

**ERF 589, 3 BOKMAKIERIE CRESCENT, KLEINBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF CJ SUMMERTON**

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) that an application has been received in order to do the following:

- Departure in terms of Section 16(2)(b) of the By-Law to relax the street building line:
  - from 4m to 1.595m and 1.86m, to accommodate the existing single garage;
  - from 4m to 3.39m to accommodate the existing bathroom.
- Determination of an administrative penalty in terms of Section 16(2)(q) of the By-Law, in order to accommodate the existing single garage 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 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 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) and Gansbaai Library, Main Road, Gansbaai on or before **6 May 2022**, quoting your name, address and contact details, interest in the application and reasons for comment. Telephonic enquiries can be made to **Mr SW van der Merwe** 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 589, BOKMAKIERIESINGEL 3, KLEINBAAI, OVERSTRAND MUNISIPALE AREA: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: MEV ME VAN HEERDEN**

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) dat 'n aansoek ontvang is ten einde die volgende te doen:

- Afwyking ingevolge Artikel 16(2)(b) van die Verordening om die straatboulyn te verslap:
  - vanaf 4m na 1.595m en 1.86m, om die bestaande enkel motorhuis te akkommodeer;
  - vanaf 4m na 3.39m om die bestaande badkamer te akkommodeer.
- Bepaling van 'n administratiewe boete ingevolge Artikel 16(2)(q) van die Verordening, ten einde die bestaande enkel garage en badkamer te akkommodeer.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige 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 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) en Gansbaai Biblioteek, Hoeweg, Gansbaai voor of op **6 Mei 2022**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan **Mnr SW van der Merwe** 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.

**UMASIPALA WASEOVERSTRAND ISIZA ESINGUERF 589, 3 BOKMAKIERIE CRESCENT, EKLEINBAAI, KUMMANDLA KAMASIPALA WASEOVERSTRAND: ISICELO SOKWAHLULA NENGQINISEKISO YEPENALTHI/UMDLIWO: NGABAKWAPLAN ACTIVE TOWN AND REGIONAL PLANNERS EGAMENI LIKA CJ SUMMERTON**

Kukhutshwe izaziso esimayela nemiba ehambelana neSoloty lama48 ngumasipala waseOverstrand isoloty ela lingokuHlomela Umthethwana kaMasipala OngeziCwangciso Zokusetyenziswa koMhlaba kaMasipala ku2020:

- Ukwahlula ngokwemiba yeSoloty le16(2)(b) loMthethwana ongokunyenisa umgca omelene nesakhiwo nomgca wesakhiwo
  - Ukusuka kwiimitha ezi-4m ukuya kweziyi 1.595m neziyi1.86m, ukulungiselela igaraji engena isithuthi esinye esele ikhona;
  - Ukusuka kwiimitha ezi4m ukuya kwezi3.39m ukulungiselela igumbi lokuhlambela esele likhona.
- Ingqinisekiso yepenalthi/umdlwo wokubhalisa ngokwemiba yeSoloty le16(2)(q) loMthethwana, ukulungiselelwa igaraji engena isithuthi esinye esele ikhona negumbi lokuhlambela esele likhona.

linkcukacha ezipheleleyo ezimayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini phakathi kwentsimbi yesi08:00 neye 16:30 kwiSebe: Izicwangciso ngeDolophu, 16 Paterson Street, Hermanus. Nabani na ofuna ukuhlomla angangenisa izimvo zakhe ngokwezibonelelo zeSoloty lama51 nelama52 loMthethwana kaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) nase Gansbaai Library, Main Road, Gansbaai ngomhla okanye ngaphambi komhla **6 kuMeyi ka2022**, uchaze igama lakho, idilesi neenkukacha ofumaneka kuzo, umdla wakho kwesi sicele nezizathu zokuhlomla kwakho. Imibuzo ngefowuni ingathunyelwa ku**Mnu SW van der Merwe** kwa028-313 8900. UMasipala angala ukwamkela izimvo ezifunyenwe emva komhla wokuvala. Nabani na ongakwazi ukufunda nokubhala angandwendwela kwiSebe leZicwangciso ngeDelophu apho igosa likaMasipala liza kumnceda anganise izimvo zakhe ngokusemthethweni.



**PROPOSED DETERMINATION OF AN  
ADMINISTRATIVE PENALTY APPLICATION  
AND PROPOSED DEPARTURE**

**ERF 589 VAN DYKSBAAI**

**DIVISION: CALEDON**

**OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT – Revision 1 (14/03/2022)**

## **1. BACKGROUND**

Plan Active Town & Regional Planners has been appointed by C.J. Summerton, the owner of erf 589 Van Dyksbaai, to apply for the determination of an administrative penalty and departure of the subject property.

Erf 589 Van Dyksbaai is 624m<sup>2</sup> in extent and is held by title deed no. T41213/2021. There is an existing single storey dwelling with a single garage and courtyard situated on the subject property.

Both the structures that *encroach the street building line* are existing and were *constructed unlawfully* on the subject property. Hence, an application is submitted for an administrative penalty and departure (street building line relaxation) to accommodate the existing As Built structures within the applicable street building line.

## **2. APPLICATION DETAILS**

Application is made in terms of:

- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an administrative penalty for the unlawful bathroom and single garage.
- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, for the departure from the Land Use Scheme Regulations' (2020) street building line.

## **3. NEED AND DESIRABILITY**

### **3.1 PROPERTY DESCRIPTION**

Erf 589 Van Dyksbaai is situated at 3 Bokmakierie Crescent, Kleinbaai. Refer to the locality plan attached.

Erf 589 Van Dyksbaai is 624m<sup>2</sup> in extent and is held by title deed no. T41213/2021.

The subject property is level sloped and is characterized by residential structures (single storey main dwelling, second dwelling, a single garage and courtyard) and a garden area.

### **3.2 ZONING**

Erf 589 Van Dyksbaai has the following land use rights:

<b>ERF NUMBER</b>	<b>ZONING</b>
Erf 589 Van Dyksbaai	Residential Zone 1: Single Residential

Surrounding properties are zoned for single residential, public road and public open space purposes.

### 3.3 LAND USE

There is an existing single storey main dwelling, a second dwelling, a single garage, courtyard and garden area situated on erf 589 Van Dyksbaai. The subject property is therefore used for single residential living purposes.

