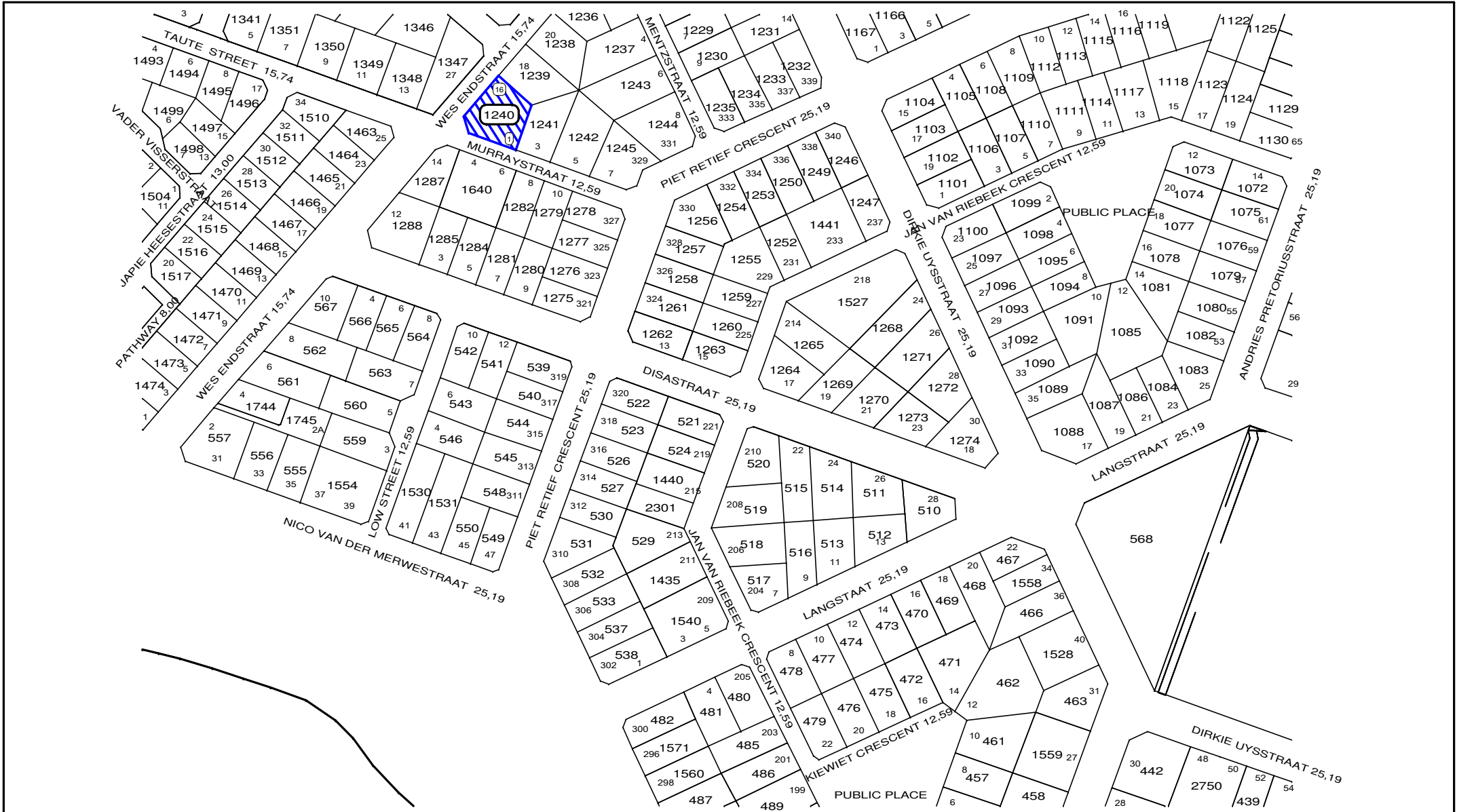


OVERSTRAND MUNICIPALITY	OVERSTRAND MUNISIPALITEIT	UMASIPALA WASE-OVERSTRAND
<p><u>ERF 1240, 16 WEST END STREET, SANDBAAL, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND DEPARTURE: PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF RBG & FR VIET</u></p> <p>Notice 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 1240, Sandbaai, namely:</p> <p><u>Removal of a restrictive title deed conditions</u> Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions C. (2). (c) and (d) as contained in Title Deed T26036/2022.</p> <p><u>Departure</u> Application in terms of Section 16(2)(b) of the By-Law, to relax the eastern lateral building line from 2m to 0m to accommodate a new pergola east of the existing outbuilding (double garage).</p> <p>Full details regarding the proposals above are available for inspection during weekdays between 08:00 and 16:30 at the Division: Town and Spatial Planning, 16 Paterson Street, Hermanus and on the municipal webpage at the following link https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/</p> <p>Any comments must be in writing and reach the Municipality (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) on or before 05 June 2026, with your name, address, contact details, interest in the application and the reasons for comment. Telephonic inquiries can be made to the Town Planner, Mr B Minnaar at 028-3138900. The Municipality may refuse to accept comments after the closing date. Any person who cannot read or write can visit the Division: Town and Spatial Planning where they will be assisted by a municipal official in formulating their comments.</p> <p><i>Please note that in terms of the Protection of Personal Information Act (POPIA), you will be entering into a public process and as such agree and consent to your name, surname, contact details and comment(s) may be disclosed / used in the (application) process.</i></p>	<p><u>ERF 1240, WEST ENDSTRAAT 16, SANDBAAL, OVERSTRAND MUNISIPALE AREA: AANSOEK OM OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDES EN AFWYKING: PLAN ACTIVE STAD- EN STREEKBEPLANNERS NAMENS RBG & FR VIET</u></p> <p>Kragtens Artikels 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die volgende aansoek van toepassing op Erf 1240, Sandbaai, naamlik:</p> <p><u>Opheffing van beperkende titelakte voorwaardes</u> Aansoek ingevolge Artikel 16(2)(f) van die Verordening, vir die opheffing van beperkende titelaktevoorwaardes C. (2). (c) en (d) soos vervat in Titelakte T26036/2022.</p> <p><u>Afwyking</u> Aansoek ingevolge Artikel 16(2)(b) van die Verordening om die oostelike lateraleboulyn van 2m na 0m te verslap om 'n nuwe pergola oos van die bestaande buitegebou te akkommodeer.</p> <p>Besonderhede aangaande die voorstel lê ter insae gedurende weksdae tussen 08:00 en 16:30 by die Afdeling: Stads- en Streekbeplanning te Patersonstraat 16, Hermanus en op die munisipale webtuiste by die volgende skakel https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/</p> <p>Enige kommentaar moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (e) landuse@overstrand.gov.za) voor of op 05 Junie 2026, met u naam, adres, kontak besonderhede, belang in die aansoek en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die Stadsbeplanner, Mr B Minnaar by 028-3138900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Afdeling: Stads- en Streekbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer.</p> <p><i>U aandag word gevestig op die Bepalinge van die "POPI" Wet, en aangesien u opmerking deel sal uitmaak van 'n openbare deelname proses, u derhalwe toestem dat u naam, van en kontakbesonderhede openbaar gemaak mag word.</i></p>	<p><u>ISIZA U-ERF 1240, 16 WEST END STREET, SANDBAAL: ISICELO SOKWAHLULA NOKUSHENXISA IIMEKO EZIYIMIQOBO KWIITAYITILE ZOBUNINI: PLAN ACTIVE TOWN & REGIONAL PLANNERS EGAMENI LIKA RBG & FR VIET</u></p> <p>Kukhutshwe isaziso esimayela nemiba yeSoloty lama47 nelama48 elisisiHlomelo soMthethwana kaMasipala wase-Overstrand ngeZiCwangciso ZokuSetyenziswa koMhlaba ku2020 (UMthethwana) isaziso esisebenziseka ngokusetyenziswa kwezimeko zilandelayo kwisiza uErf 1240, Sandbaai, ezibizwa:</p> <p><u>Ukushenxiswa kweemeko eziyimiqobo kwitayitile yobunini</u> Isicelo esisebenza ngokwemiba yeSoloty le16(2)(f) loMthethwana ongokushenxiswa kweemeko eziyimiqobo kwitayitile zobunini C. (2). (c) no (d) njengoko ziqulethwe kwiTayitile Yobunini T26036/2022</p> <p><u>Ukwahluka</u> Isicelo esisebenza ngokwemiba yeSoloty le16(2)(b) loMthethwana, ukunyenyisa umgca wesakhiwo omelene nesakhiwo ukusuka kwiimitha ezi-2m ukuya ku0m ukulungiselela indawo entsha yokoja inyama evalekileyo/ipegolaa kwicala elisempuma elingaphandle kwesakhiwo (igaraji engena izithuthi ezibini).</p> <p>linkcukacha ezipheleleyo mayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini ukusukela phakathi kwentsimbi ye-08:00 neye 16:30 kwiCandelo: Izicwangciso zeDolophu noBume beNdawo, 16 Paterson Street, Hermanus nakwiwebhpheyiji kamasipala kweli qhakamshela lilandelayo https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/</p> <p>Naziphi na izimvo ezibhaliweyo mazifike kwaMasipala (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) ngomhla okanye phambi komhla wama 05 EyeSilimela 2026, uchaze igama lakho, idilesi, iinkcukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zakho zokuhlomla. Imibuzo ngefowuni ingabuzwa ithunyelwe kuMcwangcisi weDolophu, uMnu B Minnaar kwa028-3138900. Umasipala angala ukwamkela izimvo ezifike emva komhla wokuvala. Nabani na ongakwazi ukufunda nokubhal makaye kwiCandelo: Lezicwangciso zeDolophu noBume beNdawo apho igosa likamasipala liza kumnceda ukubhala uluvo lwakhe ukuze ahlomle ngokusemthethweni.</p> <p><i>Nceda uqaphele ukuba ngokwemiba yoMthetho woKhuseleko LweNgxelo Ngomntu (POPIA), uza kua ungena kwinkqubo yoluntu ngoko ke uyavuma kwaye uyavumelana nokusetyenziswa kwegama lakho, ifani, iinkcukacha zakhosnoluvo/nezimvo zakho zingadizwa/zingasetyenziswa kwinkqubo yokufaka isicelo (kwisicelo).</i></p>



