Munisipaliteit • U-Masipala • Municipality
OVERSTRAND

OVERSTRAND MUNICIPALITY

ERF 2069, 36 FULMAR STREET, VERMONT: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION, DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: WRAP PROJECT OFFICE ON BEHALF OF KM DALL

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 2069, Vermont (the property), namely:

Removal of a Restrictive Title Deed Condition
Application in terms of Section 16(2)(f) of the By-Law for the removal of a restrictive title deed condition E.(a) as contained in Title Deed T7974/2004 of the property to accommodate the existing structures on the property.

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

- Northern rear building line from 2m to 0,47m to accommodate the existing studio, and
- Western Street building line from 4m to 1,04m to accommodate the existing outbuilding and studio.
- Southern street building line from 4,0m to 2,62m to accommodate the existing dressing room and en-suite bathroom.

Determination of an Administrative Penalty
Application in terms of Section 16(2)(q) of the By-Law to accommodate the unauthorized building line encroachments as mentioned above.

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 on the municipal webpage at the following link https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/.

Any comments must be in writing and reach the Municipality (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) on or before **15 January 2027**, 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 H Olivier** 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.

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.

OVERSTRAND MUNISIPALITEIT

ERF 2069, FULMARSTRAAT 36, VERMONT: AANSOEK OM OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDE, AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: WRAP PROJECT OFFICE NAMENS KM DALL

Kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die onderstaande aansoeke van toepassing op Erf 2069, Vermont (die eiendom), naamlik:

Opheffing van 'n Beperkende Titelaktevoorwaarde
Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van 'n beperkende titelaktevoorwaarde E.(a) soos vervat in Titelakte T7974/2004 van die eiendom om die bestaande strukture op die eiendom te akkommodeer.

Afwyking
Aansoek ingevolge Artikel 16(2)(b) van die Verordening om die volgende te verslap:

- Noordelike agterboulyn vanaf 2m tot 0,47m om die bestaande studio te akkommodeer, en
- Westelike straatboulyn vanaf 4m tot 1,04m om die bestaande buitegebou en studio te akkommodeer.
- Suidelike straatboulyn vanaf 4m tot 2,62m om die bestaande aantrekkamer en en-suite badkamer te akkommodeer.

Bepaling van 'n Administratiewe Boete
Aansoek ingevolge Artikel 16(2)(q) van die Verordening om die ongemagtigde boulynoorskreidings soos hierbo genoem te akkommodeer.

Besonderhede aangaande die voorstel lê ter insae gedurende weeksdae 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/.

Enige kommentaar moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (e) landuse@overstrand.gov.za) voor of op **15 Januarie 2027**, met u naam, adres, kontak besonderhede, belang in die aansoek en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die **Stadsbeplanner, Mnr H Olivier** 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.

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.

UMASIPALA WASE-OVERSTRAND

ISIZA 2069, 36 FULMAR STREET, VERMONT: ISICELO SOKUSUSWA KWEEMEKO EZITHINTELAYO KWITAYITILE YOBUNINI, SOKUTENXA NGOKUSISIGXINA KUNYE NOKUMISELWA KWESOHLWAYO SOLAWULO: MESSRS WRAP PROJECT OFFICE EGAMENI LIKA KM DALL

Isaziso siyanikezelwa ngokweCandelo lama-47 nelama-48 loMthetho kaMasipala oLungisiweyo kaMasipala waseOverstrand kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, ka-2020 (uMthetho kaMasipala) izicelo esebenzayo kwiSiza-2069, Vermont (ipropati), esizezi:

Sokususwa kweemeko ezithintelayo kwitayitile yobunini
Isicelo ngokweCandelo le-16 (2)(f) loMthetho kaMasipala wokususwa kwemiqathango yetayitile ethintelayo E.(a) njengoko kuqulethwe kwiSivumelwano soBunini Nomb T7974/2004 yomhlaba ukuze kuhlaliswe izakhiwo esele zikho kuloo mhlaba.

Ukutenxa
Ukufakwa kwesicelo ngokweCandelo le-16(2)(b) loMthetho kaMasipala ukukhulula oku kulandelayo:

- Umda wokwakha ongasemva kwicala elisemantla ukususka kwi-2m ukuya kwi-0,47m ukulungiselela isitudiyo esele sikhona, kwaye
- Umda wokwakha kwicala lesitalato elisentshona ukususka kwi-4m ukuya kwi-1,04m ukulungiselela isakhiwo sangaphandle kunye nesitudiyo esele zikhona.
- Umda wokwakha kwicala lesitalato elisemazantsi ukususka kwi-4,0m ukuya kwi-2,62m ukulungiselela igumbi lokunxiba kunye negumbi lokuhlambela elingaphakathi (en-suite) esele zikhona.

Nokumiselwa kwesohlwayo solawulo
Isicelo ngokungqinelana neCandelo 16(2)(q) loMthetho kaMasipala ukulungiselela ukugqobhozwa kwemida yesakhiwo okungagunyaziswanga njengoko kuchaziwe apha ngasentla.

Iinkcukacha ezipheleleyo mayela nezi ziphakamiso zingentla ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini ukusukela phakathi kwentsimbi ye08:00 neye16:30 kwiSebe: LeziCwangciso zeDolophu noBume beNdawo, 16 Paterson Street, nakwiwebhpheyiji kamasipala kweli qhakamshela lilandelayo https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/

Naziphi na izimvo mazibhalwe phantsi kwaye zifike kuMasipala (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) ngomhla okanye ngaphambi koko **15 EyoMqungu 2027,** kunye negama lakho, idilesi, iinkcukacha zoqhagamshelwano, umdla kwisicelo kunye nezizathu zokuphawula. Imibuzo ngomnxeba ingenziwa **kuMcwangcisi weDolophu, uMnu H Olivier** kule nombolo 028-3138900. UMasipala unokwala ukwamkela izimvo emva komhla wokuvala. Nabani na ongakwaziyo ukufunda okanye ukubhala angandwendwela iCandelo: loCwangciso lweDolophu noMhlaba apho aya kuthi ancediswe ligosa likamasipala ekuqulunqeni izimvo zabo.