Land uses that surround the subject property are single residential dwellings, vacant erven, public open spaces and public roads.

### 3.4 PROPOSAL

The following is proposed:

1. The determination of an **administrative penalty** to accommodate the As Built single garage and bathroom in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020;
2. The **departure** of erf 589 Van Dyksbaai in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, to relax the street building line as follows:
  - a. from 4m to 1,595m and 1,86m respectively to accommodate the As Built single garage;
  - b. from 4m to 3,39m to accommodate the As Built bathroom of the second dwelling.

### 3.4.1 Rectification of contravention

In terms of Chapter 5, Section 90(1) a person who is in contravention of the Municipal Planning Amended By-Law (2020), and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned.

As the application is for the rectification of a contravention of the By-Law (due to position of the As Built single garage and bathroom within the street building line), an application is submitted for the determination of an administrative penalty fee in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020. However, the Municipal Planning Tribunal (MPT) has the authority not to impose such a fee.

In terms of Section 90(3) of the MPBL, the MPT must at least consider the following factors when determining an appropriate administrative penalty:

- **The Nature, duration, gravity and extent of the contravention**

The subject property was sold to the current property owner in September 2021. The sales agreement guaranteed that the subject property had approved building plans. However, the transferring attorneys were only made aware with registration in the Deeds Office that the approved building plan was not updated and does not reflect the As Built structures. Most additions and alterations to the approved structures were done within the permissible building lines. However, there is an existing single garage and bathroom on the subject property that encroach the street building line and that the current owner intends to retain as per the sales agreement.

The approved building plan received from the architect is dated 31 October 2001. The building plan indicates a double garage on the property at the time, as well as a yard situated close to the street boundary (encroaching the street building line) where the bathroom is positioned today. Over the years the existing dwelling was altered and added to. The approved double garage was converted to a lounge and two bedrooms (bedrooms 5 and 6) and as mentioned the yard was altered to become a new (third) bathroom. Minor alterations were also made to allow the existing

structures to be used as a main dwelling and a second dwelling. A new single garage was constructed in front of the dwelling facing the street.

We obtained limited information on the history of the buildings on the site. An aerial photograph of 2012 confirmed that the As Built structures already existed in 2012. It is therefore clear that the dwellings were altered and added to after the building plan approval in 2001 but before 2012. The As Built bathroom of the second dwelling and the single garage were therefore constructed during this time.

As mentioned, the subject property was transferred to the current owner in September 2021. The architect corresponded with the previous owners to determine if they or the owners before them were responsible for the construction of the As Built structures on the site during 2001 and 2012. The previous owners indicated that they bought the house in 2007 with all structures As Built. It therefore narrows the construction of the As Built structures (and all other additions and alterations to the approved structures) to between 2001 and 2007.

The approved yard (refer to the approved building plan 31 October 2001) was altered and added to and converted to a bathroom. The yard was already constructed over the street building line at the time. The bathroom is considered an extension of the existing second dwelling and serves as the only bathroom available to the second dwelling. The bathroom is 10,51m<sup>2</sup> in extent. The previous owners (as mentioned - two owners back) obviously assumed that merely adding a roof to the yard area and altering the structure accordingly and changing the use of the structure, did not require a building plan approval.

The As Built single garage was also constructed by the previous owners (as mentioned – two owners back) most likely between 2001 and 2007. The additions and alterations that were made to the approved dwelling and double garage made it impossible to construct a new single garage elsewhere on the subject property and without simultaneously encroaching the street building line. The As Built single garage is 6,480m x 3,56m and is 18,60m<sup>2</sup> in extent.

The position and nature of bathroom and the garage on the property are unobtrusive in nature and do not impact negatively on the surrounding properties, as no complaint from surrounding property owners has been received up to date. A building line departure application to accommodate the As Built bathroom and garage

on the 3,39m (bathroom) and 1,595m and 1,860m street building line respectively (garage) is included in this application.

- **The conduct of the person involved in the contravention**

The current unlawful structures were constructed on the subject property by the previous property owner (two owners back). The current property owner immediately appointed the relevant consultants once they were informed of the illegal structures (with the registration of the subject property) to ensure that the structures are addressed with the land use application and the new building plan submission will follow.

- **Whether the unlawful conduct was stopped**

Both the bathroom and single garage already exist on the subject property (the current owner bought the subject property with the structures already present). The owner now attempts to rectify the contravention by submitting the administration penalty application in order to legalise the structures on the subject property.

- **A report by a quantity surveyor in matters of unauthorised building / construction**

If the Overstrand Municipality finds it necessary that an administrative penalty fee needs to be enforced for the unauthorised building works, we will submit a report from a quantity surveyor with reference to the unauthorised building works. The reason being that if there is a chance that no penalty fee is imposed the report from a quantity surveyor will be unnecessary at this stage. The architect has however confirmed that the estimated construction cost / value for the As Built bathroom is ±R22 000.00 and ±R65 000.00 for the single garage. Only ±13% of the bathroom (±1,35m<sup>2</sup>) encroaches the street building line and ±44% of the single garage (±8,13m<sup>2</sup>) extends over the street building line.

- **Whether a person involved in the contravention has previously contravened this By-Law or a previous planning law**

To the best knowledge of the applicant and as confirmed by the landowner, he has never previously contravened this By-Law or any other previous planning law.

- **Summary**

We appeal to the Overstrand Municipality to take into consideration the minimal impact that the As Built bathroom for the second dwelling and single garage have on the surrounding area. It should also be considered that no complaints from surrounding properties have been submitted with regards to the As Built structures. We therefore respectfully request that a minimal penalty fee not be imposed on the property owner for the reasons given above.

#### **3.4.2 Departure (building line relaxations)**

The potential of the subject property is discussed in detail in *Section 3.5 Potential of the property*.

Firstly, the approved yard (refer approved building plan dated 31 October 2001) was altered and added to and converted to a bathroom (i.e. change of use). The yard was already constructed over the street building line at the time. The bathroom is considered an extension of the existing second dwelling and serves as the only bathroom available to the second dwelling unit. The bathroom is 10,51m<sup>2</sup> in extent. The previous owners (as mentioned - two owners back) obviously assumed that merely adding a roof to the yard area and altering the structure accordingly and changing the use of the structure, did not require a building plan approval.