**PROPOSED DEPARTURE & REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS**

ERF 1240 SANDBAAI

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

Plan Active Town & Regional Planners has been appointed by R.B.G. & F.R. Viet, the owners of erf 1240 Sandbaai, to apply for the departure and removal of restrictive title deed conditions of the subject property.

Erf 1240 Sandbaai is currently developed with a primary dwelling and a free-standing outbuilding comprising a double garage. The registered owners intend to undertake additions and alterations to the existing structures. Among the proposed additions is the construction of a second dwelling unit to be located above the existing garage outbuilding. The outbuilding, in its current form, complies with all prescribed building lines in both the Land Use Scheme and the property's title deed.

However, the proposal includes the construction of a new pole-supported pergola on the eastern side of the garage, which will extend over the 2m eastern lateral building line prescribed in the applicable Land Use Scheme. In addition, the property's title deed contains a restrictive condition that prohibit the erection of a second dwelling unit, thereby limiting the exercise of the primary right associated with SR1 zoning to construct a second dwelling.

This application therefore seeks approval to (1) permit the construction of a second dwelling unit as a primary use right, and (2) allow the construction of a pergola that will encroach over the eastern lateral building line as stipulated in the Land Use Scheme regulations.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for **the departure** of erf 1240 Sandbaai;
- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the **removal of a restrictive title deed conditions** of erf 1240 Sandbaai.

3. NEED AND DESIRABILITY

3.1 PROPERTY DESCRIPTION

Erf 1240 Sandbaai is situated at 16 West End Street (corner of West End Street and Murry Street), Sandbaai. Refer to the locality plan attached. Erf 1240 Sandbaai is 1183m² in extent and is held by title deed no. T26036/2022.

The subject property is level sloped and is characterized by a dwelling house with double garage.

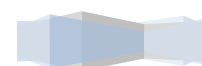




Image 1: Aerial photograph of erf 1240 Sandbaai

3.2 ZONING

Erf 1240 Sandbaai has the following land use rights:

ERF NUMBER	ZONING
Erf 1240 Sandbaai	Residential Zone 1: Single Residential

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



3.3 LAND USE

There is an existing dwelling house, two terraces and a free-standing outbuilding (double garage) with a floor area of ±228,2m² in extent situated on erf 1240 Sandbaai. The available aerial imagery (included in Section 3.1) appears to be outdated, as the structure located at the bottom left of the view has since been removed. In addition, the storage structure situated at the top right of the site is scheduled for demolition and will no longer form part of the existing development footprint. The proposed site plan therefore reflects the structures on the site.

Land uses that surround the subject property are single residential dwellings, a public open space (park) and public roads.

3.4 PROPOSAL

The following is proposed:

1. The **departure** of erf 1240 Sandbaai 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 eastern lateral building line from 2m to 0m to accommodate a new pergola east of the existing outbuilding (double garage).
2. The **removal of restrictive title deed conditions** of erf 1240 Sandbaai in terms of Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, to remove conditions C. 2. (c) and (d) on pages 2-3 of title deed no. T26036/2022 to:
 - Accommodate a second dwelling unit on erf 1240 Sandbaai.
 - Remove the more restrictive street building line condition of 4,72 metres contained in the title deed applicable to erf 1240 Sandbaai. The intention is that the development of the subject property be governed solely by the street building line as prescribed in the applicable Land Use Scheme regulations, thereby aligning future development rights with the municipal planning framework.

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

Erf 1240 Sandbaai is currently developed with a primary dwelling and a free-standing outbuilding comprising a double garage. The registered owners intend to undertake additions and alterations to the existing structures. Among the proposed additions is the construction of a second dwelling unit to be located above the existing garage outbuilding. The outbuilding, in its current form, complies with all prescribed building lines in both the Land Use Scheme and the property's title deed.

However, the proposal includes the erection of a new pole-supported pergola on the eastern side of the garage, which will extend over the 2m eastern lateral building line prescribed in the applicable Land Use Scheme. In addition, the property's title deed contains a restrictive condition that prohibit the erection of a second dwelling unit, thereby limiting the exercise of the primary right associated with SR1 zoning to construct a second dwelling.

This application therefore seeks approval to (1) permit the construction of a second dwelling unit as a primary use right, and (2) allow the construction of a pergola that will encroach over the eastern lateral building line as stipulated in the Land Use Scheme regulations.

3.4.1 Departure

The owner intends to construct a new pergola east of the approved outbuilding on the eastern erf boundary of the subject property. A pergola of 2,4m high encroaching a lateral building line is not listed as one of the structures where encroachments of building lines are permitted. An application is therefore submitted for a departure to relax the eastern lateral building line from 2m to 0m to accommodate the proposed pergola.

The proposed pergola is a tanalised turned-pole structure to be constructed along the eastern side of the existing garage outbuilding. The structure will project into the 2m eastern lateral building line and is designed as a lightweight ancillary element that provides shading and visual relief to the façade.

The pergola will consist of treated, rounded timber posts supporting a series of tanalised turned-pole rafters. These rafters form an open framework that will support a Zinalume Colorbond Ultra concealed fixed roof sheeting system, installed in accordance with the manufacturer's specification. The roof sheeting provides a durable, weather-resistant covering while maintaining a low-profile appearance due to the concealed-fix design. This results in a clean, refined finish that integrates with the architectural language of the proposed second dwelling above.

As indicated on the submitted elevations and roof plan, the pergola roof ties into the eastern elevation of the existing outbuilding and sits below the upper floor slab level of the proposed second dwelling. The height of the pergola is approximately 2,4m above natural ground level, aligning with the adjacent 2,1m boundary wall and gate structure. This ensures that the pergola remains visually subordinate to the primary and proposed built form.

The pergola extends the length of the affected portion of the garage, with its supporting posts positioned internally from the boundary line, while the roof structure spans inward toward the building. The combination of treated timber poles and Colorbond Ultra sheeting creates a durable, coastal-appropriate structure with minimal visual bulk. The pergola remains open-sided, with no enclosure or solid walling, ensuring permeability in accordance with the design intent.