Nceda uqaphele ukuba Uthetho omayela noMthetho Wokhuseleko Lwengxelo Ngomntu (POPIA), uza kuba ungena kwinkqubo yoluntu ngoko ke uvumela kwaye uvumelana nokusetyenziswa kwegama lakho, ifani, iinkcukacha ofumaneka kuzo kunye noluvo(nezimvo) zakhe zingadizwa / zingasetyenziswa (kwisicelo) kwinkqubo.

EW JANTJIES
Acting Municipal Manager / Waarnemende Munisipale Bestuurder / Umphathi Kamasipala Obambeleyo
PO Box / Posbus / Ibhokisi yePosi 20 HERMANUS 7200

Notice No / Kennisgewing nr / Inombolo yesaziso: **244/2026**

#overstrand4all

We belong We care We serve

Plan 1: Locality Plan

Erf 2069 - Vermont

Subject property

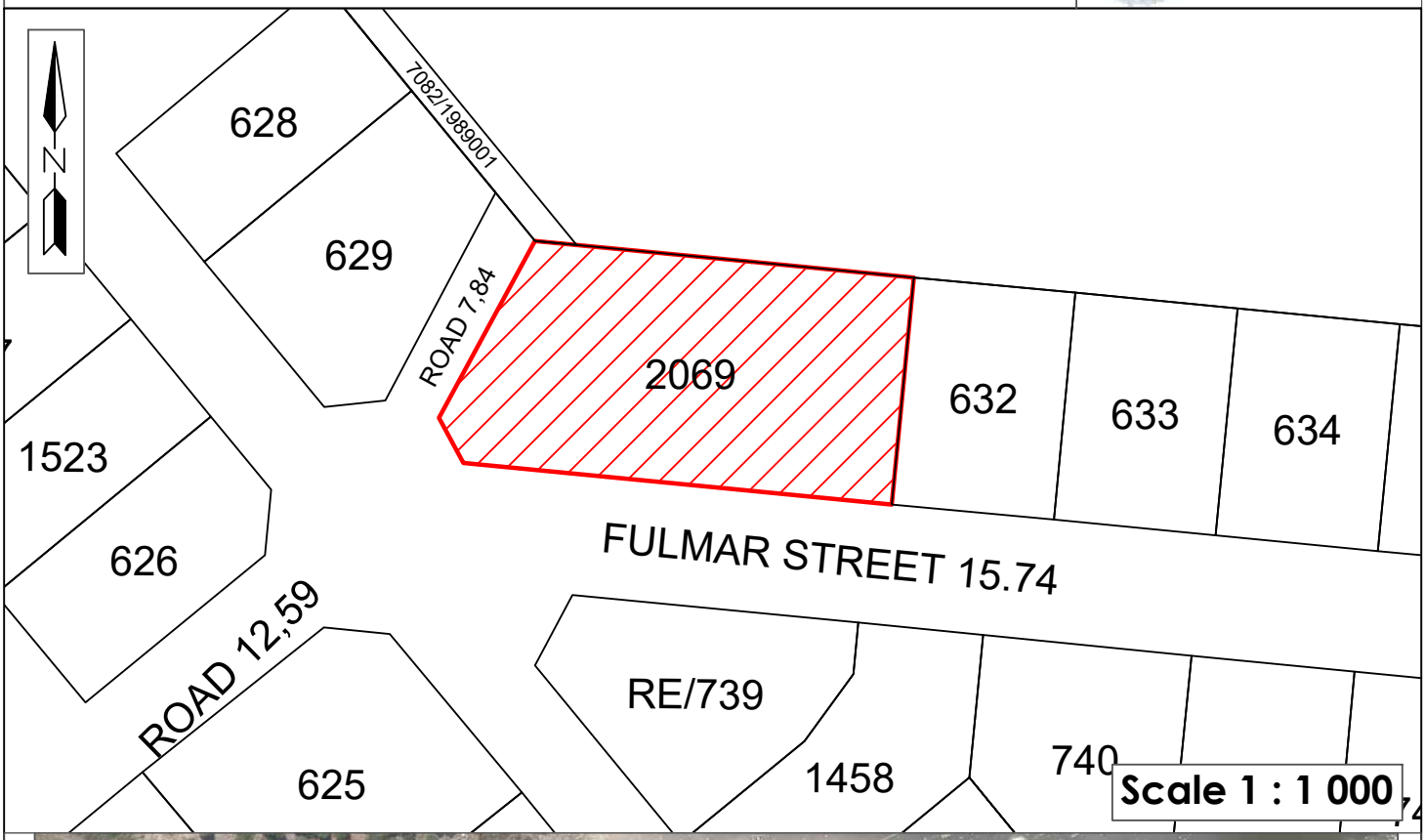
Plan prepared by: Thian Jansen

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Office 3, Oakwood, 10 Dirkie Uys Street Hermanus, 7200

WRAP Project Office
Town Planning & Project Management





ERF 2069 VERMONT

APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, PERMANENT DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY

Application prepared for:
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Submitted
April 2026

Amended
Sep 2026 - Version 3

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1. PROPERTY DETAILS

Property description	Erf 2069 Vermont
Extent	1809m²
Zoning	Residential Zone 1: Single Residential (SR1)
Title Deed	T7974/2004

2. EXECUTIVE SUMMARY

Erf 2069 Vermont, hereafter referred to as the subject property, is located at 36 Fulmar Street, Vermont, as illustrated in **Plan 1: Locality Plan**. The owner has held ownership of the property for more than 20 years. During the early 2000s, the owner undertook renovations and added an extension to the existing dwelling. Regrettably, building plans for these additions were not submitted, and the extension was constructed without the required municipal approval.

WRAP Project Office has been appointed to submit a land use application to regularise this historic contravention. Authority to act is confirmed in **Annexure A: Power of Attorney**. The subject property is zoned Residential Zone 1: Single Residential and is developed with a single dwelling house and associated residential improvements. The surrounding properties are similarly zoned Residential Zone 1, while the broader area comprises public streets and the Vermont Salt Pan, which is zoned as public open space. The zoning context is illustrated in **Plan 2: Zoning Plan**. The area is well established and residential in character, with buildings often positioned in close proximity to the street boundary, forming part of the prevailing and accepted development pattern.