A second dwelling unit is a primary right on a SR1 zoned property, subject to the conditions as specified in the Land Use Scheme Regulations. The second dwelling meets all requirements for the consideration and approval of the dwelling on erf 589 Van Dyksbaai. The primary dwelling is 137,05m<sup>2</sup> in extent and the second dwelling 56,14m<sup>2</sup> in extent. Both the dwellings are single storey.

The As Built bathroom of the second dwelling that has to be addressed with this application is positioned north-east on the subject property facing Bokmakierie Crescent. The bathroom is 10,51m<sup>2</sup> in extent (4,23m x 2,63m). A small portion ( $\pm 1,35\text{m}^2 / 13\%$ ) of the As Built bathroom of the second dwelling encroaches the 4m street building line. An application is submitted for a departure to:

- relax the street building line from 4m to 3,39m to accommodate the As Built bathroom of the second dwelling unit.

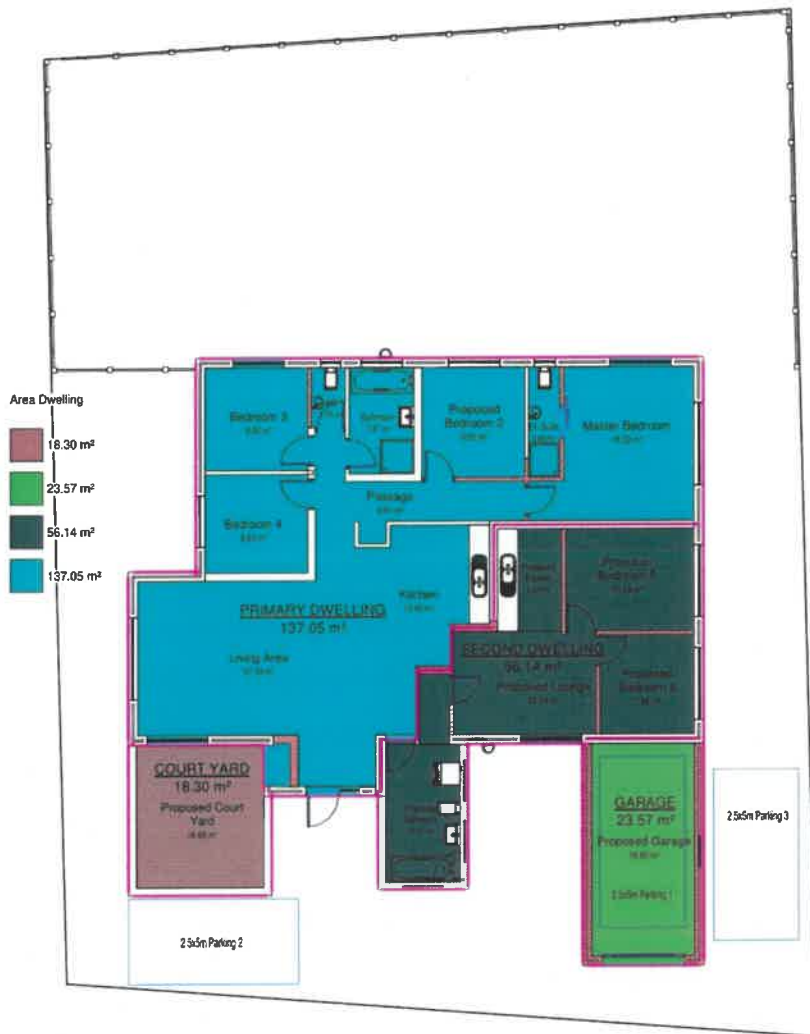
Refer to the site plans below. There is an existing window within the north-eastern bathroom wall facing the street. This is however considered a small bathroom window needed for light and air flow into the bathroom. The window will therefore be retained. Refer to the north-east elevation to follow below clearly showing the bathroom window. It is submitted that the placement of the existing window will have no impact on the neighbouring properties since it is facing the street and due to the small extent thereof. The bathroom is considered an extension of the second dwelling which the current owner wishes to retain since this bathroom is the only bathroom available to the second dwelling unit.

Secondly, over the years the existing approved dwelling was altered and added to (between 2001 and 2007). The approved double garage was converted to a lounge and two bedrooms (bedrooms 5 and 6). A new single garage was constructed in front of the dwelling facing the street, since the need still existed at the time for a garage for the storage of a vehicle. The additions and alterations that were made to the approved dwelling and double garage made it impossible to construct a new single garage elsewhere on the subject property and without simultaneously encroaching the street building line.

The As Built single garage is positioned in the north, north-eastern corner of the subject property facing the street. The As Built garage is 6,480m x 3,56m and is 18,60m<sup>2</sup> in extent. Less than half of the As Built garage ( $\pm 8,13 / 44\%$ ) encroaches the 4m street building line. An application is submitted for a departure to:

- relax the street building line from 4m to 1,595m and 1,86m respectively to accommodate the As Built single garage.

