



**OVERSTRAND MUNISIPALITEIT**  
**ERF 909, PIKKEWYN STRAAT, 1 VERMONT:**  
**AANSOEK OM OPHEFFING VAN BEPERKENDE**  
**TITELAKTEVOORWAARDES, AFWYKING EN**  
**BEPALING VAN 'N ADMINISTRATIEWE BOETE:**  
**PLAN ACTIVE TOWN AND REGIONAL**  
**PLANNERS(nms WJ SMART & J VIVIERS)**

Kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die onderstaande aansoek van toepassing op Erf 909, Vermont (die eiendom), naamlik:

**Opheffing van Beperkende Titelaaktevoorwaardes**

Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelaaktevoorwaardes E(a) en E(d) soos vervat in Titelaakte T41022/2014 van die eindom om ten einde 'n tweede woning te akkomodeer, en om strukture oor boulyne te bou.

**Afwyking**

Aansoek ingevolge Artikel 16(2)(b) van die Verordening ten einde die:

- noordelike laterale boulyn te verslap vanaf 2m na 0m om die bestaande onderdak stoep te akkomodeer;
- noordelike laterale boulyn te verslap vanaf 2m na 1,021m om die bestaande braaiarea te akkomodeer;
- oostelike laterale boulyn te verslap vanaf 2m na 0m om die bestaande braaiarea te akkomodeer
- oostelike laterale boulyn te verslap vanaf 2m na 0m om die voorgestelde motorafdek te akkomodeer

**Bepaling van 'n Administratiewe Boete**

Aansoek ingevolge die bepaling van Artikel 16(2)(q) van die Verordening vir die bepaling van 'n administratiewe boete

Besonderhede aangaande die voorstel lê ter insae gedurende weeksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning te Patersonstraat 16, Hermanus.

Enige kommentare moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) bereik voor of op **14 April 2023**, met u naam, adres en kontakbesonderhede, belang in die aansoek, en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die Stadsbeplanner, Mnr H.Olivier by 028-313 8900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word om hul kommentare te formuleer.

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

Munisipale Kennisgewing Nr. 51/2023

**OVERSTRAND MUNICIPALITY**  
**ERF 909, 1 PIKKEWYN STREET, VERMONT:**  
**APPLICATION FOR REMOVAL OF RESTRICTIVE**  
**TITLE DEED CONDITIONS, DEPARTURE AND**  
**DETERMINATION OF AN ADMINISTRATIVE**  
**PENALTY: PLAN ACTIVE TOWN AND REGIONAL**  
**PLANNERS(obo WJ SMART & J VIVIERS)**

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), of the following applications applicable to Erf 909, Vermont (the property), namely:

**Removal of Restrictive Title Deed Conditions**

Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions E(a) and E(d) as contained in Title Deed T41022/2014 of the property to accommodate the second dwelling, and to build structures over building lines.

**Departure**

Application in terms of Section 16(2)(b) of the By-Law to:

- relax the northern lateral building line from 2m to 0m to accommodate the existing covered patio
- relax the northern lateral building line from 2m to 1.021m to accommodate the existing braai area
- relax the eastern lateral building line from 2m to 0m to accommodate the existing braai area
- relax the eastern lateral building line from 2m to 0m to accommodate the proposed carport

**Determination of an Administrative Penalty**

Application in terms of the provisions of Section 16(2)(q) of the By-Law for the determination of an administrative penalty.

Details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department : Town Planning at 16 Paterson Street, Hermanus.

Any comments must be in writing to reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) on or before **14 April 2023**, quoting your name, address and contact details, interest in the application, and the reasons for comment. Telephonic enquiries can be made to the **Town Planner, Mr. H Olivier** at 028-313 8900. The Municipality may refuse to accept comment received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comments.

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

Municipal Notice No. 51/2023

**UMASIPALA WASEOVERSTRAND**  
**ISIZA ESINGU-ERF 909, 1 PIKKEWYN STREET, VERMONT:**  
**ISICELO SOKUSHENXISWA KWEEMKO EZIYIMIQOBO,**  
**UKWAHLULA NOKUMISELA IPENALTHI YOBHALISO:**  
**PLAN ACTIVE TOWN AND REGIONAL**  
**PLANNERS(egameni lika WJ SMART & J VIVIERS)**

Kukhutshwe isaziso esimayela nemiba yeSolotya lama47 nelama48 nguMasipala waseOverstrand isaziso simayela noMthethwana OngeZicwangciso Zokusetyenziswa koMhlaba kaMasipala ku2020 (Umthethwana), ongokulandelwa kwezicelo zemithetho esebenza kwisiza esingu-Erf 909, Vermont (isakhiwo/umhlaba), esibizwa:

**Ushenxiso Lweemeko Eziyimiqobo**

Isicelo esimayela nokusetyenziswa kweSolotya le16(2)(f) loMthethwana ongokushenxiswa kweemeko eziyimiqobo kwiitayitile zobunini E(a) no E(d) njengoko ziqulethwe kwiTayitile yoBunini T41022/2014 yomhlaba/yesakhiwo ukulungiselela indawo yesibini yokuhlala abantu, nokwakha izakhiwo/izindlu phezu kwemigca yokwakha.