The departures and relaxation sought relate solely to the retention of an existing extension, being an outbuilding utilised for storage and as a studio space, as the owner is an artist. Given its limited scale and longstanding presence, the structure does not result in any loss of privacy, overshadowing, or visual intrusion, nor does it negatively impact the amenity of neighbouring properties or the public realm.

The owners are taking proactive steps to regularise the historic contravention through the appropriate statutory process, demonstrating good faith and a clear commitment to compliance with the applicable planning framework. In light of the above, it is submitted that the departures sought are minor in nature, reasonable, and desirable from a land use planning perspective. The retention of the existing structure does not result in any material planning harm and is consistent with the established residential character of the area.

3. PROCEDURE TO ACHIEVE THE OWNERS' INTENT

This application is submitted in terms of the By-Law and consists of four components:

3.1 Removal of a restrictive title deed condition

The title deed of the subject property contains a restrictive condition that regulates building lines along street and lateral boundaries. Condition E(a) stipulates that no building or structure may be erected closer than 3,15 metres to the street boundary without the written consent of the relevant authority.

The existing outbuilding encroaches over this prescribed building line along the western street boundary, with setbacks of approximately 1,04m, and therefore triggers the need for the removal of this condition.

Restrictive Title Deed Condition
Condition E(a) – "E. *FURTHER SUBJECT to the following conditions contained in favour of SOUTH WESTERN DISTRICTS AND FINANCE CORPORATION LIMITED and its Successors in Title, as owners of the remainder of the land held by Deed of Transfer No. 7023/1935, contained in said Deed of Transfer No 5339/1956, reading as follows:-* (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 1,57 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 comprises more than one lot) be subdivided;*

The purpose of this application is therefore to remove Restrictive Title Deed Condition E(a), as it is no longer compatible with the existing lawful use and development pattern of the property and unnecessarily restricts the regularisation of historic building work.

The restrictive condition was imposed many decades ago as part of the original township development to regulate setbacks from street boundaries and maintain a uniform development pattern. Since that time, Vermont has developed into a mature residential suburb with established dwellings, additions, garages and ancillary structures that respond to individual site conditions and the character of the neighbourhood. The condition has therefore become outdated in the context of this property and no longer serves a practical planning purpose.

The subject property occupies a unique position adjacent to the Vermont Salt Pan, with its western boundary adjoining an unmade road reserve rather than a formal public street. Although this boundary is legally regarded as a street boundary, it does not function as an active transport corridor or public interface. The existing structures do not obstruct access, visibility, pedestrian movement, municipal services, or any anticipated future use of the road reserve. The removal of the restrictive condition will therefore not prejudice the public interest or undermine the purpose for which the condition was originally imposed.

Furthermore, the structures affected by the condition have existed for more than 20 years. The outbuilding is ancillary and subservient to the primary dwelling and is used exclusively for storage and as an artist's studio. The bathroom and dressing room form part of the primary dwelling and accommodate normal residential activities associated with a single dwelling house. The proposal does not introduce any additional dwelling units, increase the residential density, or intensify the land use on the property.

The continued existence of these structures over an extended period demonstrates that they have become integrated into the established character of the property and surrounding neighbourhood. There is no evidence that the encroachments have resulted in any adverse impacts on adjoining properties or the public realm. The structures do not create overlooking, overshadowing, loss of privacy, visual intrusion, or any other material planning harm.
From a land use planning perspective, retaining the restrictive title deed condition would serve little practical purpose. Instead, it would prevent the owners from regularising a historic contravention despite the absence of any identifiable planning or environmental impacts.

The removal of the condition will enable the municipality to approve amended building plans and bring the property into compliance with the applicable planning framework.

The proposal aligns with sound planning principles, including:

- The restrictive condition no longer serves its original planning purpose on this property.
- The property interfaces with an unmade road reserve rather than a formal street, reducing the significance of the prescribed street setback.
- The existing structures have been in place for more than 20 years and have become part of the established residential character of Vermont.
- No neighbouring property or public space will be adversely affected by the removal of the condition.
- The removal facilitates the orderly regularisation of historic development and promotes legal compliance.

In terms of the requirements of LUPA, the table below addressed the removal of the restrictive title deed conditions E(a) in terms of Section 39(5)(a-f):

LUPA, Section 39(5) (a-f)		
(a)	*the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;*	The condition was intended to regulate the siting of buildings within the township and protect a uniform pattern of development during the establishment of Vermont. There is no evidence that the beneficiary currently derives any financial value or proprietary advantage from the continued existence of this restrictive condition. Similarly, there is no indication that the condition protects any operational, commercial, or developmental rights that would be prejudiced by its removal. The condition has effectively become a historical planning mechanism rather than a right with an identifiable present-day financial value.
(b)	*the personal benefits which accrue to the holder of rights in terms of the restrictive condition;*	The continued existence of the restrictive condition does not provide any identifiable personal benefit to the beneficiary or its successors in title. The condition does not secure exclusive use, access rights, servitudes, or any other personal entitlement that would be diminished through its removal. The surrounding area has developed over many decades, and the character of the neighbourhood is regulated through the Overstrand Municipality Land Use Scheme rather than through the continued

		enforcement of historic restrictive title deed conditions.
(c)	*the personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended;*	The removal of Restrictive Title Deed Condition E(a) will enable the owners to regularise historic building work undertaken more than 20 years ago and obtain lawful approval for the existing structures. This will allow the property to comply with the applicable planning framework and municipal building control requirements. The removal of the condition will also provide the owners with legal certainty regarding the existing improvements on the property and will facilitate future maintenance, renovations, and alterations through approved building plans. Importantly, the proposal does not seek to intensify the use of the property but merely to regularise existing development associated with a single residential dwelling.
(d)	*the social benefit of the restrictive condition remaining in place in its existing form;*	There is limited social benefit in retaining the restrictive condition in its current form. The objectives originally served by the condition, namely regulating setbacks and the orderly establishment of the township, are now addressed through the provisions of the OMLUS and the municipality's land use management processes. Retaining the condition would not provide any additional protection to the surrounding community, nor would it improve the amenity, safety, or environmental quality of the area. Instead, it would perpetuate a historical non-compliance without delivering any corresponding public benefit.
(e)	*the social benefit of the removal, suspension or amendment of the restrictive condition; and*	
(f)	*whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.*	The removal of the restrictive conditions will not completely remove all rights enjoyed by any beneficiary. The Municipality will retain the authority to regulate development through the provisions of the OMLUS, the National Building Regulations and other applicable legislation. Neighbouring property owners will continue to benefit from these development controls and from the statutory processes applicable to future land use applications where required.