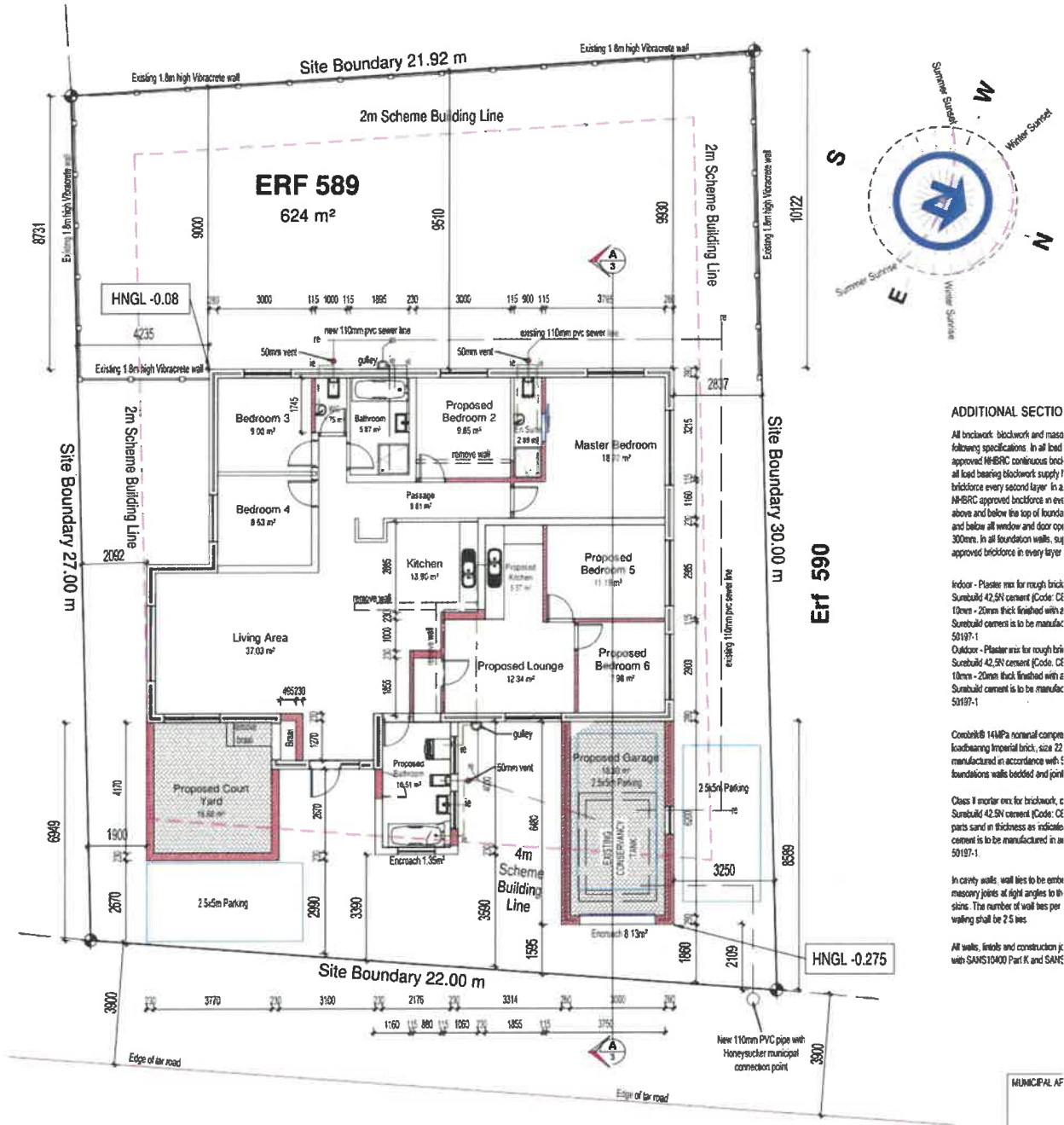
Refer to the site plans below (copy also attached):



Dwelling Area  
1 : 100

SCHEDULE OF RIGHTS	
<b>PROPERTY DESCRIPTION</b>	
Erft Number: 589	Site Area: KLEINBAAI
Erft size: 624m <sup>2</sup>	
Owner: SUMMERTON	
<b>ZONING INFORMATION</b>	
Town planning Scheme: OVERSTRAND	
Use Zone: GENERAL RESIDENTIAL ZONE 1: SINGLE RESIDENTIAL	
<b>DEVELOPMENT CONTROL MEASURES</b>	
Existing Dwelling	: 182.86m <sup>2</sup>
New Additions	: 33.87m <sup>2</sup>
TOTAL	: 216.73m <sup>2</sup>
Coverage	: 34.73%
No Dwelling per Erf	: 2
Primary Dwelling	: 137.05m <sup>2</sup>
Secondary Dwelling	: 56.14m <sup>2</sup>
Outbuilding	: 23.57m <sup>2</sup>
The information provided above is hereby certified to be correct & precise	
Name: JLS GERICKE	Signature:
Date: 8 NOVEMBER 2021	Plan No: 03/SV/21

Erf 590



ADDITIONAL SECTION

All brickwork, blockwork and masonry following specifications. In all load bearing brickwork supply 1 brickface every second layer. In a masonry wall approved brickwork is to be shown above and below the top of foundations and below all window and door copings 300mm. In all foundation walls, use approved brickwork in every layer.

Indoor - Plaster mix for rough brickwork 42,5N cement (Code: CE 10mm) - 20mm thick finished with a Sarsbald cement is to be manufactured 50197-1. Outdoor - Plaster mix for rough brickwork 42,5N cement (Code: CE 10mm) - 20mm thick finished with a Sarsbald cement is to be manufactured 50197-1.

Concrete 14MPa nominal compressive strength Imperial brick, size 22 manufactured in accordance with Sarsbald cement is to be manufactured and joint.

Class II mortar mix for brickwork, a Sarsbald 42,5N cement (Code: CE parts sand in thickness as indicated cement is to be manufactured in a 50197-1.

In cavity walls, wall ties to embed masonry joints at right angles to finish. The number of wall ties per walling shall be 2.5 ties.

All walls, finishes and construction to be in accordance with SANS10400 Part K and SANS

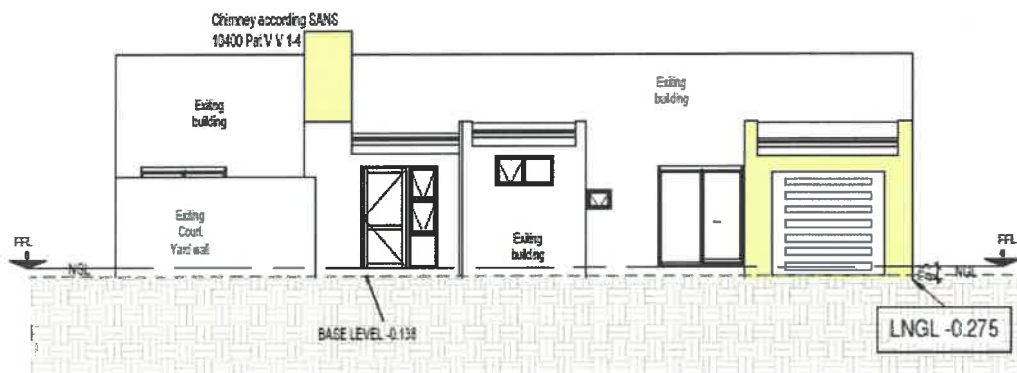
3 BOKMAKIERIE CRESCENT

The Planning By-law stipulates that 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. At the time the position of the As Built dwelling made it impossible to construct a single garage elsewhere on the subject property and

without simultaneously encroaching the street building line. All other requirements for the consideration of a garage within the street building line are met:

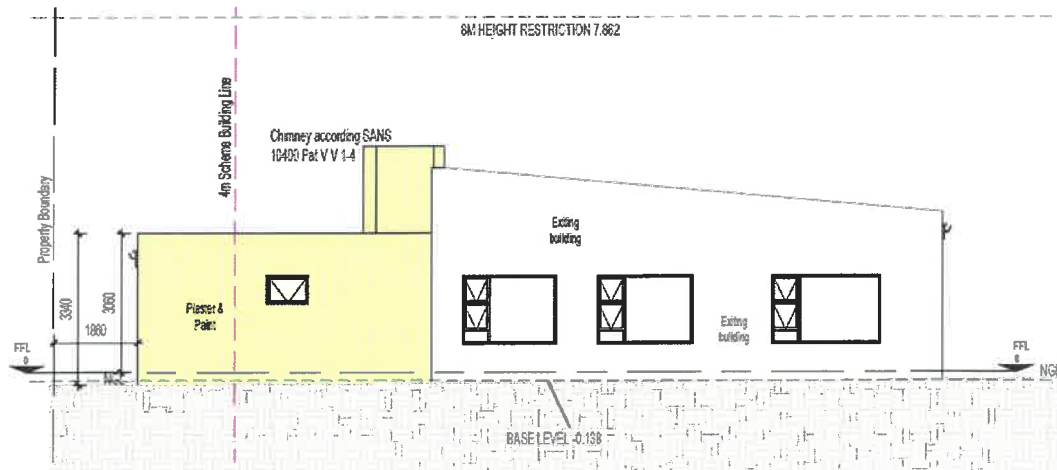
- The height of the garage from the natural ground level to the top of the structure is 3,28m and does not exceed the maximum permissible height of 4,5m;
- The front elevation of the garage is  $\pm 5,495\text{m}$  from the edge of the tar road (at the closest point) hence the garage is not closer than 5m to the road kerb or surface.

The As Built single garage complies with the 2m north-western lateral building line, hence the existing window facing the north-western erf boundary can be retained. Refer to the north-east elevation plan (for window placement in the bathroom and indicating the front elevation of the garage) and the north-west elevation (indicating the height of the single garage) below:



North East Elevation

1 : 100



North West Elevation

1 : 100

The single garage provides one parking bay on the site. The site plan indicates that a second and third parking bay can easily be accommodated on site.

### 3.4.3 General

The As Built courtyard encroaches the street building line. With a similar application submitted to the municipality it was confirmed that neither an administrative penalty application nor a building line deviation is required to accommodate the As Built courtyard.

As indicated on the elevation plans all structures meet the maximum height requirement of 8m from base level to top of roof.

The proposed application has a nominal impact on the character and property values of the surrounding properties. The position and nature of the bathroom and single garage on the property are unobtrusive in nature and do not impact negatively on the surrounding properties, as no complaint from surrounding property owners have been received up to date.

The As Built bathroom and single garage on the subject property do not create an infringement to any passing traffic or public activity due to the aesthetical value of the structures and the respective uses thereof.

It is submitted that the massing and height of the existing structures are compatible with the character of the area, regardless of the departure being applied for.

The zoning of erf 589 Van Dyksbaai will remain unchanged (Residential Zone I: Single Residential) as well as the primary land use (single residential purposes).

The area schedule and coverage for the subject property are as follows:

<b>SCHEDULE OF RIGHTS</b>	
<b>PROPERTY DESCRIPTION</b>	
Erf Number: 589	Site Area: KLEINBAAI
Erf size: 624m <sup>2</sup>	
Owner: SUMMERTON	
<b>ZONING INFORMATION</b>	
Town planning Scheme:	OVERSTRAND
Use Zone:	GENERAL RESIDENTIAL ZONE 1; SINGLE RESIDENTIAL
<b>DEVELOPMENT CONTROL MEASURES</b>	
Existing Dwelling	: 182.86m <sup>2</sup>
New Additions	: 33.87m <sup>2</sup>
<b>TOTAL</b>	<b>: 216.73m<sup>2</sup></b>
Coverage	34.73%
No Dwelling per Erf	2
Primary Dwelling	: 137.05m <sup>2</sup>
Secondary Dwelling	: 56.14m <sup>2</sup>
Outbuilding	: 23.57m <sup>2</sup>
The information provided above is hereby certified to be correct & precise	
Name: JLS GERICKE	Signature:
Date: 8 NOVEMBER 2021	Plan No: 03/SV/21

A maximum coverage of 50% is allowed on SR1 zoned properties. The total coverage of 34,73% (216,73m<sup>2</sup>) does not exceed the maximum permissible coverage of 50% for SR1 zoned properties.

It is submitted that the proposal is compatible with the character of the area, do not impact negatively on the rights of anyone else and that no good reason exists for not approving this application.

When considering the proposed deviations, the point of departure is the need to discourage the phenomenon of urban sprawl and to encourage densification and more compact towns and cities, all of which relate to more responsible resource use or sustainable development.

The proposed departure of erf 589 Van Dyksbaai is not in contrast to the existing land use tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

### **3.5 THE POTENTIAL OF THE PROPERTY**

The zoning and primary land uses of the subject property will remain unchanged. The location of the subject property within a single residential area allows the property to be developed for low impact land uses only in future (such as bed-and-breakfast establishments, day care, guest house and home occupation uses). The proposed departure will not hinder any possible future land use applications on erf 589 Van Dyksbaai.

The As Built structures will be used for bathroom and vehicle storage purposes and are not considered habitable areas per se. Both the structures will be single storey. In addition, the window placement in the bathroom faces the street with minimum impact on the privacy of the neighbours.

The scale of the surrounding built environment, the low impact on the streetscape, the uses of the respective structures, the compliant coverage (in line with the land use requirements), compliance with the land use requirements for the consideration of a garage within the street building line, etc. are factors that have to be considered when contemplating the potential of the property to accommodate the departure. The following factors confirm the potential of the property to accommodate the proposed lateral building line deviations:

- good quality materials were used;
- the architectural style of the As Built additions matches the existing architectural style;
- The dwellings will be used for residential purposes only;
- The unlawful alterations / additions will still add value to the subject property as well as the area.