**Ukwahluka**

Isicelo esimayela nemiba yeSolotya le16(2)(b) loMthethwana elingo:

- kunyenyisa umgca osemantla wesakhiwo omelene nomgca wesakhiwo nozimitha ezisuka kwi-2m ukuya ku-0m ukulungiselela iphethiyo (iveranda) esele ikhona
- ukunyenya umgca osemantla wesakhiwo omelene nomgca wesakhiwo ukusuka kwiimitha ezi-2m ukuya ku-1.021m ukulungiselela indawo yokubhaya/yokoja inyama esele ikhona
- ukunyenya umgca okwicala elisempuma omelene nomgca wesakhiwo ukusuka kwiimitha ezi-2m ukuya ku-0m ukulungiselela indawo yokubhaya/ukoja inyama esele ikhona
- ukunyenya umgca wesakhiwo okwicala elisempuma omelene nomgca wesakhiwo ukusuka kwiimitha ezi-2m ukuya ku0m ukulungiselela ikhapoti

**Inggikelelo yePenalithi/umdlwiro wobhaliso**

Isicelo esimayela nemiba yezibonelelo zeSolotya le-16(2)(q) loMthethwana wokuqikelela nokumiselela umdlwiro/ipenalithi.

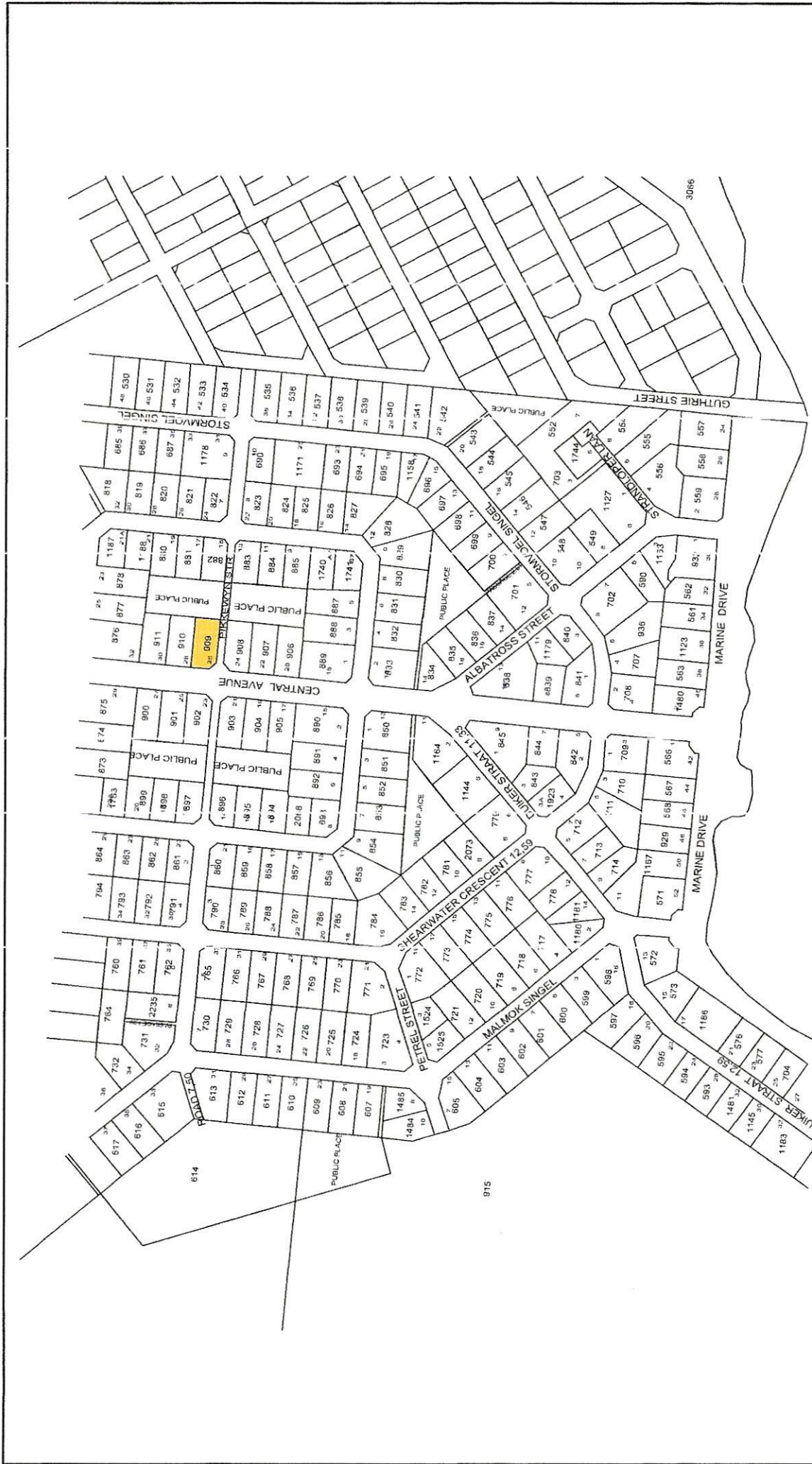
linkcukacha ezipheleleyo mayela nesi siphakamiso ziyafumaneka phakathi kwentsimbi ye08:00 neye16:30 kwiSebe:Lezicwangciso zeDolophu kwa16 Paterson Street, Hermanus.