In light of the above, it is submitted that the removal of the restrictive title deed condition is reasonable, desirable, and will not undermine the intent of the condition. Rather, it will facilitate the orderly regularisation of the property while maintaining the amenity and character of the surrounding area.

3.2 Permanent departure from the Northern rear building line from 2m to 0,47m to accommodate the existing outbuilding; and

3.3 Permanent departure from the Western Street building line from 4m to 1,04m to accommodate the existing outbuilding.

As illustrated on the site development plan (refer to **Plan 3**), the departures relate exclusively to an existing outbuilding located along the northern and western boundaries of the property. The structure, measuring approximately 32m², has been in place for a considerable period and forms part of the established use and layout of the property.

The Overstrand Municipality Land Use Scheme (2020) defines an *outbuilding* as follows:

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

The existing structure clearly complies with this definition, as it is ancillary to the main dwelling and utilised for storage and as an artist's studio, which constitutes a hobby-related activity as contemplated in the Scheme.

The subject property is uniquely positioned adjacent to the Vermont Salt Pan, with the western boundary abutting an unmade road reserve. Although a 4m street building line formally applies along this boundary, the absence of a formalised roadway significantly reduces the functional necessity of this setback. In practice, this boundary does not operate as an active street interface, and the proposed reduced setback does not compromise vehicular movement, pedestrian safety or service provision.

From a spatial and contextual perspective, the outbuilding is modest in scale and visually recessive. Its irregular form responds to the site geometry and boundary configuration, rather than presenting as a dominant or intrusive element. The placement of such ancillary structures along boundaries is a common and accepted pattern within established residential areas.

Importantly, the structure is non-habitable in nature. It is used for storage and as an artist's studio and is not utilised for permanent residential occupation. Accordingly, the intensity of use is low and does not give rise to impacts typically associated with habitable space, such as increased noise, traffic generation, or overlooking. The structure does not contain openings positioned in a manner that would result in a loss of privacy to adjoining properties.

The structure has existed for a considerable period and has become integrated into the surrounding environment. Existing vegetation along the boundaries softens its visual presence and provides effective screening. As such, the building does not detract from the streetscape or the natural character of the area, particularly given the property's interface with the Salt Pan and the informal nature of the western boundary.

In terms of amenity, the departures do not result in any material negative impacts. There is no loss of privacy, no overshadowing of neighbouring properties, and no obstruction of views as the nearest house on the western side is setback due to the existing road reserve. The scale and height of the structure remain clearly subordinate to the primary dwelling.

From a planning perspective, the departures are minor and reasonable in extent. They facilitate the retention of an existing structure, avoiding unnecessary demolition, which would be both economically inefficient and environmentally unsustainable. The proposal aligns with the principles of efficient land use and supports the retention of established development patterns.

Furthermore, the owners are acting in good faith by seeking to regularise a historic contravention through the appropriate statutory process. This approach should be supported, as it promotes compliance and upholds the integrity of the land use management system.

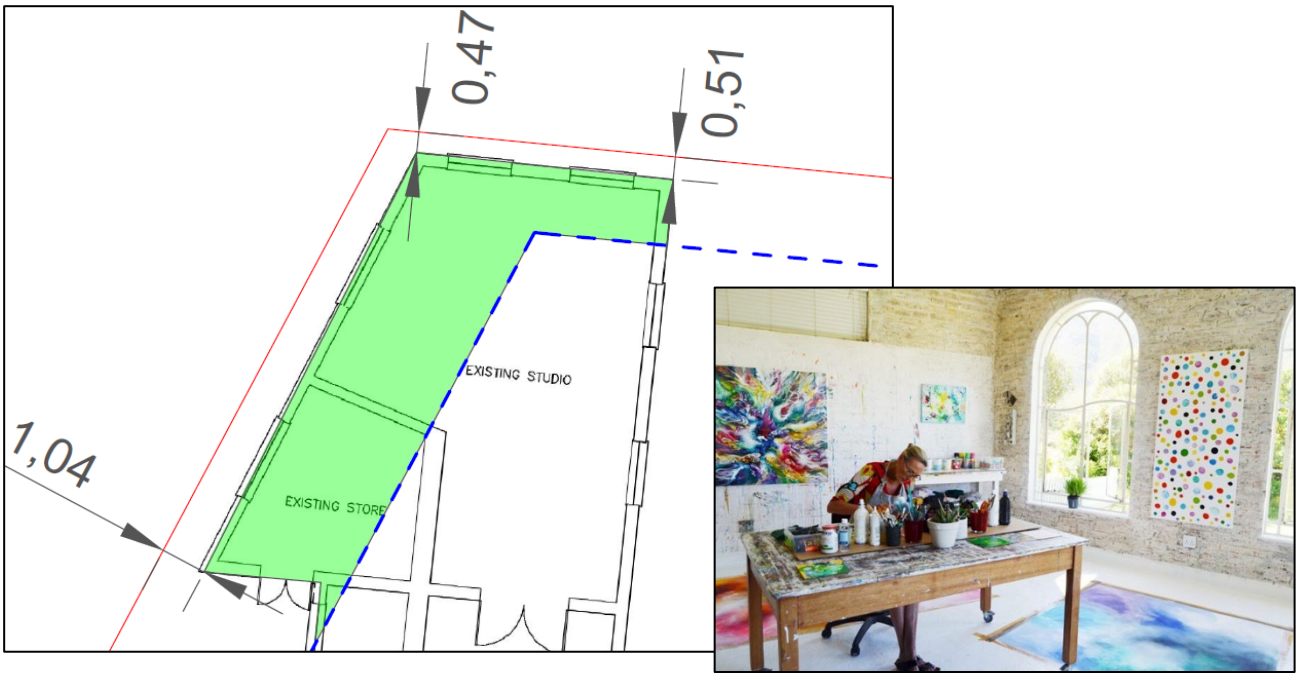


Figure 1: Extract from Plan 3 & an image from inside the studio

3.4 Permanent departure from the Southern Street building line from 4m to 2,62m to accommodate the existing bathroom and dressing room.