### **3.6 ECONOMIC IMPACT**

The proposed Land Use Scheme relaxation of the street building line is to accommodate the As Built bathroom of the second dwelling and single garage. The proposed departure will allow the new (current) owner to keep all structures on the subject property. Addressing the unlawful structures will favour the resale of the property in the future and have a positive impact on the adjacent properties. By accommodating the As Built bathroom and single garage the only bathroom for the second dwelling is addressed and can be retained and the need for vehicle storage on the subject property are met. By approving the proposal, the aesthetical value of the subject property will remain. Both the structures do not have a negative impact on the surrounding property owners as previously discussed.

The proposed deviations will have a low but positive impact on the local economy. One family will continue to reside on the property who will continue to invest in the local economy of the area.

### **3.7 SOCIAL IMPACT**

The proposed departure will have no impact on the social status quo of the area. The deviations will however allow the owner to retain all existing structures on the subject property.

No negative impact on the social wellbeing of the surrounding community is anticipated. It is submitted that the property will be compatible with the character of the area and does not impact negatively on the rights of anyone else.

### **3.8 COMPATIBILITY WITH SURROUNDING LAND USES**

The subject property is situated in an existing low-density residential area. The application does not propose to change the zoning or land use of the subject property

and therefore the proposal is compatible with the surrounding land uses.

The surrounding properties are developed with single and double storey dwellings and the use of the surrounding properties is for permanent residences and holiday houses. The scale of the structures on erf 589 Van Dyksbaai (and the respective uses thereof) merges well with the scale of the surrounding dwellings in the immediate area.

In addition, to accommodate the As Built structures will contribute towards the value of the subject property and consequently have a positive impact on the area. The use of the subject property will primarily remain for residential purposes (dwelling with outbuildings).

There is no substantial impact on the streetscape as discussed in detail in Sections 3.4, 3.5 and 3.11 of this report.

### **3.9 IMPACT ON EXTERNAL ENGINEERING SERVICES**

All services on the subject property already exist. The As Built structures will have no impact on the scale and usage of the existing available services since no additional loading of the existing civil infrastructure is anticipated.

Additional services (if required) will be provided to the satisfaction of the Overstrand Municipality.

### **3.10 IMPACT ON SAFETY, HEALTH AND WELLBEING OF SURROUNDING COMMUNITY**

The proposed departure will have no impact on the general safety and wellbeing of the surrounding community. It is anticipated that a maximum of one family will continue to occupy the subject property. The structures to be accommodated with a departure are considered low impact land uses (bathroom and vehicle storage

purposes) and thus the impact on the adjacent properties will be kept to a minimum. The proposed coverage complies with the maximum permissible coverage.

The proposal meets the needs of the new (current) owner without compromising the safety and privacy of the adjacent property owners. All the As Built structures still ensure that the dwelling remains aesthetically pleasing.

Since the proposed departure is not associated with a noxious trade with polluting air emissions the impact on the health of the community will be kept to a minimum.

### **3.11 IMPACT ON HERITAGE**

The application does not involve changing the character of a site larger than 5 000m<sup>2</sup>. Consequently, the proposed application for the departure does not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

Erf 589 Van Dyksbaai is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality's Zoning Scheme Heritage Overlay Zone (2020). The subject property is also not earmarked for heritage conservation purposes with reference to the Overstrand Municipal Growth Management Strategy (2010).

The subject property is not associated with any important persons or groups or important events and activities. The subject property has no association with the history of slavery and is not used for living heritage.

In the light of the above mentioned it is evident that the proposed departure will not have a negative impact on the heritage value of the Hermanus area.

### **3.12 IMPACT ON THE BIOPHYSICAL ENVIRONMENT**

The proposed departure does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

The subject property is not situated within the Overstrand Municipality's Zoning Scheme Environmental Overlay Zone (2020).

### **3.13 TRAFFIC IMPACT, PARKING AND ACCESS**

Access to erf 589 Van Dyksbaai will remain unchanged and will be from Bokmakierie Crescent. Refer to the site plan.

The Overstrand Municipality Land Use Scheme (2020) stipulates that a minimum of two parking bays are required for a dwelling house and one additional parking bay for a second dwelling unit. One parking bay will be accommodated in the existing As Built single garage. There is ample space on the subject property to provide an additional two parking bays on site as per the parking requirements for a main dwelling and second dwelling on a SR1 zoned property. Therefore, a total of three parking bays can be provided for on site. Refer to the site plan. The main dwelling and second dwelling on erf 589 Van Dyksbaai comply with the minimum parking requirements for SR1 zoned properties.

The subject property will still be used primarily for single residential purposes and therefore the impact on the traffic flow in the area will remain unchanged.

### **3.14 TITLE DEED**

Title Deed no. T41213/2021 has no restrictions that need to be removed for this application for the departure of the prescribed street building line to be approved. The conveyancer's certificate is being finalized by Nadine Barnard at Nadine Barnard Law and will follow.

There is a bond registered against erf 589 Van Dyksbaai. The bondholder's consent dated 2 February 2022 is attached.

### **3.15 FORWARD PLANNING AND LAND USE DOCUMENTS**

The *Overstrand Spatial Development Framework (2020)* earmarks the area where erf 589 Van Dyksbaai is situated, for urban development purposes. The zoning and use of the subject property will remain unchanged (Residential Zone 1: Single Residential). As a result, the impact of the proposed departure on the spatial integrity of the area will be minimal and is therefore consistent with the Overstrand SDF (2020).

The *Overstrand Municipal Growth Management Strategy (OMGMS, 2010)* specifies that erf 589 Van Dyksbaai forms part of Planning Unit no. 5 for Kleinbaai. Densification from 8,1du to 9,7du is proposed for this planning unit. The existing structures were altered and added to in the past to create a main dwelling and second dwelling unit. The As Built second dwelling has a nominal impact on the density of the area. The status quo of the area (low density residential) will remain unchanged. The land use application for the subject property therefore falls within the existing planning for the Kleinbaai area.

The proposal will promote land development in a location that is sustainable. The proposed departure is to an improved erf within an established residential area and will not impact on urban sprawl or upon a sensitive environment.