Refer to the site plan and elevation plans attached and included below showing the position and design of the pergola:



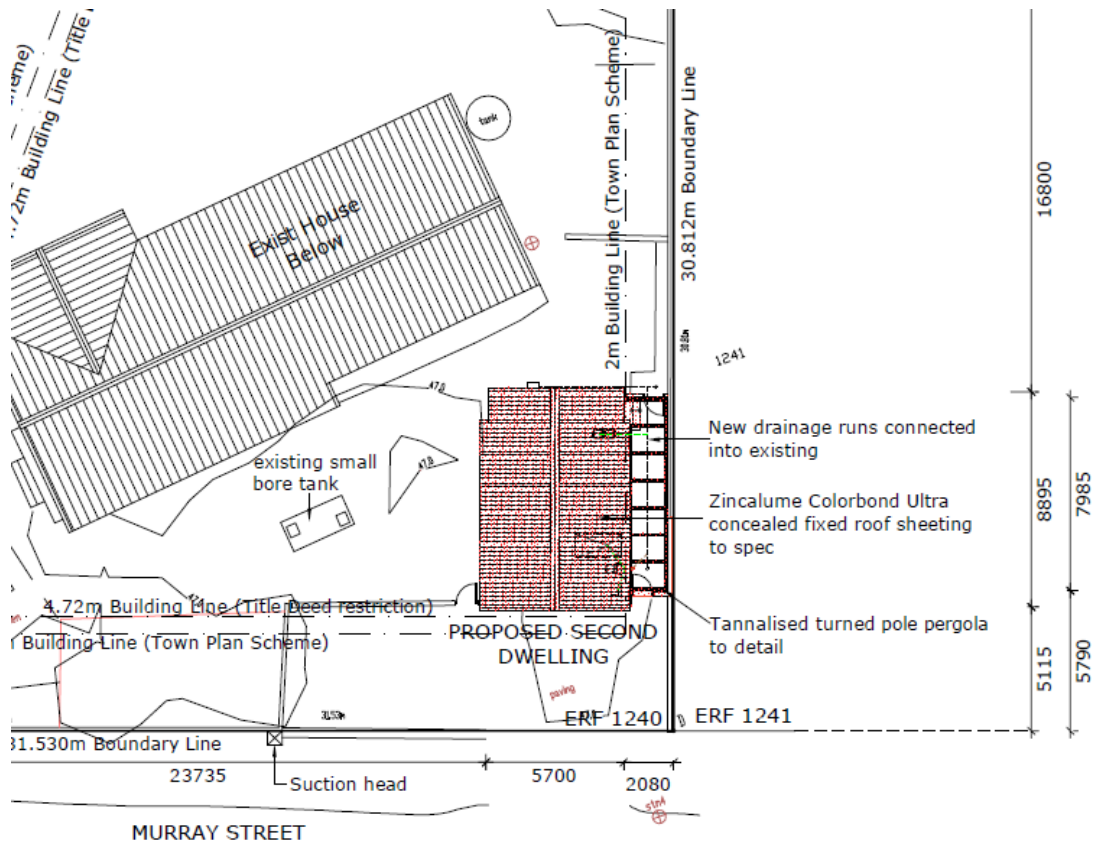


Image 2: Site plan

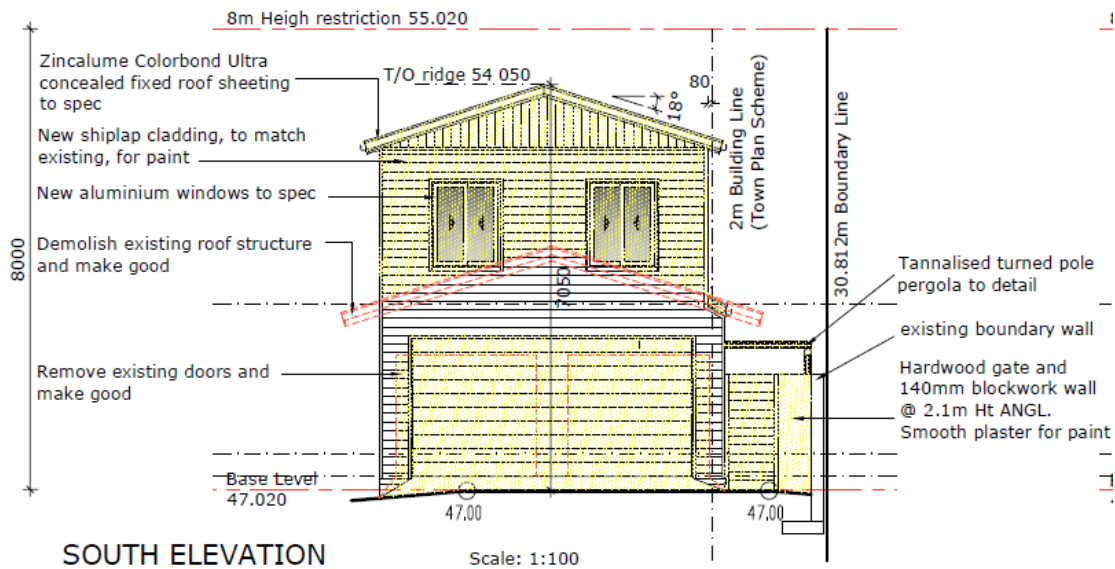


Image 3: South-east elevation plan



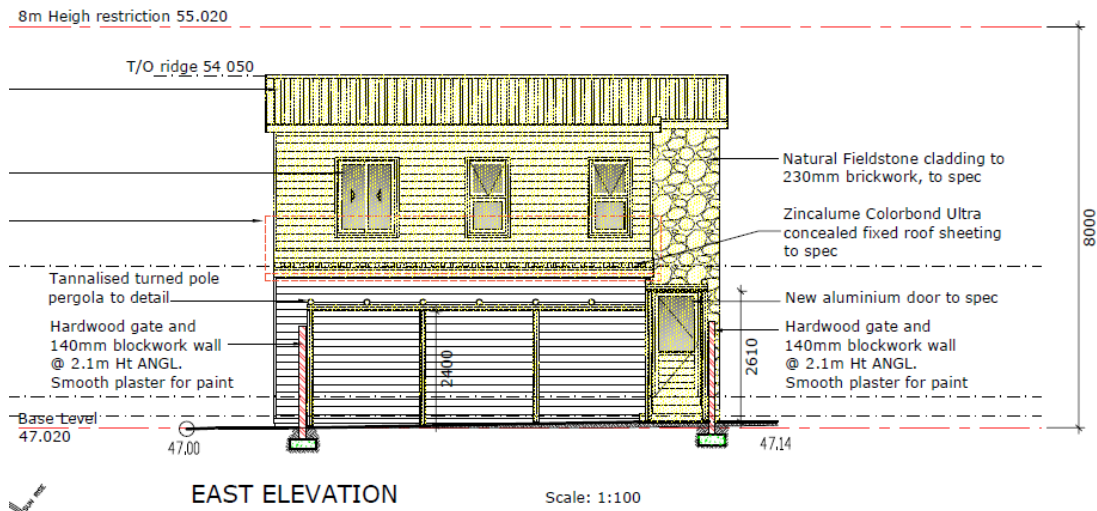


Image 4: East elevation plan

The structure will be visible from neighbouring erven and from the street. The position of the structure as well as the compliance with the requirements for the consideration at the proposed position does however not have a negative impact on neighbours' views towards the ocean and mountain.

3.4.2 Removal of restrictive title deed conditions

A second dwelling unit is a primary right in terms of the SR1 zoning that applies to erf 1240 Sandbaai. A formal land use application is therefore not required to accommodate the proposed second dwelling unit. However, there is a restrictive title deed condition that prohibit the construction of a second dwelling unit on erf 1240 Sandbaai. In addition, it is proposed to remove the more restrictive street building line condition of 4,72 metres contained in the title deed applicable to erf 1240 Sandbaai. Although the proposed pergola and second dwelling unit will meet the 4,72m title deed street building line requirement, the intention is that any future development of the subject property be governed solely by the street building line as prescribed in the applicable Land Use Scheme regulations, thereby aligning future development rights with the municipal planning framework.