In addition to the outbuilding, the owners undertook extensions to the main dwelling at the time of renovation, specifically enlarging the primary bedroom to include a bathroom and dressing room. Regrettably, this extension was also constructed over the prescribed southern street building line.

The departure relates to a reduced setback from 4m to 2,62m and is therefore moderate in extent. Importantly, the encroachment forms part of the main dwelling and is not a separate or dominant structure, but rather an internalised extension that enhances the functionality and liveability of the dwelling.

From a contextual perspective, the southern boundary, although defined as a street boundary, does not present as a high-activity or visually sensitive interface due to the existing trees that the owners have planted over the years. The reduced setback does not disrupt the

streetscape or create a visually intrusive edge, particularly given the established residential character of the area, where variations in building lines are not uncommon.

The extension is modest in scale and height and remains subordinate to the overall built form of the dwelling. It does not project excessively into the street setback and does not create a sense of overdevelopment on the property. The architectural integration of the addition ensures that it reads as part of the original dwelling rather than as an incongruous or visually dominant element.

In terms of amenity, the departure does not result in any adverse impacts on neighbouring properties or the public realm. There is no overlooking, loss of privacy, or overshadowing associated with this portion of the building. The extension does not introduce additional intensity of use, as it merely accommodates internal residential functions that are ordinarily associated with a single dwelling house.

Furthermore, the structure has been in place for a considerable period and has become part of the established character of the property and surrounding area. Its longstanding presence has not given rise to any known complaints or negative impacts, which further supports its acceptability.

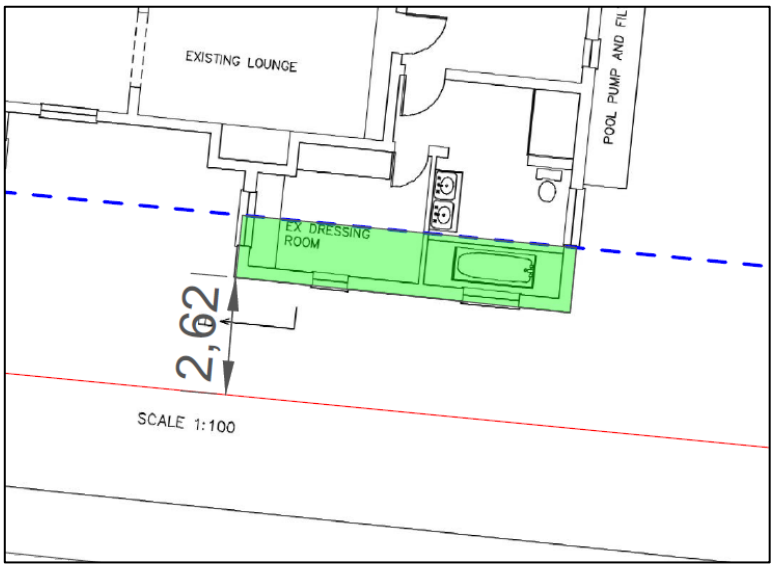


Figure 2: Extract from Plan 3

From a planning perspective, the departure is considered reasonable and desirable. It allows for the retention of an existing improvement that enhances the functionality of the dwelling, without resulting in any material planning harm. Requiring demolition or alteration would be disproportionate, particularly given the limited extent of the encroachment and the absence of negative impacts.

The proposal also aligns with principles of sustainability and efficient land use, as it avoids unnecessary reconstruction and material waste.

In light of the above, the departure is considered minor, contextually appropriate, and justifiable, and its approval is supported from a land use planning perspective.

3.5 Determination of an administrative penalty;

The last component of the application relates to the determination of an administrative penalty for the existing encroachment identified above. As outlined in Sections 3.3 the current

property owners are in the process of rectifying historic contraventions through the submission of this land use application. It is important to emphasise that the structure was not constructed with any malintent and was done only though not being informed.

The following considerations are relevant to the determination of the administrative penalty:

- The current owners did not wilfully disregard planning controls but rather proceeded without full knowledge of the applicable requirements. There was no malicious intent. Upon becoming aware of the non-compliance, they acted responsibly by appointing professional planning assistance and submitting this application to regularise the property.
- The submission of this application demonstrates the owners' willingness to cooperate with municipal requirements and to ensure full compliance with the OMLUS.
- The structures in question are residential in nature and do not result in any adverse impacts on neighbouring properties, municipal services, or the broader spatial development objectives of the Municipality.
- The regularisation of the existing structures aligns with the principles of spatial justice, efficiency, and sustainability, as it avoids unnecessary demolition and waste while promoting the lawful and practical use of the property.

In addition, no complaints have been received from neighbouring property owners in relation to the existing structures, indicating that the contraventions have not resulted in any material harm or disruption to the surrounding community. In terms of the By-Law, the contraventions described above require the determination of an administrative penalty. The purpose of such a penalty is not punitive in nature, but rather to promote fairness, accountability, and compliance with municipal planning processes.

By submitting this application, the owners have demonstrated a proactive and responsible effort to regularise the property and ensure compliance with municipal planning legislation and the OMLUS. In accordance with Section 90(3) of the By-law, the following considerations are relevant to the determination of a fair and reasonable penalty:

(a) The nature, duration, gravity and extent of the contravention
Section 3 of this report indicates the nature and gravity of the existing structure that was constructed without prior approval. The total extents of the building line encroachments are recorded in the table below.

Existing Contraventions	
Outbuilding	±32m²
Dressing Room & En-Suite	±8,52m²

(b) The conduct of the person (allegedly) involved in the contravention
The current owners are acting in good faith and as they were not aware of the planning laws at the time. Upon learning of the irregularities, they initiated the process to regularise the property by appointing WRAP to submit this application. Their conduct reflects a proactive, cooperative, and responsible approach to compliance.

(c) A report by a quantity surveyor in matters of unauthorised building/construction
Due to the small-scale nature of the encroachment, no quantity surveyor was involved, it is requested that the municipality's budget calculation be used.