The impact on the overall density of this part of Kleinbaai will therefore be kept to a minimum since the proposed application still promotes a low-density residential area.

From the above it is evident that the proposed development **adheres and complies** with the relevant municipal spatial planning policies.

### 3.16 PLANNING PRINCIPLES

The planning principle of spatial resilience does not apply to this application.

Spatial justice: The proposed land use application ties in with the existing character of the area and will not have a negative impact on the surrounding neighbours. The impact on the biophysical environment will be low as the subject property has been in existence since 1992.

The proposed application will not further promote the spatial development imbalances. This application is for an erf as per the establishment of the existing Kleinbaai Township. The proposed application is in character with the existing area where similar applications have been approved in the past and therefore, the approval of the proposed application will not be spatially biased.

Spatial sustainability: The proposed departure will have no impact on the visual elements of the subject property and surroundings since both the bathroom of the second dwelling and single garage already exist. It is submitted that the As Built structures are compatible with the character of the area (as motivated in previous sections of this report). The encroachment of the street building line has no impact on the massing of the buildings and the impact on the streetscape or passers-by is considered minimal. The As Built bathroom and single garage will merge well with the area. The impact on the biophysical environment will also be kept to a minimum since the structures already exist.

Factors such as the good quality materials used, the overall layout of the structures on the subject property, the scale of the surrounding built environment, the low impact on the streetscape, the uses of the respective structures, etc. allow for the consideration and approval of the proposed deviations without having an adverse impact on the spatial sustainability of the area. To legalise the As Built structures are to an improved erf within an established residential area and therefore will not impact on urban sprawl, or upon a sensitive environment.

The application is considered spatially sustainable as the existing property will be more optimally utilised. The structures (with new uses where applicable) are compatible with the character of the area and do not impact negatively on the rights of any adjacent property owner.

Efficiency: The subject property is easily accessible and conveniently located close to Gansbaai CBD and major routes. It proves to be resourceful to consider the proposal since it is compatible with the existing built environment and aesthetically pleasing.

It proves to be efficient to accommodate the As Built bathroom of the second dwelling and single garage since the impact on the whole look and feel of the subject property will add value to the property and the area as a whole.

The proposed departure proves to be efficient since it discourages the phenomenon of urban sprawl, encourages densification and more compact towns and cities, all of which relates to more responsible resource and infrastructure use and sustainable development. Furthermore, the proposal is efficient in that it optimizes existing resources and infrastructure and continues the existing suburban development typology.

Good administration: Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020.

#### **4. RECOMMENDATION**

When this application is evaluated it is important to take note of the following:

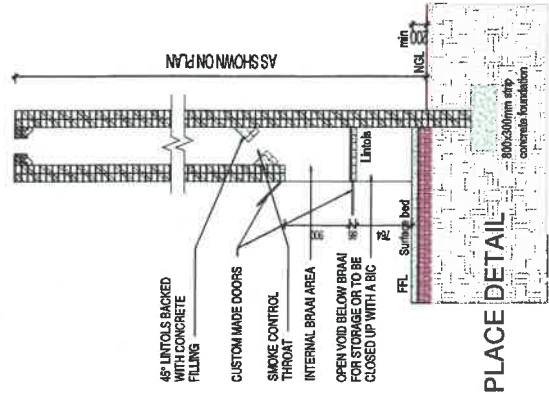
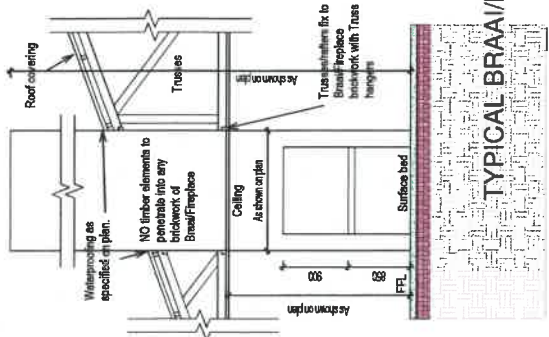
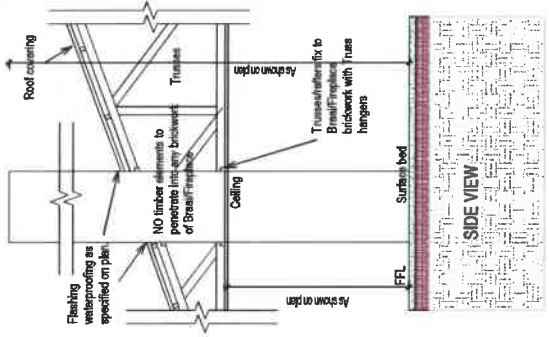
- The owner intends to legalise the As Built bathroom of the second dwelling and the As Built single garage that encroach the street building line;
- All services on the subject property already exist and no additional loading of the existing infrastructure is anticipated;
- The densification status quo of the area will remain unchanged;
- The zoning and primary land uses of the subject property will remain unchanged;
- The proposal is compatible with the existing built character of the area;
- Impact on the traffic and services will be kept to a minimum;
- There are no environmental aspects that will negatively impact the application and the application will not have a negative impact on any environmental factors;
- The impact on the heritage value of the area will be minimal;
- The proposal is compatible with the spatial planning strategies for the area;
- The application is fully compliant with the applicable planning principles described in the LUPA (2014) and SPLUMA (2013);
- We request that a minimal penalty fee not be imposed.

The application can be supported for your favourable evaluation. The opinion is held that this application will have no negative impact on the land values, privacy, built environment and character of the area.