Naziphi na izimvo ezibhaliweyo mazifike kwaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) ongomhlal okanye ngaphambi komhla wama-14 kuEprili 2023, uchaze igama lakho, idilesi neenkukacha ofumaneka kuzo, umdla wakho kwesi sicelo, nezizathu zokuhlomla. Imibuzo ngefowuni ingathunyelwa kuMchwangcisi weDolophu, Mnu. H Olivier kwa028-313 8900. UMasipala angala ukwamkela izimvo ezifike emva komhla wokuvula. Nabani na ongakwazi ukubhala nokufunda angahambela kwiSebe Lezicwangciso zeDolophu apho igosa likamasipala liza kumnceda ahlomle gokusemthethweni.

Umlawuli kaMasipala, Overstrand Municipality, P.O. Box 20, HERMANUS, 7200

Inothisi kaMasipala Nomb. 51/2023





<b>PlAn</b> Stads-en Streeksbeplanners Town & Regional Planners	All distances approximate and subject to survey.  COPY RIGHT RESERVED	Property Description:  <b>ERF 909 VERMONT</b>	Plan Description:  <b>LOCALITY MAP</b>	Scale: <b>NTS</b> Drawing Nr: <b>verm909L.dwg</b> Date: <b>DECEMBER 2022</b>

**PROPOSED DETERMINATION OF AN  
ADMINISTRATIVE PENALTY, REMOVAL  
OF RESTRICTIVE TITLE DEED  
CONDITIONS AND BUILDING LINE  
DEPARTURES**

**ERF 909 VERMONT**

**DIVISION: CALEDON**

**OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT**

**1. BACKGROUND**

The owners of Erf 909 Vermont, Mr. W. J. Smart and Mrs. J. Viviers, have instructed the company Plan Active to apply for the determination of an administrative penalty, removal of restrictive Title Deed conditions and building line departures of Erf 909 Vermont.

The subject property was purchased by the current owners in 2014, as reflected on the applicable Title Deed. The subject property contains structures that have been erected by the previous owners that encroach the zoning scheme regulations' building lines as well as the prescribed Title Deed building lines.

There are also two dwellings established on the subject property, also constructed by the previous owners, even though the subject property is restricted to only one dwelling as stipulated in the applicable Title Deed. The current owners intend to erect a carport on the lateral boundary of the subject property that will encroach the zoning scheme regulations' building lines as well as the Title Deed building lines that need to be addressed. The intention of the owners is to address the illegal structures and the proposed carport in order to obtain approved building



plans for all the structures proposed and established on the subject property from the Building Control Department.

Erf 909 Vermont is 709m<sup>2</sup> in extent and is held by Title Deed Number T41022/2014.

## **2. APPLICATION DETAILS**

Application is made in terms of:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended Bylaw on Municipal Land Use Planning, 2020, for the departure from the prescribed building lines.
- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amended Bylaw on Municipal Land Use Planning, 2020, for the removal of restrictive Title Deed conditions.
- 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;

## **3. DESIRABILITY**

### **3.1 PROPERTY DESCRIPTION**

Erf 909 Vermont is located on the corner of Pikkewyn Street and Central Avenue, Vermont and is 709m<sup>2</sup> in extent. Please refer to the enclosed locality plan.

### **3.2 ZONING**

Erf 909 Vermont is zoned Residential Zone 1 and is utilised as such. The surrounding properties are also zoned for single residential purposes and public roads as depicted by the abstract from the Zoning Scheme below.





### 3.3 LAND USE

Erf 909 Vermont is used for residential purposes. There are two dwellings established on the subject property.

As indicated on the as-built plan the following internal-uses exist within the two separate dwellings:

#### Dwelling unit 1

- Kitchen;
- Dining room;
- 2 bedrooms;
- 1 bathroom;
- Lounge;
- 2 storerooms.

#### Dwelling unit 2

- Kitchen;
- 2 bedrooms;
- 1 bathroom;
- Lounge;
- Lobby;
- Study.

Land uses that surround Erf 909 Vermont are single dwellings, public roads, and public open spaces. It is therefore evident that Erf 909 Vermont is situated within a predominantly residential area.

### 3.4 PROPOSAL

The following are proposed 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;
- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amended Bylaw on Municipal Land Use Planning, 2020, for the removal of restrictive Title Deed conditions.
- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended Bylaw on Municipal Land Use Planning, 2020, for the departure from the prescribes building lines.

