

The policy promotes the protection of the character of the OM. The approval and implementation of the proposed subdivision will not undermine the character of the site and surrounding area.

The SDF promotes the containment of the footprint of OM within the well-defined urban edge. The subject property is located within the urban edge of OM and this proposal contains urban development within this footprint as prescribed.

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**12. PLANNING PRINCIPLES**

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

**Spatial justice**

Spatial justice refers to planning proposals that do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal for the subdivision does not perpetuate apartheid spatial development imbalances.

**Spatial sustainability**

Spatial sustainability refers to planning proposals that result in communities that are viable. This proposal to subdivide intends to ensure the subject property is utilised to its maximum capabilities. The proposal to densify through infill densification is a sustainable method to create new properties without requiring additional land.

**Efficiency**

This proposal is intended to maximise the usage of the subject property and ensure the applicants all achieve their desired outcomes.

**Spatial resilience**

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

**Good administration**

The OM has a credible track record of good administration regarding the method of public participation which invites and accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications.



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### 13. EVALUATION

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The proposal needs to be evaluated on the current situation that there are three applicants, one of which does not want to sell his portion of the property inherited and two applicants that wish to sell their portion of the property which they inherited. Subdivision is the best option to ensure all three applicants achieve their desired outcome.

In terms of the policies and guidelines of the OM the application adheres to these relevant spatial planning documents. The property will be subdivided into two portions, the Remainder being two-thirds and Portion A is proposed to be one-third. To ensure Portion A has access to the road, a right of way servitude is proposed to be registered over the Remainder in favour of Portion A. This application also serves as an application for formal exemption of the right of way servitude. The proposal is in harmony with the surrounding area and all relevant spatial planning policies.

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### 14. RECOMMENDATION

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

- 14.1 Subdivision** of Erf 1495 Vermont into Portion A,  $\pm 4583\text{m}^2$  and the Remainder of Erf 1495 Vermont,  $\pm 9166\text{m}^2$  in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and
- 14.2 Exemption of a right of way servitude** in terms of Section 26(1)(h)(v) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

Proposed Subdivision Plan  
Erf 1495 - Vermont

Erf 1495 - Vermont

Plan prepared by: Thion Jansen

All distances are approximate  
and subject to a survey

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**Project Office**  
Town Planning & Project Management

Scale 1 : 1000



Proposed Subdivision Plan  
 Illustrating the existing building  
 on Erf 1495 Vermont



Erf 1495 - Vermont

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

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Scale 1 : 1000