(d) Whether the unlawful conduct was stopped

The unlawful conduct has effectively not stopped as the existing structures have already been constructed, albeit by a previous owner. The current owners have not undertaken any new unapproved construction since becoming aware of the rules. Instead, they are following the prescribed municipal processes to obtain the necessary land use approval and to regularise the structures.

(e) Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.

To the knowledge of this office, the current owners have no record of prior contraventions under this By-Law or any previous planning legislation. To our knowledge, this is their first instance of non-compliance, and it is tied solely to inherited structures constructed by a previous owner.

4. PLANNING ASSESSMENT

4.1. ZONING

The primary use of the property as a dwelling house is permitted within the SR1 zoning. No additional dwelling units or intensified land uses are currently proposed.

Residential Zone 1: Single Residential – Development parameters			
	Allowed	**Proposed / Existing**	
Coverage	50%	±27%	Comply
Building lines	Street building line = 4m Side and rear building lines = 2m	Refer to Sections 3.1 & 3.2	**Deviate**
Height	8,0 m.	-	Comply
Parking	Dwelling Unit: 2 Parking bays	Existing Parking Bays	Comply

4.2. ENGINEERING SERVICES

The availability of municipal services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is addressed below. The subject property is connected to existing municipal service networks in the area, including electricity, water, and sewerage. The proposal does not introduce any additional development rights or intensity of use and is therefore not anticipated to place any additional demand on existing municipal services. Solid waste collection is provided on a weekly basis by the Overstrand Municipality.

Access, Egress and Parking

Access to and egress from the property are obtained from Fulmar Street, which is an existing public road servicing the surrounding residential area.

4.3. POLICIES AND REGULATIONS

4.3.1. Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

The subject property is located within the Urban Conservation EMOZ. The purpose is to protect and manage undeveloped conservation-worthy public owned land within the Overstrand's urban edge, and adjacent buffer areas, while promoting the retention of viable priority ecological corridors in areas that are to be developed, to ensure an integrated 'conservation and development' approach that will enhance living conditions for the communities of the

Overstrand. With it being a private property and being developed and no additional development being proposed it is not expected to have an impact on the EMOZ.

4.3.2. Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)
The subject property is not located within the HPOZ.

4.3.3. Spatial Planning Policies
This proposal is not in conflict with any provisions of the Western Cape Provincial Spatial Development Framework, 2014 or the Overstrand Spatial Development Framework, 2020.

4.4. PLANNING PRINCIPLES

Chapter 2 of SPLUMA sets out five fundamental development principles that are compulsory considerations for all land use and development applications. These principles provide the normative basis against which proposals are assessed and must guide decision-making to ensure spatial justice, sustainability, and efficiency. The principles of SPLUMA that are pertinent to this proposal are outlined:

Spatial justice
The proposal promotes spatial justice by regularising longstanding structures on the property rather than requiring their removal, which would result in inefficiency and unnecessary loss of usable built form. The continued lawful use of the property supports equitable and productive land use.

Spatial sustainability and Efficiency
The proposal supports sustainability and efficiency by retaining existing structures and avoiding unnecessary demolition or new construction. This ensures optimal use of land and infrastructure while maintaining the established residential character of the area.

Spatial resilience
The proposal is not in conflict with applicable policies or regulations. The lawful retention of existing structures enhances the adaptability and long-term usability of the property without compromising its residential function.

Good administration
The Overstrand Municipality facilitates a comprehensive public participation process as part of its land use procedures. All comments received during this process will be duly considered and addressed as part of the decision-making process.

5. NEED AND DESIRABILITY

The need and desirability of the approval and implementation of this proposal in accordance with Section 66(1)(c) of the OM By-Law is outlined in the table below:

Socio-economic impact	The proposal is not expected to result in any negative socio-economic impacts. On the contrary, the regularisation of existing structure supports the continued lawful residential use of the property. By retaining and utilising existing structures, the proposal promotes the efficient use of resources and contributes to the long-term sustainability of the property.
Compatibility with surrounding uses	The subject property is located within a well-established residential neighbourhood where structures positioned close to boundary lines are common and consistent with the prevailing character of the

	area. The existing structures are compatible with surrounding land uses. The proposal will not detract from the residential character of Westcliff and aligns with the Overstrand Municipal Spatial Development Framework (OMSDF) policy of reinforcing and strengthening residential neighbourhoods.
Impact on the external engineering services	The application will be circulated to the OM's Engineering Department to confirm that existing service capacities are adequate. No additional demand on municipal services is anticipated.
Impact on safety, health and wellbeing of the surrounding community	The proposal is not anticipated to have any adverse impact on the safety, health, or well-being of the surrounding community.
Impact on heritage	The subject property is not listed in the OM Heritage Register.
Impact on the biophysical environment	The property is located within an established urban area, and the proposal is not expected to have any negative impact on the biophysical environment. The regularisation of existing structures avoids unnecessary demolition and associated waste, which is consistent with principles of environmental sustainability.
Traffic impacts, parking, access and other transport related considerations	The proposal will not generate additional traffic beyond what is already present, therefore, no impact is expected.

Impact on views, sunlight and character of the area

The proposal relates to the regularisation of existing low-scale structures and does not introduce any additional bulk, height, or massing beyond what is already present on the property. As such, it is not expected to result in any loss of views or obstruction of sunlight to neighbouring properties.

The structures in question are residential in nature and are consistent with the scale and form of development commonly found within Vermont. Their retention will not alter the established streetscape or detract from the overall residential character of the area. Accordingly, the proposal is not anticipated to have any adverse impact on views, access to natural light, or the character of the surrounding neighbourhood.

Economic impact

The proposal has a positive economic impact in that it preserves and regularises existing structures on the property, thereby safeguarding the owner's investment and maintaining the residential property. Furthermore, the owners reside on the property, which contributes to the local economy through ongoing maintenance, local procurement of goods and services, and long-term investment in the area.

Opportunity cost

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or forgoing valued land use rights of interested and affected parties when an application is approved. The proposal is not predicted to have a negative impact on surrounding properties.

Environmental impact

The proposal entails the regularisation of existing structures on an already developed residential property located within the defined urban edge. The site is fully transformed and has been utilised for residential purposes for an extended period, with the outbuilding in

question having been constructed more than 20 years ago. As such, the application does not introduce any new development footprint, land disturbance, or intensification of land use.