Erf 909 Vermont is 709m<sup>2</sup> in extent. The intention of the owners of Erf 909 Vermont is to legalise the existing structures that encroach the zoning scheme regulation building lines as well as the Title Deed restrictions. A proposed carport that encroaches the Zoning Scheme Regulations' building lines as well as the Title Deed building lines will also be addressed with this application.

The illegal structures that need to be addressed are the existing **braai area, covered patio and second dwelling unit**. The detail of the proposed applications are as follows:

#### 3.4.1. Determination of an administrative penalty

When the property was purchased in 2014, the unauthorised building work was already established on the subject property. The following unauthorised structures are established on the subject property:

- **Second dwelling;**
- **An existing Covered patio;**
- **Existing Braai area.**

The current owners are addressing the unauthorised building work that was inherited from the previous owners, as it is their intention and responsibility to obtain approved



building plans for the existing illegal structures. Although building plans do exist for the subject property, it does not reflect what was constructed on the subject property.

In terms of **Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020**, an application is made for the determination of an administrative penalty for unauthorised land uses. In terms of **Chapter 10, Section 90(1)**, "A person who is in contravention of this By-Law, 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".

In terms of **Chapter 10, Section 90(3)**, of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 the applicant must to the satisfaction of the municipality, provide the following:

#### **3.4.1.1 CRITERIA FOR DETERMINATION OF AN ADMINISTRATIVE PENALTY**

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

The existing owners purchased the property in 2014 with the unauthorised building work established on the subject property. The intention of the owners is to address the unauthorised building work in order to obtain building plan approval for the structures situated on the subject property.

The extent of the unauthorised building work is as follows:

Structure	Extent of unauthorised building work
Second dwelling	±80 m <sup>2</sup>
Portion of the existing Covered patio	±8m <sup>2</sup>
Existing Braai area	±1.57m <sup>2</sup>
<b>Total Extent of unauthorised building work</b>	<b>±89.57m<sup>2</sup></b>

The position and nature of the unauthorised second dwelling, a portion of the existing covered patio and braai area are unobtrusive in nature and do not impact negatively on the surrounding properties, as no complaint from surrounding property owners has been received over the years. Applications for the building line departures and removal of Title Deed restrictions are also submitted to address the unauthorised building work situated on the subject property. It is important to note that a second dwelling unit is a primary right under the Residential Zone 1 zoning in terms of the Zoning Scheme regulations for the Overstrand Municipal area.

The current unlawful land uses were inherited by the current owners and were not caused by their doing. When the property was purchased by the current owners in 2014 they were unaware that the existing approved building plans did not reflect the



existing structures on the subject property. The current owners are now in the process of addressing the unauthorised building work that is in contravention of the zoning scheme regulations and Title Deed conditions.

**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 work erected by the previous owners, we will submit a report from a quantity surveyor with reference to the unauthorised building work. The reason being is that the owners are already spending a considerable amount to rectify the contraventions inherited.

**Whether the unlawful conduct was stopped**

The owners are in the process of rectifying the contravention by applying for the determination of an administration penalty, removal of restrictive Title Deed conditions and building line departures. The structures were erected by the previous owners.

**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 landowners, the owners have never previously contravened this By-Law or any other previous planning law.

We appeal to the Overstrand Municipality to take into consideration the low impact the unauthorised building work has on the surrounding area. It should also be considered that no complaint from surrounding property owners has been received with regards to the inherited unauthorised building work. The previous landowners erected the unauthorised structures and sold the property without approved building plans and therefor the current owners have taken it upon themselves to legalise all the structures on the subject property by following due process in order to submit as built building plans for approval.

It should also be taken into consideration the low impact that the unauthorised structures have on the neighbouring properties. It is also important to note that a **second dwelling** is a primary right for Residential Zone 1 erven and that the Zoning Scheme Regulations and the Overstrand Municipality's Amended Bylaw on Municipal Land Use Planning, 2020 will still be used to guide future development on the subject property. We therefore respectfully request that a penalty fee not be imposed on the property owners for the reasons given above.

#### **3.4.2. Proposed Removal of Title Deed restrictions**

The enclosed Title Deed, T41022/2014 contains the following restrictions that must be addressed:

- **Page 3 paragraph E(a)** *"Save with the consent of the transferor company in writing no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 3.15 metres to the street line which forms a boundary of the said property, and no such building or structure shall be situated within 1.56 metres of the lateral boundary common to any adjoining lot nor save with the consent aforesaid, may the said property (or any lot if the property sold compromises more than one Lot) be subdivided".*
- **Page 3 paragraph E(d)** *"unless the permission of the transferor company in writing be obtained under condition (c) above the said property shall be used for residential purposes only and only one dwelling together with such outbuildings as are ordinarily required for domestic purposes, shall be erected on any one lot, and in particular, subject, to any permission granted as aforesaid, no structure of the type commonly known as "flats" shall be erected on the said property"*

The reason for addressing the above-mentioned Title Deed restriction, **Page 3 paragraph E(a)** is because the restriction contains a 3.15m street building line and a 1.56m common boundary building line. The existing structures that were erected by the previous owners encroach the aforementioned building lines as stipulated in the applicable Title Deed.