It is proposed to remove the following restrictive title deed conditions imposed by the Administrator (now the Overstrand Municipality) to accommodate the new second

dwelling unit and render the 4,72m street building line restriction redundant for all future additions and alterations to erf 1240 Sandbaai:

Title deed no. T26036/2022, pages 2-3, paragraph C. 2. (c) and (d):

C. ONDERHEWIG VERDER aan die spesiale voorwaardes vervat in Transportakte Nr. T6408/1947 welke voorwaardes soos volg lees:

2. Have been imposed by the Administrator

- (c) That no more than one dwelling together with the necessary outbuildings and accessories erected on any of the above erven...*
- (d) That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf abuts; such space may be used as gardens, but shall not be built upon.*

“B. SUBJECT FURTHER to the following special conditions contained in Deed of Transfer No. T14135/1956 namely:-

2. Imposed by the Administrator:

- c) that no more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than half of the area of any one of the above erven be built upon.*
- d) That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road, or avenue on which such erf or erven abuts; such space may be used for gardens but shall not be built upon.*

Section 39(5) of the Land Use Planning Act (LUPA), 2014, stipulates that a Municipality should have regard to the following factors when considering the “removal, suspension or amendment of a restrictive condition”:

- ***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 vest in the person as the owner of a dominant tenement***

The removal of the restrictive title deed conditions – namely, the prohibition on the construction of a second dwelling unit and the imposition of a 4,72 metre street building

line – will not adversely affect the financial or other value of rights enjoyed by any person or entity, whether such rights are of a personal nature or are attached to ownership of a dominant tenement.

These restrictions were originally imposed by the Administrator as general development controls at the time of township establishment. They do not grant any specific or enforceable rights to neighbouring owners, nor do they constitute servitudes in favour of adjoining erven. Instead, they function as broad regulatory mechanisms that have since been superseded by the more contemporary provisions of the Overstrand Land Use Scheme.

By aligning the property's development parameters with those of the Land Use Scheme, the removal of these restrictions will ensure consistency, certainty, and uniformity in the application of land use management across the neighbourhood. Importantly:

- No neighbouring property owner will suffer a financial loss or diminution in land value, as their development rights remain unchanged and unaffected.
- No dominant tenement exists in relation to these restrictions, and thus no owner derives vested rights that could be compromised.
- The broader community stands to benefit from the removal, as it eliminates outdated and redundant restrictions, thereby streamlining property rights and facilitating lawful, orderly development in line with municipal policy and planning principles.

Accordingly, the proposed removal of the second dwelling restriction and the 4,72m street building line will have no negative impact on the value of rights, whether financial or otherwise, vested in any third party.

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

The restrictive conditions contained in the title deed of erf 1240 Sandbaai do not provide any personal benefits to an individual, entity, or adjoining landowner. These conditions were imposed by the Administrator at the time of township establishment

as general regulatory controls, rather than as rights vested in favour of a dominant tenement or a specific person. Accordingly:

- No neighbouring owner holds a vested personal benefit arising from these conditions, as the restrictions were not created to secure privacy, light, air, or access in favour of adjoining properties.
- The conditions do not function as servitudes and therefore do not grant enforceable privileges to any person or entity beyond the regulatory framework itself.
- The municipality, as the successor to the Administrator, derives no personal benefit from maintaining these outdated restrictions, since land use is already comprehensively governed through the Overstrand Land Use Scheme and related planning instruments.

As such, the removal of these restrictive conditions will not diminish or take away any personal benefits currently enjoyed by another party. Instead, it will merely eliminate redundant controls, ensuring that development of erf 1240 Sandbaai is managed under a consistent and modern statutory planning regime.

- ***The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if they are removed***

The removal of the restrictive title deed conditions, namely the prohibition on a second dwelling and the imposition of a 4,72m street building line, will allow the owner of erf 1240 Sandbaai to exercise the full range of rights already afforded under the current zoning of the property. In particular:

- The construction of a second dwelling unit is a primary right in terms of the prevailing Land Use Scheme. Removal of the prohibition in the title deed will therefore bring the property into alignment with its zoning rights, ensuring the owner can lawfully utilise the property in accordance with municipal planning policy.
- Removal of the 4,72m title deed street building line will eliminate outdated restrictions that are more onerous than the Land Use Scheme provisions. This ensures that the siting and design of new structures in future (if any) can be undertaken with greater flexibility while still conforming to the municipality's planning controls.

- The removal of these restrictions will result in greater certainty of land use rights, enabling the owner to invest in improvements to the property without the risk of conflicting regulatory provisions.
- The ability to construct a second dwelling unit, as well as to optimise future building placement on the erf, will enhance the utility, functionality and market value of the property.

These personal benefits are consistent with rights already recognised under the zoning scheme and do not extend beyond what neighbouring owners may similarly enjoy under comparable circumstances. The proposed removals therefore serve to align private benefits with the planning framework, while removing unnecessary obstacles to lawful and orderly development.

- ***The social benefit of the restrictive conditions remaining in place in its existing form***

The restrictive conditions currently imposed on erf 1240 Sandbaai provide no identifiable social benefit in their existing form. These conditions were historically imposed by the Administrator as broad development controls at the time of township establishment. However, they have since been overtaken by the more modern, comprehensive regulatory framework of the Overstrand Land Use Scheme, which governs matters such as building lines, density, land use rights and the compatibility of development within neighbourhood contexts. In this regard:

- The prohibition on a second dwelling directly conflicts with the Land Use Scheme, which recognises a second dwelling as a primary right under the zoning of the property. Retaining the condition would effectively deny the community the benefits of incremental densification, efficient land use and housing opportunities encouraged by contemporary spatial planning policy.
- The 4,72m street building line is more restrictive than the Land Use Scheme requirement and thus serves no wider social purpose. Its retention would result only in the continued application of inconsistent and outdated controls, with no demonstrable public benefit.
- Social considerations such as neighbourhood character, access, amenity and safety are already safeguarded through the Land Use Scheme and municipal approval processes, rendering the restrictive conditions redundant.

Accordingly, there is no measurable social benefit in retaining these conditions in their current form.

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

The removal of the restrictive title deed conditions applicable to erf 1240 Sandbaai will yield clear social benefits, both in terms of planning alignment and community outcomes. In particular:

- The removal of the restriction prohibiting a second dwelling will bring the property into line with the Overstrand Land Use Scheme, which recognises a second dwelling as a primary right under the current zoning. This ensures that local planning policies supporting densification, efficient land use, and housing provision can be realised.
- The removal of the restrictive 4,72m street building line will ensure that the property is subject to the same building line controls as neighbouring erven under the Land Use Scheme. This promotes regulatory consistency across the area, eliminating unnecessary discrepancies between properties.
- By enabling the construction of a second dwelling and associated outbuilding, the removal of restrictions encourages optimal use of existing infrastructure (roads, services, utilities), contributing to more sustainable settlement patterns.
- Eliminating outdated restrictions enhances planning certainty, reducing the risk of conflict between private title deed conditions and municipal planning instruments.
- Over time, the ability to construct lawful second dwellings contribute to the local housing stock, rental market and property values, with spill-over benefits for the wider community.

The removal of the restrictive conditions will not only benefit the property owner but will also advance broader community interests by fostering consistency, equity, sustainable development, and alignment with contemporary planning principles.



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

The removal of the restrictive conditions applicable to erf 1240 Sandbaai will not remove or diminish any rights vested in a specific beneficiary. These conditions were imposed by the Administrator at the time of township establishment as general development restrictions and were not created to serve as servitudes or to vest enforceable rights in favour of any adjoining property owner or dominant tenement. Accordingly:

- There are no direct beneficiaries who currently enjoy rights conferred by the restrictions.
- The removal of the conditions will therefore not result in the complete removal of any rights belonging to another person or entity.
- At most, their removal will eliminate redundant regulatory controls, ensuring that the property is governed solely by the provisions of the Overstrand Land Use Scheme, which applies consistently across all erven.

The proposed removal will not prejudice or extinguish rights of any beneficiary, whether wholly or in part, as no such rights currently exist. Rather, it will simply harmonise the property's development parameters with municipal planning policy and contemporary land use management practices.

3.4.3 General application information

For the consideration of a second dwelling unit on a SR1 zoned property, the second dwelling unit must meet the following criteria:

- The total floor area (footprint) of the second dwelling unit shall not exceed 120m²;
- A second dwelling unit may be contained within the same building as a primary dwelling unit and may be either on the ground or first floor;
- Parking must be provided on the property to the satisfaction of the Municipality, and
- A second dwelling must be located within the applicable building lines.

The proposed second dwelling unit meets all the above requirements:

- The second dwelling unit will be 49,2m² in extent;
- The second dwelling unit will be a self-contained structure on first floor level on top of the approved outbuilding (double garage);
- Provision is made for one additional parking bay for the second dwelling unit on-site as indicated on the ground storey plan;
- The second dwelling unit will be located within the applicable SR1 building lines and title deed building lines (no encroachments).