The property is not situated within a declared wetland, nor does it form part of any mapped environmentally sensitive or protected area. While the site is located in proximity to the Vermont Salt Pan, the existing development has remained unchanged for over two decades, and no encroachment into environmentally sensitive areas has occurred. The proposal is therefore limited to the formal approval of an established structure, with no expansion towards the Salt Pan or surrounding natural systems.

Given that no new construction is proposed, there will be no additional impacts in terms of vegetation clearing, soil disturbance, stormwater runoff, or biodiversity loss. The existing vegetation on the property, particularly along the boundaries, has been retained and continues to contribute positively to the ecological functioning and visual character of the area.

Furthermore, the use of the structure as a storage space and artist's studio is low impact in nature and does not generate pollution, waste, noise, or emissions that could negatively affect the surrounding environment. There is no increase in impermeable surfaces or bulk that would alter the environmental performance of the site.

From an environmental planning perspective, the regularisation of the structure is preferable to demolition and reconstruction, as it avoids unnecessary waste generation and resource consumption. The proposal therefore aligns with principles of sustainability and responsible land use management. In light of the above, it is concluded that the proposal will not result in any negative environmental impacts and is considered environmentally acceptable

6. CONCLUSION

The application seeks approval for minor departures to regularise an existing outbuilding that has been part of the property for more than two decades. The structure is ancillary and subservient to the main dwelling, complies with the definition of an outbuilding in terms of the Overstrand Municipality Land Use Scheme (2020), and is utilised for low-impact purposes, namely storage and an artist's studio.

The departures are limited in extent and arise from the historical placement of the structure along the northern and western boundaries. Importantly, the unique context of the property, particularly the western boundary abutting an unmade road reserve adjacent to the Vermont Salt Pan, significantly reduces the functional necessity of the prescribed street building line. The relaxation of this building line is therefore justified and does not compromise safety, access, or future planning considerations.

The structure is modest in scale, visually recessive, and has become integrated into the surrounding environment over time. It does not result in any loss of privacy, overshadowing, or visual intrusion, nor does it negatively impact the amenity of neighbouring properties or the character of the area. The use of the building is non-habitable and low intensity, further limiting any potential impacts.

From an environmental perspective, the proposal does not introduce any new development or disturbance, as it relates solely to the retention of an existing structure within an already developed property inside the urban edge. No sensitive environmental features are affected, and the proposal aligns with sustainable planning principles by avoiding unnecessary demolition and waste.

The owners have demonstrated good faith by taking proactive steps to regularise a historic contravention through the appropriate statutory process. Supporting this application reinforces compliance and upholds the integrity of the land use management system.

In consideration of the above, the application is consistent with the applicable planning framework, desirable in terms of its context, and does not give rise to any material negative impacts. The departures are reasonable, justifiable, and in line with the established character of the area.

7. RECOMMENDATION

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

7.1 **Removal of restrictive title deed condition E(a)** in terms of Section 16(2)(f) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020;

7.2 **Permanent departure** from the Northern rear building line from 2m to 0,47m to accommodate the existing outbuilding in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020;

7.3 **Permanent departure** from the Western Street building line from 4m to 1,04m to accommodate the existing outbuilding in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020;

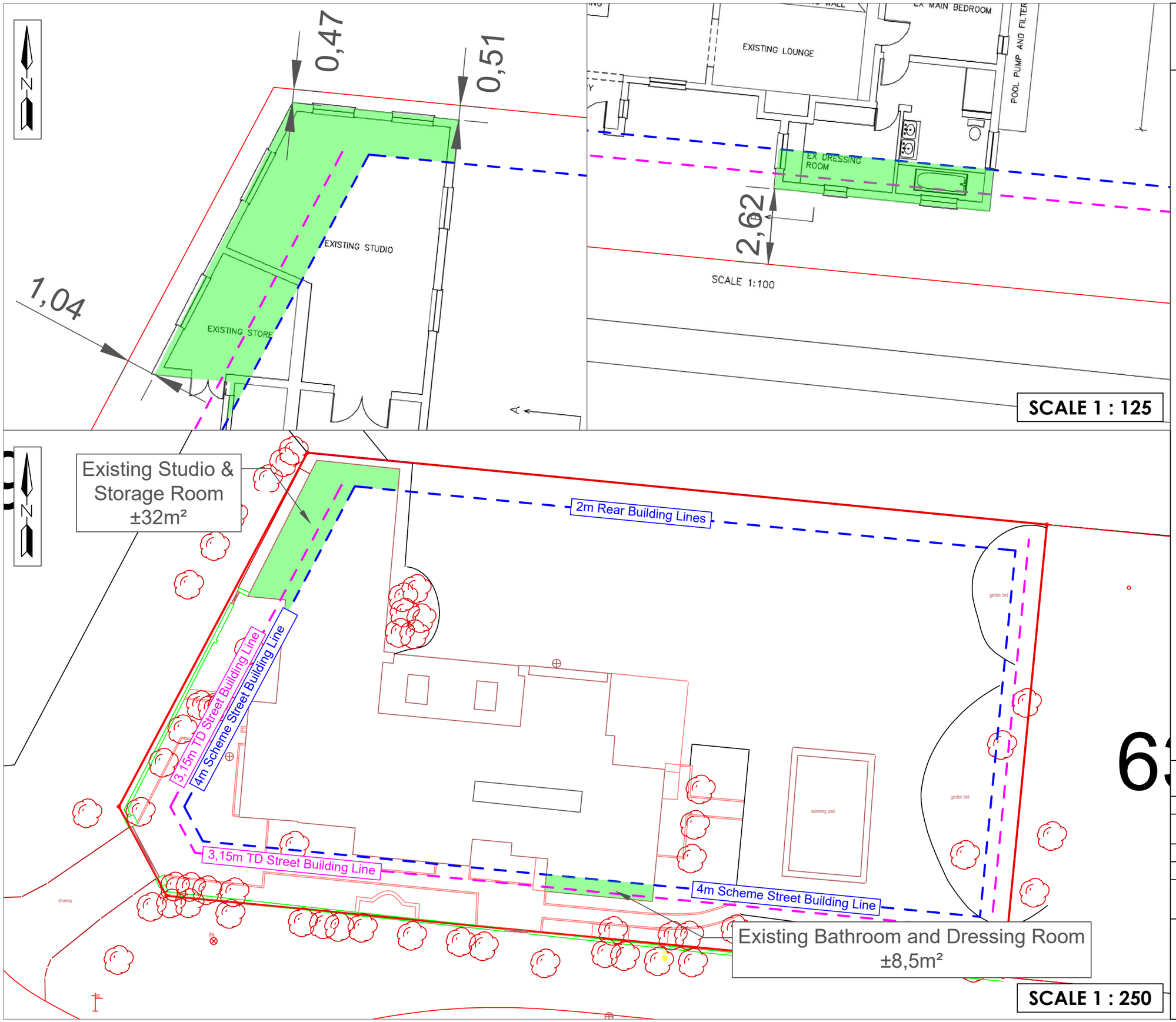
7.4 **Permanent departure** from the Southern Street building line from 4m to 2,62m to accommodate the existing dressing room & en-suite bathroom in terms of Section