If the mentioned Title Deed restriction is not removed the owners of the subject property will not be able to utilize the subject property to its full potential as purchased and as set out in Chapter 16, Sections 16.1 of the Zoning Scheme Regulations which refers to *General Encroachments*.

The restriction on **Page 3 paragraph E(d)** of the applicable Title Deed also restricts the subject property to **one dwelling** and therefore the aforementioned restriction needs to be removed in order to legalise the second dwelling unit on the subject property. The restriction that prevents a second dwelling, is stricter than the Zoning Scheme Regulations as a second dwelling unit is listed as a primary land use right in terms of the zoning of the subject property, which is Single Residential Zone 1.

In terms of **Chapter 4, Section 35(4)** of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 and **Section 39(5)** of the Land Use Planning Act, 2014, when the Municipality considers the removal, suspension or amendment of a restrictive condition; the municipality must consider the following:

- **The financial or other value of the rights in terms of the restrictive conditions enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the person as the owner of a dominant tenement.**

The removal of the Title Deed restrictions will allow the property to be developed according to the land use restrictions as set out in the Zoning Scheme Regulations. The proposed removal of the restrictions will also allow the property to be better utilised in terms of the primary rights of the subject property. Future owners will also be able to develop the subject property according to the primary uses and land use restrictions as set out in the **Zoning Scheme Regulations of the Overstrand Municipal Area** which includes land uses such as a *crèche, guest rooms, home occupation, second dwelling unit and self-catering*.

- **The personal benefit which accrue to the holder of rights in terms of the restrictive conditions.**

The personal benefit accumulated to the owners in the township is insignificant insofar as the Title Deed conditions to be removed are concerned. None of the existing owners within the township gain anything personally by having the restrictions removed, which prevents the property to be developed to its full potential and according to the development rules and primary land use rights as set out in the zoning scheme regulations. The proposal will have an impact on the existing built form in the area however such changes have been supported in the area. Surrounding property owners are still protected by the policies in place for the area such as the **Zoning Scheme Regulations of the Overstrand Municipal Area** and the **Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020**. The proposed removal of restrictive Title Deed conditions will increase the market value of the property as well as the area. This in turn leads to the social and economic benefit of the local community as greater investment will be attracted.

- **The personal benefit which will accrue to the person seeking the removal of the restrictive conditions if it is removed.**

The property owners will benefit from the removal of the mentioned Title Deed restrictions as it will expand the development rights available on the subject property in terms of the Overstrand Municipal Zoning Scheme Regulations and it will also legalise existing structures and the use thereof. The removal of the restrictive Title Deed conditions will also unlock the various primary land uses prescribed in the Zoning Scheme Regulations under the current Residential Zone 1 Zoning.

- **The social benefit of the removal, suspension or amendment of the restrictive conditions remaining in place.**

The particular township has already changed with approved departures within the township. If the conditions remain in place, the status quo will remain the same. If the type of conditions to be removed is considered, it is doubtful that the retention thereof would have a significant social benefit. The retention of these restrictions will add another layer to be enforced by the Overstrand Municipality, in addition to the Zoning Scheme Regulations requirements.



- **The social benefit of the removal, suspension or amendment of the restrictive conditions.**

It can be argued that the possible social benefit of removing the restrictive Title Deed conditions and consequently allowing for the mentioned building line departures and the second dwelling will be positive. Removing the conditions will enable the better utilization of the property in terms of modern city development, contribute to the prevention of urban sprawl and align with various policies which require a more efficient use of land and appropriate densification of land and will allow additional residents and potential future amenities/facilities (guestrooms etc) within the area.

Furthermore, the removal of these Title Deed conditions is in line with the land use planning principles of efficiency and spatial sustainability as set out in the SPLUMA and LUPA, in that the development curtails urban sprawl, and promotes intensification of land uses with the constraints of existing infrastructure, without detracting from the visual or residential appeal of the area.

- **Whether the removal, suspension or amendment of the restrictive conditions will completely remove all rights enjoyed by the beneficiary or only some of the rights**

The removal of the restrictions will not remove the rights completely, as the **Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020** provides a certain level of control that will guide the manner in which the property is both used and developed.

With reference to **Section 47** of the **Spatial Planning Land Use Management Act, 2013**, the removal of restrictive Title Deed restrictions will not deprive any person in the subject area of Vermont as contemplated in **Section 25** of the **Constitution of the Republic of South Africa**. By denying the removal of Title Deed restrictions, will also deprive the current owners from utilizing the subject property to its full potential.

The removal of Title Deed restrictions application is made in the prescribed manner as per the **Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020**.

The proposed removal of the Title Deed restrictions will therefore be in the interest of the general public. In relation to the above, the benefit of removing the Title Deed restrictions outweighs the benefits of keeping the restrictions in place as such proposals have been approved in the past within the township.

### **3.4.3. Proposed Building line Departures**

The existing braai area, covered patio and proposed carport, encroach the zoning scheme building lines.