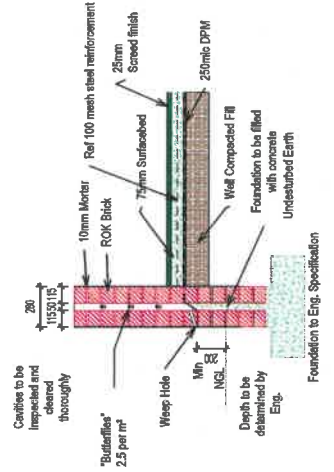


**ROOF PLAN**  
1 : 100

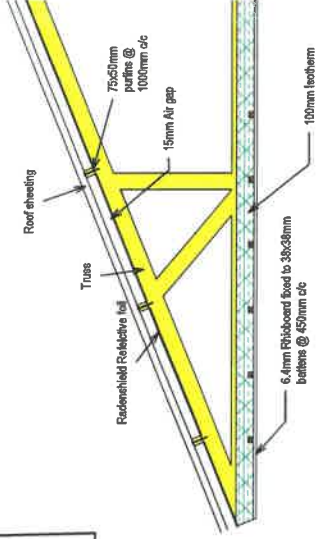


**TYPICAL BRAAI/FIREPLACE DETAIL**

MUNICIPAL APPROVAL STAMP



**FOUNDATION DETAIL**  
1 : 25



**Truss Insulation Detail**  
1 : 25

DESCRIPTION: ROOF PLAN & DETAILS	
SHEET FORMAT: A2	OCCUPATION: H4
SCALE: As indicated	DRAWING #: CG/SV/21
PAGE #: 2	
DRAWING DATE: 22 SEPT 2021	PLOT DATE: 30-Mar-22 7:45:11 PM
DRAWN: John Gericke	SIGNATURE: 
PROJECT PROPOSED NEW ADDITIONS & ALTERATIONS TO EXISTING DWING FOR C.J. SUMMERTON ON ERF 689, KLEINBAAL, OVERSTRAND.	
PROFESSIONAL ARCHITECTURAL REGISTRATION JOHN GERICKE ARCHITECTURE www.gericke-architecture.co.za info@gericke-architecture.co.za TEL: 085 394 1859 SK: 085 454 4554 SICCP: 18889 Prof Arch Draught	



**SCHEDULE OF RIGHTS**

**PROPERTY DESCRIPTION**

E1 Number: 580 Site Area: KLEINBAU  
 E1 Size: 220m<sup>2</sup>  
 Owner: SUMMERTON

**ZONING INFORMATION**

Town Planning Scheme: OVERSTRAND  
 Use Zone: GENERAL RESIDENTIAL ZONE 1: SINGLE RESIDENTIAL

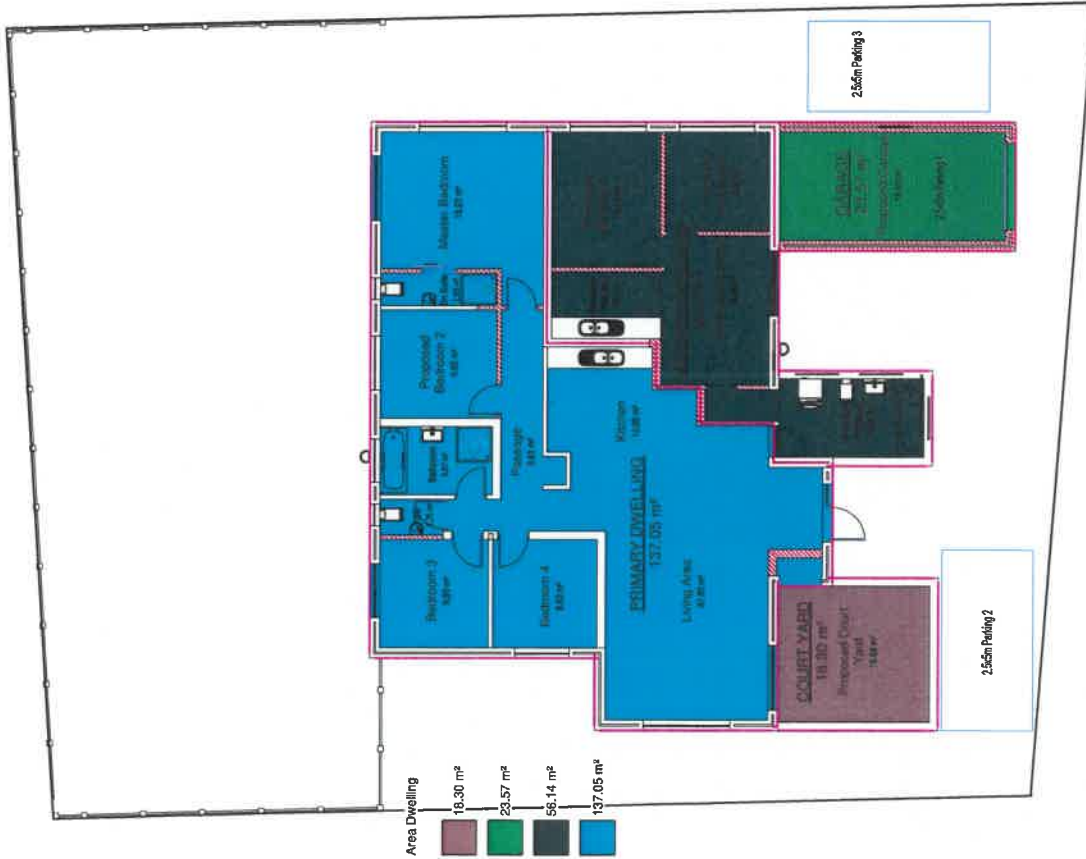
**DEVELOPMENT CONTROL MEASURES**

Existing Dwelling : 112.89m<sup>2</sup>  
 New Additions : 33.97m<sup>2</sup>  
 TOTAL : 216.72m<sup>2</sup>  
 Coverage : 34.73%

No Dwellings per E1 : 2  
 Primary Dwelling : 137.05m<sup>2</sup>  
 Secondary Dwelling : 56.14m<sup>2</sup>  
 Outbuilding : 23.57m<sup>2</sup>

The information provided above is hereby certified to be correct & precise

Name: J.S. GERJOCKE Signature:  
 Date: 8 NOVEMBER 2021 Plan No: O3/SV/21



**Dwelling Area**  
 1 : 100

**PROJECT PROPOSED NEW ADDITIONS & ALTERATIONS TO EXISTING DWELLING FOR OVERSTRAND ERF 580, KLEINBAU, OVERSTRAND.**

**DESCRIPTION:** DWELLING AREAS

**SHEET FORMAT:** A2  
**OCCUPATION:** HH

**SCALE:** As indicated  
**DRAWING #:** O3/SV/21

**PAGE #:** 4

**DRAWING DATE:** 22 SEPT 2021  
**PLOT DATE:** 30-Mar-22 7:45:16 PM

**DRAWN:** Johan Gerjocke  
**SIGNATURE:** *J.S. Gerjocke*

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