The second dwelling unit will consist of an open plan living area and kitchen and an en-suite bedroom. The second dwelling unit will be access via a new staircase north of the existing outbuilding. The position of the second dwelling unit is indicated on the attached site plan also included below:

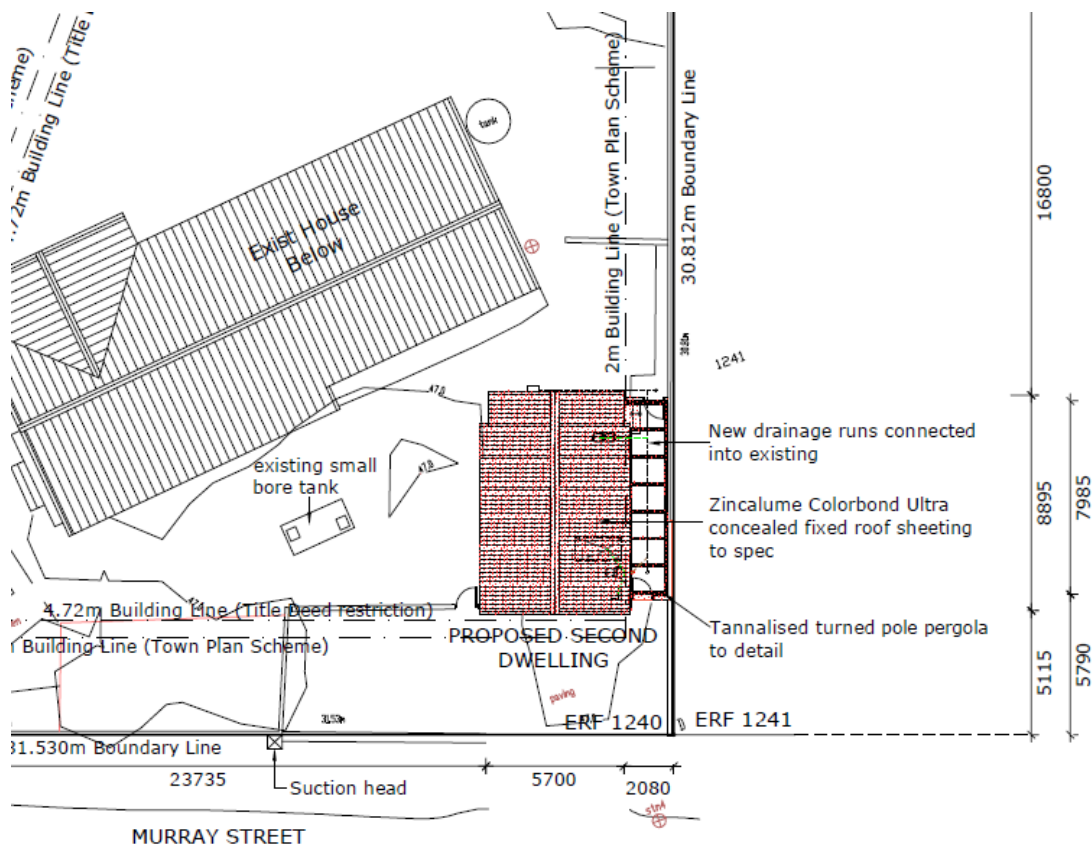


Image 5: Site plan showing the position of the second dwelling unit

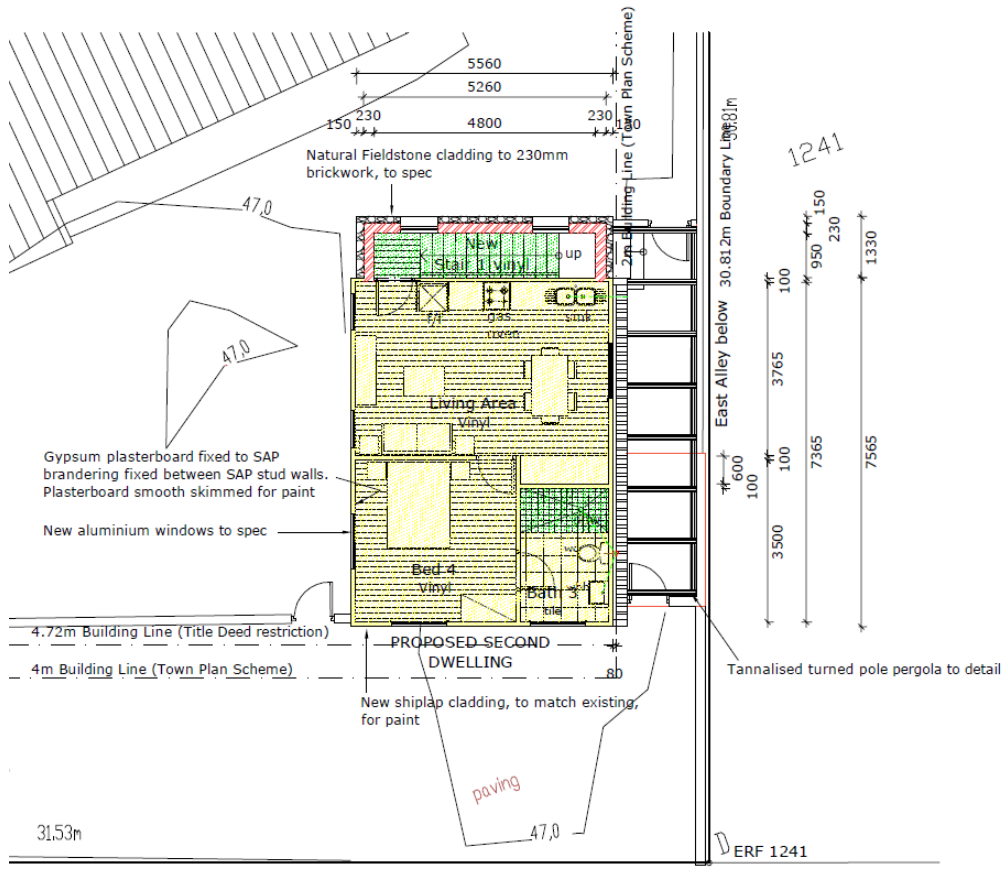


Image 6: Floor layout plan of the proposed second dwelling unit

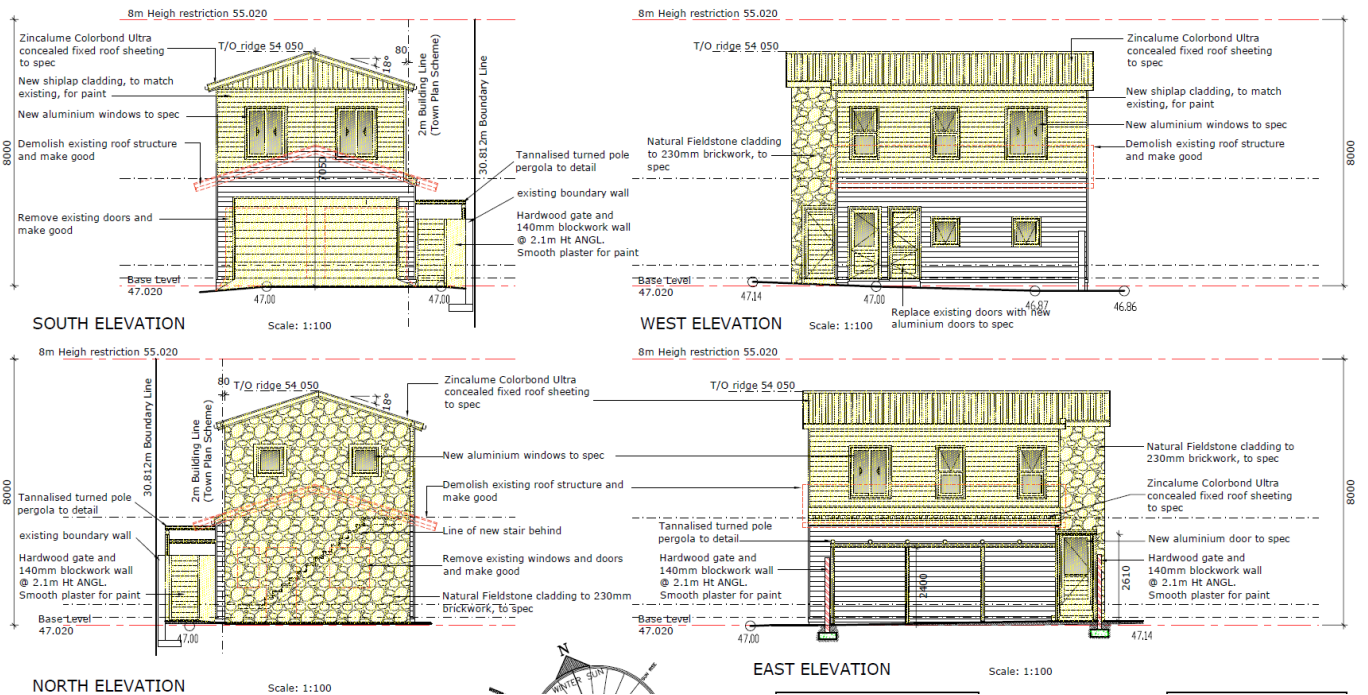


Image 7: Elevation plans of the proposed second dwelling unit

The proposed application will have little to no impact on the established character or property values of the surrounding area. The additions to the subject property will not give rise to any infringement on passing traffic or public activity, owing to the low-impact nature of the proposed structure. The massing and height of the proposed second dwelling unit are considered compatible with the prevailing character of the neighbourhood, notwithstanding the departure and removal of restrictive title deed conditions that form part of this application.

The zoning of erf 1240 Sandbaai will remain unchanged (Residential Zone I: Single Residential) as well as the primary land use (single residential purposes). The height of all the structures on the subject property will comply with the permissible height requirements for SR1 zoned properties (as per the approved building plans).

The proposed pergola, together with its intended use, encroaches on the applicable eastern lateral building line as reflected on the submitted site plan. The anticipated impact of this encroachment is regarded as minimal. While the impact on adjoining property owners and passers-by may be marginally greater than would have been the case had the structure been set back beyond the building line, such impact is considered negligible and not of a nature that would compromise the amenity of the surrounding area.

The area schedule and coverage for the subject property after the proposed additions, will be as follows:

AREAS	
EXISTING	
HOUSE	167.0m ²
NORTH TERRACE	12.8m ²
WEST TERRACE	4.0m ²
GARAGE	45m ²
SUB TOTAL	228.2m²
NEW	
STAIR 1	6.5m ²
SECOND DWELLING	49.2m ²
SUB TOTAL	55.7m²
TOTAL AREA	235.3m²
SITE AREA	1180m ²
COVERAGE	20%

The total coverage of 20% (235,3m²) does not exceed the maximum permissible coverage of 50% for SR1 zoned properties.



It is submitted that the proposed structures are compatible with the prevailing character of the area, will not adversely affect the rights of surrounding property owners, and that no substantive reason exists for withholding approval of this application. In evaluating the requested building line deviation and the removal of restrictive title deed conditions, it is important to note that the underlying planning rationale aligns with the broader policy imperative to discourage urban sprawl, promote densification, and encourage the development of more compact settlements. These objectives directly support the principles of responsible resource management and sustainable development.

The proposed departure and removal of restrictive title deed conditions of erf 1240 Sandbaai are 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 use 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 (such as bed-and-breakfast establishments, day care, second dwelling, guest house and home occupation uses). The proposed departure and removal of restrictive title deed conditions will not hinder any possible future land use applications on erf 1240 Sandbaai.

The subject property has the potential and allows for the deviations being applied for. The existing main dwelling and the proposed second dwelling unit comply with the land use scheme building lines, coverage and maximum of 8m height requirement for SR1 zoned properties.

The spatial arrangement, size and existing development footprint of erf 1240 demonstrate that the site has the capacity to accommodate a second dwelling unit without adversely affecting the functioning or character of the property. The proposed second dwelling is to be constructed directly above the existing approved double garage, utilising the established building platform and therefore avoiding any additional

ground-level site coverage or disturbance to the natural ground profile. The existing outbuilding is positioned in a manner that maintains generous open space within the central and western portions of the erf, ensuring that the introduction of an upper-level residential component does not result in over-development of the site. The proposal retains compliant building lines on the northern and western boundaries and respects the 8m height restriction, as indicated in the submitted elevations.

By placing the second dwelling above an existing structure rather than expanding the footprint, the development maintains efficient land utilisation, preserves existing circulation and access patterns and ensures that adequate outdoor amenity space remains available for both units. The site's orientation, existing access from Murray Street and the clear separation between the primary dwelling and the proposed unit further support the suitability of the site to accommodate a second dwelling in a manner consistent with residential zoning objectives and surrounding development patterns.