The building line departures can be summarised as follow:

- Relaxation of the northern lateral building line from **2m** to **0m** to accommodate the existing covered patio.
- Relaxation of the northern lateral building line from **2m** to **1.021m** and the eastern lateral building line from **2m** to **0m** to accommodate the existing braai area.
- Relaxation of the eastern lateral building line from **2m** to **0m** to accommodate the proposed carport.

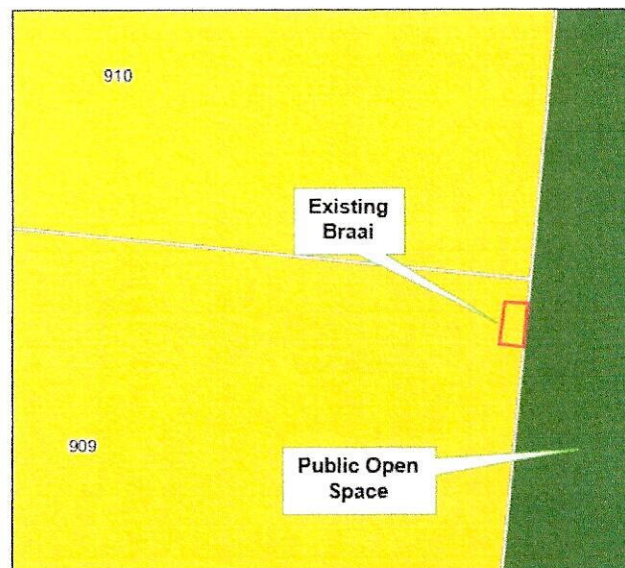
The Overstrand Scheme Regulations stipulate that a **4m street building line** and a **2m lateral building line** apply to **Residential Zone 1: Single Residential** properties larger than **400m<sup>2</sup>** in extent as seen in the tables below:

Net erf area	Street building line
Less than 150 m <sup>2</sup>	1,0 m
Less than 400 m <sup>2</sup>	2,0 m
400 m <sup>2</sup> and greater	4,0 m



Net erf area	Side and rear building lines
Less than 150 m <sup>2</sup>	At least 1,0 m one side and 0 m on the other side. Rear = 1,0 m.
Up to 400 m <sup>2</sup>	1,0 m
Greater than 400 m <sup>2</sup>	2,0 m

The **braai area** was constructed by the previous owners without obtaining any land use or building plan approval from the Overstrand Municipality. The existing braai area is located **±1.021m** from the northern lateral boundary and right up to the eastern boundary. The existing braai area is approximately 1.57m<sup>2</sup> in extent and does not have a negative impact on the neighbouring property as no complaints were received over the years. There is also a building line departure applicable from 2m to 1.021m to accommodate the braai area next to the adjoining residential erf, Erf 910 Vermont. The erf abutting the boundary line where the braai is situated is vacant and is zoned for Public Open Space as depicted below.



The existing **covered patio** is situated on the northern lateral boundary. The existing patio was also constructed by the previous owners without any approvals. Only a portion of the existing patio encroaches the lateral building line but does not encroach the boundary line. With reference to the building plan the covered patio is covered with Polycarp sheeting. Stormwater is channelled from the covered patio to dispose of within the boundaries of Erf 909 Vermont. The height of the patio is 2.8m at its highest point (towards the dwelling) and 2.55m on the boundary line. The existing covered patio does not have a negative impact on the adjacent property.

A carport is proposed on the eastern lateral boundary attached to **Dwelling 1**, which will encroach the 2m building line. The carport is proposed  $\pm 5.1\text{m}$  from the street boundary line abutting Pikkewyn Street on the Eastern side of the main dwelling (dwelling 1 as seen on the site plan). The carport will be used for the housing of one vehicle and will be  $6.5\text{m} \times 4.05\text{m}$  in extent. The proposed carport will not have any impact on the neighbouring property and will be accessed via Pikkewyn Street. The carport will be  $2.63\text{m}$  in height on the boundary line and will be covered by Colourbond IBR roof sheets to match the main dwelling. All accesses have already been discussed with the Engineering Department of the Overstrand Municipality and have been approved in principle.

The proposed building line departures will not have a negative impact on the neighbouring properties or the character of the greater Vermont area. It should also be noted that the proposed building line departures are not for structures that will be utilised as habital spaces and will not be of any nuisance to neighbouring properties.

### 3.5 ACCESS AND PARKING

Vehicular and pedestrian access to the two dwelling units situated on the subject property are from Pikkewyn Street.

According to Section 17.1.4 of the Zoning Scheme Regulations for the Overstrand Municipal Area the following parking bays are required:

**Dwelling House**: two on-site parking bays per dwelling unit provided that even less than  $400\text{m}^2$  only 1 on-site parking bay needs to be provided.

**Second dwelling**: one parking bay needs to be provided.

The detail of the parking is tabled below:

Land use	Detail	Parking requirement	Parking provided
<b>Dwelling House</b>	$\pm 82\text{m}^2$ floor area	2 parking bays	1 parking bay and proposed carport
<b>Second dwelling</b>	$80\text{ m}^2$ floor area	1 parking bay	1 parking bay



A total of **3 parking bays** are provided on-site.

It is important to note that the Engineering Services Department of the Overstrand Municipality has provided there approval for the parking layout as proposed on the subject property, attached as **Annexure A**.

### **3.6 SERVICES**

All services on Erf 909 Vermont already exist. No additional services are required in order for the proposed applications to be approved. If additional services need to be provided it will be done according to the specifications of the Overstrand Municipality.

### **3.7 TITLE DEED**

As previously mentioned, Title Deed no. T41022/2014 has restrictive Title Deed conditions that need to be removed in order for this application to be approved. For detail pertaining to the removal of the restrictive Title Deed conditions refer to **Section 3.4.2** of this report.

Please refer to the conveyancer's certificate compiled by DYKES VAN HEERDEN SLABBERT HOPKINS INCORPORATED dated 9 December 2022.

There is a bond registered against the subject property and the bondholder's consent will be forwarded as soon as it is received from the bondholder.

### **3.8 FORWARD PLANNING**

The Overstrand Spatial Development Framework (2020) earmarks the area where Erf 909 Vermont is situated, for urban development purposes. Refer to the Spatial Development Framework Plan (2020) below. The land use of the subject property will remain unchanged (Residential Zone I: Single Residential for single residential use).



### Overstrand Growth Management Strategy

The *Overstrand Municipal Growth Management Strategy (OMGMS, 2010)* specifies that Erf 909 Vermont forms part of Planning Unit no. 1. No densification is proposed for this particular planning unit. This application does however not propose to create any additional portions but there are two dwellings established on the subject property. The impact will therefore be minimal.

From the above it is evident that the proposed departures and the removal of restrictive Title Deed conditions adhere to the spatial planning policies for the Vermont area and consequently falls within the existing planning for the Vermont area.

### 3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

#### 3.9.1 HERITAGE VALUE

Erf 909 Vermont is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). The property is



developed and not earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009).

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 light of the above mentioned it is evident that the proposed removal of the restrictive Title Deed conditions and building line departures will not have a negative impact on the heritage value of the subject property or the greater area of Vermont.

### **3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT**

The proposed removal of the restrictive Title Deed conditions and building line departures do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

### **3.10 PLANNING PRINCIPLES**

The planning principles of spatial justice, spatial sustainability, efficiency and spatial resilience of this application can be described as follows:

**Spatial Justice:** The proposed determination of an administrative penalty, removal of restrictive Title Deed conditions and building line departures will be in line with the current land use tendencies. The restrictive Title Deed conditions to be removed are more restrictive than the land use restrictions as prescribed in the Overstrand Municipality Zoning Scheme under the General Encroachments as per Section 16.1 of the Overstrand Municipality Zoning Scheme. The Title Deed restrictions are also more restrictive than the primary land use rights as prescribed in the aforementioned zoning scheme. It is therefore proposed that only the land use restrictions and the primary land use rights, in terms of the Overstrand Municipal Zoning Scheme under a zoning of Residential Zone 1 and the land use restrictions under General Encroachments, apply and not the restrictions prescribed in the Title Deed.

**Spatial sustainability:** The determination of an administrative penalty, proposed removal of the restrictive Title Deed conditions and building line departures are in line with the current character of the established residential area. The proposal will have no impact on the conservation worthy areas of Vermont. Spatially the land use will be in line with the residential character of the area.

**Efficiency:** The restrictive Title Deed conditions to be removed are more restrictive than the land use restrictions prescribed in the Overstrand Municipality Zoning Scheme. It is therefore proposed that only the land use restrictions in terms of the Overstrand Municipal Zoning Scheme apply and not the restrictions prescribed in the Title Deed.

**Spatial Resilience** in the context of land use planning refers to the need to promote the development of sustainable livelihoods for the poor (i.e. communities that are most likely to suffer the impacts of economic and environmental shocks). Spatial resilience also refers to the requirement for flexibility in spatial plans, policies and land use management systems to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks. The spatial plans, policies and land use management systems should enable the communities to be able to resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner, which includes the preservation and restoration of essential basic infrastructure and functions, but also adaptation in order to ensure increased resilience in terms of future shocks (United Nations Office for Disaster Risk Reduction, 2009). In our opinion the principle of Spatial Resilience is not applicable to this application.

**Good administration:** Our Company 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 Amended By-law on Municipal Land Use Planning, 2020.