3.6 ECONOMIC IMPACT

The proposed departure and removal of restrictive title deed conditions are to accommodate a new second dwelling unit and pergola. The proposed additions are anticipated to have a positive economic impact on both the subject property and the surrounding area. At the property level, the construction of a second dwelling unit and pergola will enhance the capital value of the land by improving its functionality, flexibility and overall market appeal. For the broader neighbourhood, the investment in good-quality construction materials and finishes will contribute to the upkeep and upliftment of the built environment, thereby supporting stable or rising property values in the vicinity.

In addition, the development will generate short-term economic benefits through the creation of local employment opportunities during the construction phase, as well as increased demand for building materials and services within the local economy. Over the longer term, the provision of a second dwelling unit introduces the potential for rental income, which may stimulate small-scale economic activity and improve housing availability in line with densification objectives.



3.7 SOCIAL IMPACT

The proposed application will have no impact on the social status quo of the area. The proposed additions are expected to generate a range of positive social impacts. At a neighbourhood scale, the introduction of a second dwelling unit contributes to housing diversity and supports the principle of densification, thereby making more efficient use of existing infrastructure and services. This promotes more compact and integrated communities, which in turn strengthens social cohesion and reduces the pressure for outward urban expansion.

For the immediate surroundings, the proposed development will have minimal impact on the privacy, access to sunlight, or enjoyment of adjacent properties, given its modest scale and limited visibility from the street (with reference to the second dwelling unit). The careful use of quality materials and a design that is compatible with the existing character of the area further ensures that the development will integrate well into the community fabric.

At a household level, the additions create opportunities for extended family living, multi-generational cohabitation, or rental accommodation, each of which enhances social resilience and responds to contemporary housing needs. In this way, the proposal supports both the functional requirements of the property owner and the broader social objective of inclusive and sustainable settlement patterns.

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 1240 Sandbaai (and the proposed uses thereof) merges well with the scale of the surrounding dwellings in the immediate area.

The proposed additions are regarded as compatible with the existing and surrounding land uses. The subject property is zoned for single residential purposes, within which a second dwelling unit constitutes a primary right. The proposed pergola and second dwelling unit are therefore consistent with the land use rights already applicable to the site.

In terms of scale, height and massing, the proposed structures are in keeping with the established residential character of the neighbourhood and will not introduce a use or built form that is foreign to the area. The additions are designed to integrate with the existing dwelling and are positioned to minimise any impact on adjacent properties or the streetscape.

Furthermore, the proposed development is aligned with the prevailing pattern of residential densification occurring in the area, where secondary units and ancillary buildings are increasingly common. As such, the proposal supports compatible and complementary land use relationships, while promoting efficient utilisation of urban land and infrastructure.

3.9 IMPACT ON EXTERNAL ENGINEERING SERVICES

All services on the subject property already exist. Any additional services required as a result of the proposed development, together with any bulk services contributions or levies, will be provided and paid to the satisfaction of the Overstrand Municipality.

3.10 IMPACT ON SAFETY, HEALTH AND WELLBEING OF SURROUNDING COMMUNITY

The proposed departure and removal of restrictive title deed conditions will have no impact on the general safety and wellbeing of the surrounding community. It is anticipated that one additional family will occupy the subject property once the development is complete.

Since the proposed departure and removal of restrictive title deed conditions are 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 000m². Consequently, the proposed application for the departure and removal of restrictive title deed conditions does not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

Erf 1240 Sandbaai is not situated within the Heritage Protection Overlay Zone as determined by the Overstrand Municipality's Zoning Scheme (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 and removal of restrictive title deed conditions will not have a negative impact on the heritage value of the Sandbaai area.

3.12 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed departure and removal of restrictive title deed conditions do 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 Management Overlay Zone (2020).