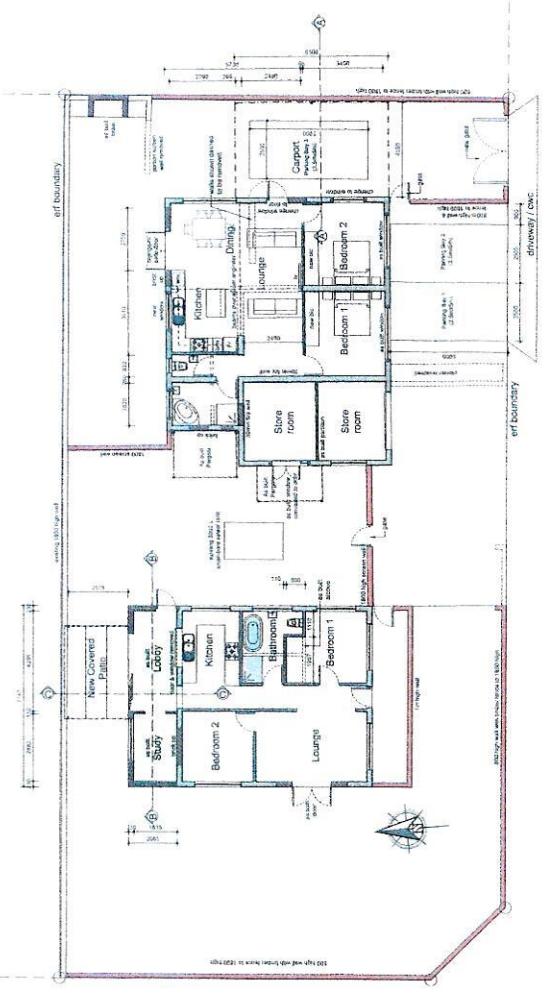


#### 4. RECOMMENDATION

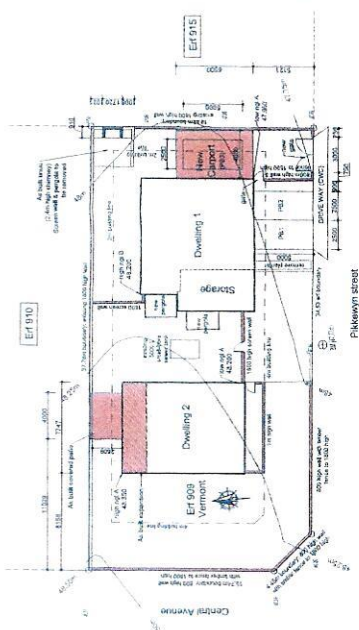
When this application is evaluated, it is important to take note of the following:

- The illegal structures were erected by the previous owners of the subject property. The current owners are in the process of legalising all illegal structures situated on the subject property in order to obtain as built building plan approval from the Overstrand Municipality;
- The proposed removal of the restrictive Title Deed conditions and building line departures will not have a negative impact on the current character and land values of the surrounding erven.
- The proposed removal of the restrictive Title deed conditions and departures of Erf 909 Vermont fall within the existing land use tendencies in the area;
- No additional services are needed for the proposed application to be approved;
- The proposed parking layout and access points have been approved in principle by the Overstrand Municipality's Engineering Department;
- The proposed application is in line with Spatial Planning Land Use Management Act, 2013 (SPLUMA) and the Land Use Planning Act, 2014 (LUPA).
- We request that a penalty fee not be imposed.

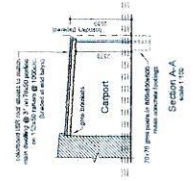
With regards to the above mentioned it would be appreciated if the Overstrand Municipality would consider the applications favourably for the dismissal of an administrative penalty and the approval for the removal of the restrictive Title Deed conditions and building line departures applicable to Erf 909 Vermont.



Ground Floor plan  
Scale 1:100

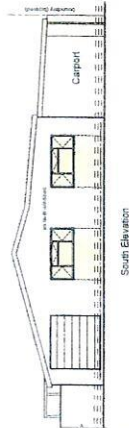


Site Plan  
Scale 1:200



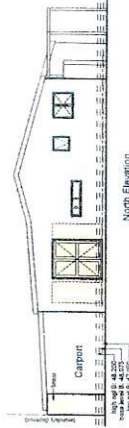
Section A-A  
Scale 1:100

Dwelling 1



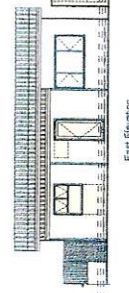
East Elevation  
Scale 1:100

Dwelling 1



North Elevation  
Scale 1:100

Dwelling 1



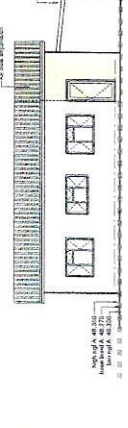
West Elevation  
Scale 1:100

Dwelling 1



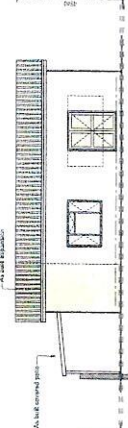
South Elevation  
Scale 1:100

Dwelling 2



East Elevation  
Scale 1:100

Dwelling 2



North Elevation  
Scale 1:100

Dwelling 2



West Elevation  
Scale 1:100

Dwelling 2



Section B-B  
Scale 1:100

# GENERAL NOTES

1. The client has provided the following information for the purpose of this drawing. It is the responsibility of the client to ensure that the information is accurate and complete.
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# For Site design + consult

House Viewers  
Alterations to Existing  
Council Approval drawing only

Address: 1 Pileway St.  
Erf 809  
Vermont

Client: [Signature]  
Drawing No: [Number]  
Date: [Date]

For Site design + consult