3.13 TRAFFIC IMPACT, PARKING AND ACCESS

Access to erf 1240 Sandbaai will remain unchanged and will be from Murray Street. Refer to the site development plan. No new access points are proposed.

The Overstrand Municipality Land Use Scheme (2020) stipulates that a minimum of two parking bays are required for a dwelling house (main dwelling). The existing dwelling is developed with a double garage that will provide parking for the main dwelling. One additional parking bay must be provided for the second dwelling unit. Provision is made for an additional parking bay on site as indicated on the site plan.

Considering the above the existing main dwelling and proposed second dwelling unit on erf 1240 Sandbaai complies with the minimum parking requirements for SR1 zoned properties.

The subject property will continue to 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. T26036/2022 has restrictive title deed conditions that need to be removed to accommodate the second dwelling unit on the subject property and to align the discard title deed street building line to allow the land use scheme regulations' street building line to apply to future development. Refer to a copy of the conveyancer's certificate compiled by Mr H.L. van Zyl of Van Zyl Kruger Attorneys dated 9 December 2025 attached. The removal of the restrictive title deed conditions is addressed in full in Section 3.4.2 of this report.

A bond is currently registered against erf 1240 Sandbaai. The bondholder's consent dated 27 January 2026 is attached.

3.15 FORWARD PLANNING AND LAND USE DOCUMENTS

The *Overstrand Spatial Development Framework (2020)* earmarks the area where erf 1240 Sandbaai 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 and removal of restrictive title deed conditions 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 1240 Sandbaai forms part of Planning Unit no. 3. This planning unit stipulates that the density status quo should remain thereby reinforcing the predominantly low-density residential character of the area. A main dwelling is developed on the subject property, and a second dwelling is proposed with this application.

The proposed second dwelling on the property constitutes a form of appropriate and incremental densification that remains aligned with the intent of the OMGMS. While the application introduces a second dwelling unit, this addition does not alter the overall residential character of the area, nor does it result in a level of density inconsistent with the status quo. Instead, it represents a modest intensification of land use that enhances the efficient utilisation of existing urban land, without undermining the low-density framework established for Planning Unit 3.

Importantly, a second dwelling is a primary right under the property's zoning scheme, and its introduction ensures that the area's residential function, scale, and character are maintained. The proposal does not compromise infrastructure capacity, visual quality, or compatibility with surrounding land uses. On the contrary, it contributes towards more sustainable settlement patterns by accommodating limited growth within the existing urban footprint, rather than promoting urban sprawl.

The proposed development therefore reflects appropriate densification within the boundaries of the existing planning framework and ensures that the residential status quo of low-density living, as envisioned by the OMGMS for Planning Unit 3, will remain

intact. The land use application for the subject property therefore falls within the existing planning for the Sandbaai 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: Section 7 of SPLUMA identifies spatial justice as a key development principle, requiring that land development contributes to redressing past spatial imbalances, while ensuring equitable access to land and its benefits. The proposed application, which provides for a second dwelling on Erf 1240 Sandbaai as well as a new pergola that encroaches the eastern lateral building line, aligns with this principle in the following ways:

- The second dwelling increases residential opportunities within the existing urban footprint, avoiding further land take-up or urban sprawl, while the outbuilding's minor encroachment makes efficient use of space without impacting neighbours.
- The proposal promotes inclusivity by adding a housing unit in an already serviced area and improves liveability through the functional utility of the outbuilding.
- Both the second dwelling (a zoning primary right) and the modest building line departure align with planning policy and respect neighbouring rights.
- The application maintains the low-density character of the area while balancing private benefit with broader community equity.

Spatial sustainability: Spatial sustainability requires that land development be undertaken in a manner that promotes responsible resource use, protects environmental assets, and supports long-term settlement growth within the urban edge. The proposed application, which entails the addition of a second dwelling and



a new pergola encroaching the eastern lateral building line on erf 1240 Sandbaai, is consistent with this principle for the following reasons:

- The second dwelling is accommodated within the existing urban footprint, ensuring that the proposal makes optimal use of land already supplied with municipal infrastructure and services, without the need for costly extensions of service networks.
- By intensifying use on an already developed erf, the proposal supports a more compact settlement pattern and reduces pressure for outward expansion into environmentally sensitive or agricultural areas.
- The modest scale of the second dwelling and the pergola ensures compatibility with the established low-density residential environment, safeguarding the area's sense of place while still contributing to incremental densification.
- The functional utility of the outbuilding and the additional residential unit contribute to more efficient land use and improved liveability, while not placing undue pressure on natural or built resources.

The application is considered spatially sustainable as the existing property will be more optimally utilised without affecting natural vegetation. The property is compatible with the character of the area and does not impact negatively on the rights of any adjacent property owners.

Efficiency: The subject property is easily accessible and conveniently located close to Hermanus CBD and major routes. The massing and height of the property will be in line with the relevant land use scheme regulations. Section 7 of SPLUMA emphasises efficiency in land development, requiring that resources, infrastructure, and facilities be used in a manner that maximises benefit while minimising waste and duplication. The proposed application for a second dwelling and a new pergola encroaching the eastern lateral building line on erf 1240 Sandbaai meets this principle in the following ways:

- The property is already fully serviced with municipal infrastructure, and the proposed second dwelling makes effective use of this existing investment without requiring significant upgrades or extensions to services.



- Accommodating an additional dwelling within the existing erf promotes a more compact settlement pattern, reducing the spatial and financial inefficiencies associated with urban sprawl.
- The pergola's modest encroachment onto the lateral building line represents efficient use of land by allowing the property to accommodate additional utility without compromising neighbouring rights or amenity.
- The proposal achieves increased residential capacity while maintaining the low-density character of the area, thereby ensuring efficient alignment between growth, land use rights, and the established planning framework.

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.

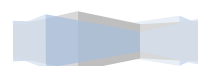
4. RECOMMENDATION

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

- All services on the subject property already exist and additional services will be provided to the satisfaction of the municipality;
- The zoning and primary land use of the subject property will remain unchanged;
- The deviation from the applicable scheme regulations' lateral building line is to accommodate the proposed pergola; the removal of the title deed conditions is to accommodate the proposed second dwelling unit and to align the discard title deed street building line to allow the land use scheme regulations' street building line to apply to future development;
- The proposal is compatible with the existing built character of the area;
- Impact on the traffic will be kept to a minimum;
- There are no heritage aspects that will negatively impact the application;

- 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 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).

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.



ZONING:

RESIDENTIAL ZONE 1: SINGLE RESIDENTIAL

AREAS

EXISTING	
HOUSE	167.0m ²
NORTH TERRACE	12.8m ²
WEST TERRACE	4.0m ²
GARAGE	45m ²
SUB TOTAL	228.2m²

NEW	
STAIR 1	6.5m ²
SECOND DWELLING	49.2m ²
SUB TOTAL	55.7m²

TOTAL AREA 235.3m²

SITE AREA 1180m²
 COVERAGE 20%

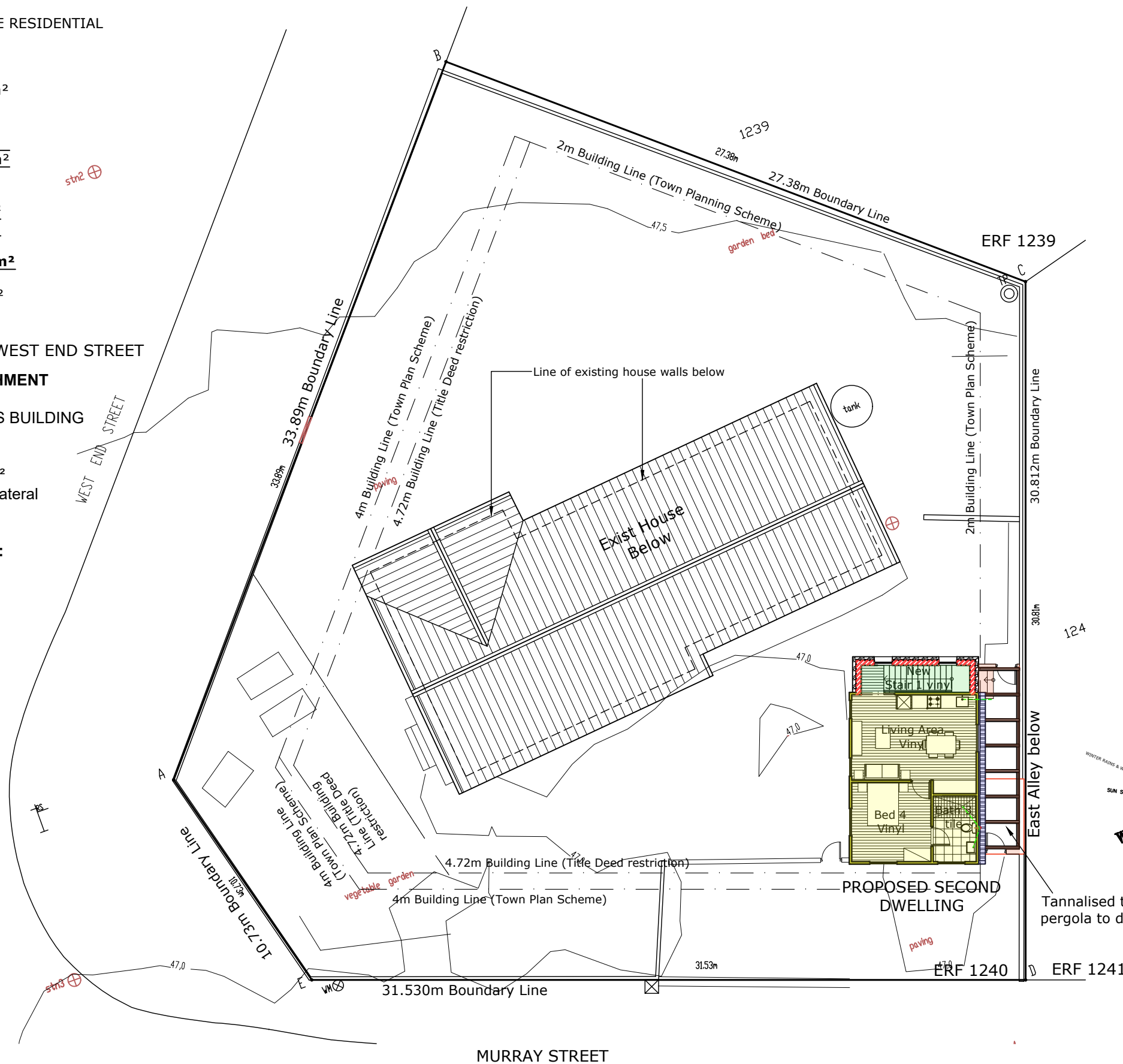
WEST END STREET

BUILDING LINE ENCROACHMENT

STRUCTURE ENCROACHES BUILDING LINE = 1.78m

Total area of pergola = 12.4m²
 Area of pergola encroaching lateral building line = 12.4m²

**BUILDING LINE DEVIATION:
 From 2m to 0m**



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SACAP REG. NO. PAT24691550

HOUSE VIET

ERF 1240

16 WEST END STREET,
SANDBAAI

HERMANUS,

DRAWING

DEPARTURE APPLICATION

PROPOSED
SECOND DWELLING

FIRST STOREY
LAYOUT

DWG NO:026/DA/04

SCALE 1:200 @ A3

DATE: FEBRUARY 2026

DRAWN: LAS

TO BE READ IN
CONJUNCTION WITH
DWG. 026/DA/02

FIRST STOREY: LAYOUT

Scale: 1:200

ZONING:

RESIDENTIAL ZONE 1: SINGLE RESIDENTIAL

AREAS EXISTING	
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WEST TERRACE	4.0m ²
GARAGE	45m ²
SUB TOTAL	228.2m²

AREAS NEW	
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TOTAL AREA 235.3m²

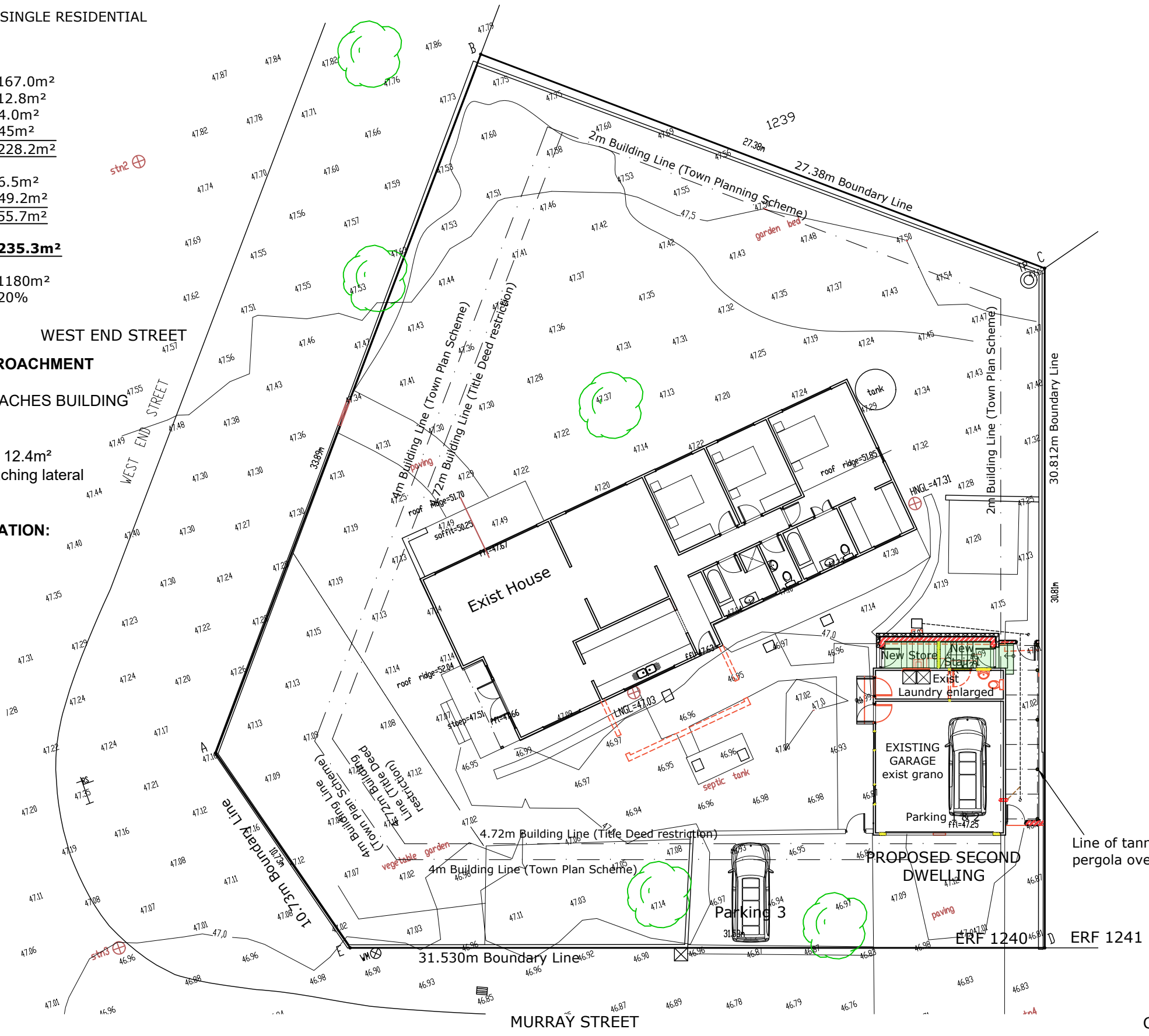
SITE AREA 1180m²
 COVERAGE 20%

WEST END STREET
BUILDING LINE ENCROACHMENT

STRUCTURE ENCROACHES BUILDING LINE = 1.78m

Total area of pergola = 12.4m²
 Area of pergola encroaching lateral building line = 12.4m²

BUILDING LINE DEVIATION:
 From 2m to 0m



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SACAP REG. NO. PAT24691550

HOUSE VIET
ERF 1240
 16 WEST END STREET,
 SANDBAAI
 HERMANUS,

DRAWING
 DEPARTURE APPLICATION

PROPOSED
 SECOND DWELLING

GROUND STOREY
 LAYOUT

DWG NO:026/DA/05

SCALE 1:200 @ A3

DATE: FEBRUARY 2026

DRAWN: LAS

TO BE READ IN
 CONJUNCTION WITH
 DWG. 026/DA/01

GROUND STOREY: LAYOUT Scale: 1:200

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