16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020; and

7.5 **Waiving of the determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

Plan 3: Site Plan

Erf 2069 Vermont



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Plan prepared by: Thian Jansen on 23/04/2026
Based on plans from Richard Borello

Plan Number - 26/52 (001)

All distances are approximate and subject to a survey

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

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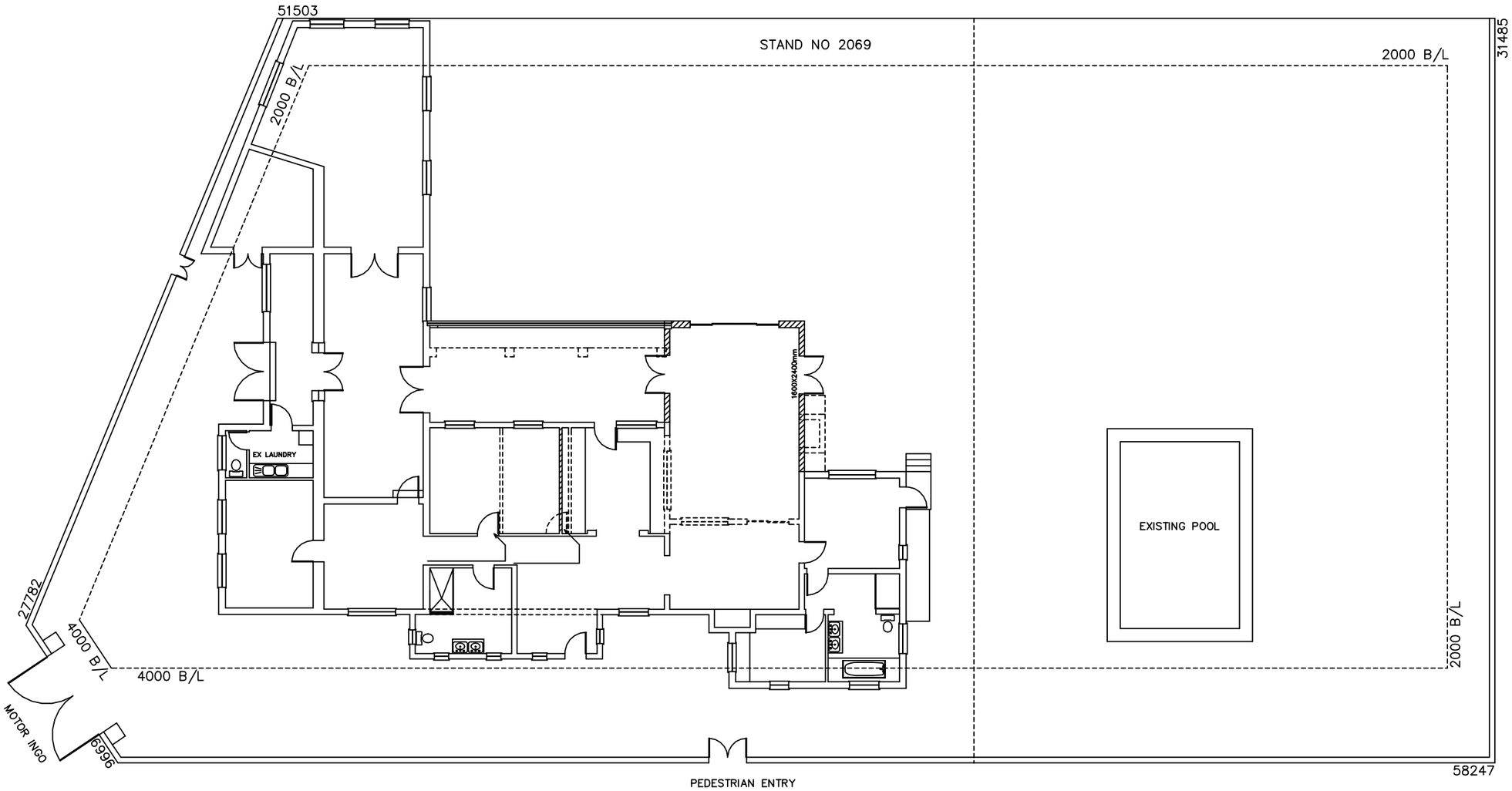
WRAP Project Office
Town Planning & Project Management



36 FULMAR STREET

SITE PLAN SCALE 1:200

NOTES:

1) THE CONTRACTOR IS TO MAKE HIMSELF FAMILIAR WITH THE SITE CONDITIONS AT THE TIME OF TENDERING

2) THE CONTRACTOR IS TO CHECK ALL LEVELS AND DIMENSIONS ON SITE AT THE TIME OF SETTING OUT AND DISCUSS SAME WITH OWNER

3) PRIOR TO THE MANUFACTURE OF TRUSSES ETC THE MANUFACTURER IS TO TAKE ALL RELATIVE DIMENSIONS ON SITE

4) DRAWING MUST NOT BE SCALED BUT DIMENSIONS AS SHOWN ARE TO BE USED

.....
OWNER'S SIGNATURE

PROPOSED ADDITION TO
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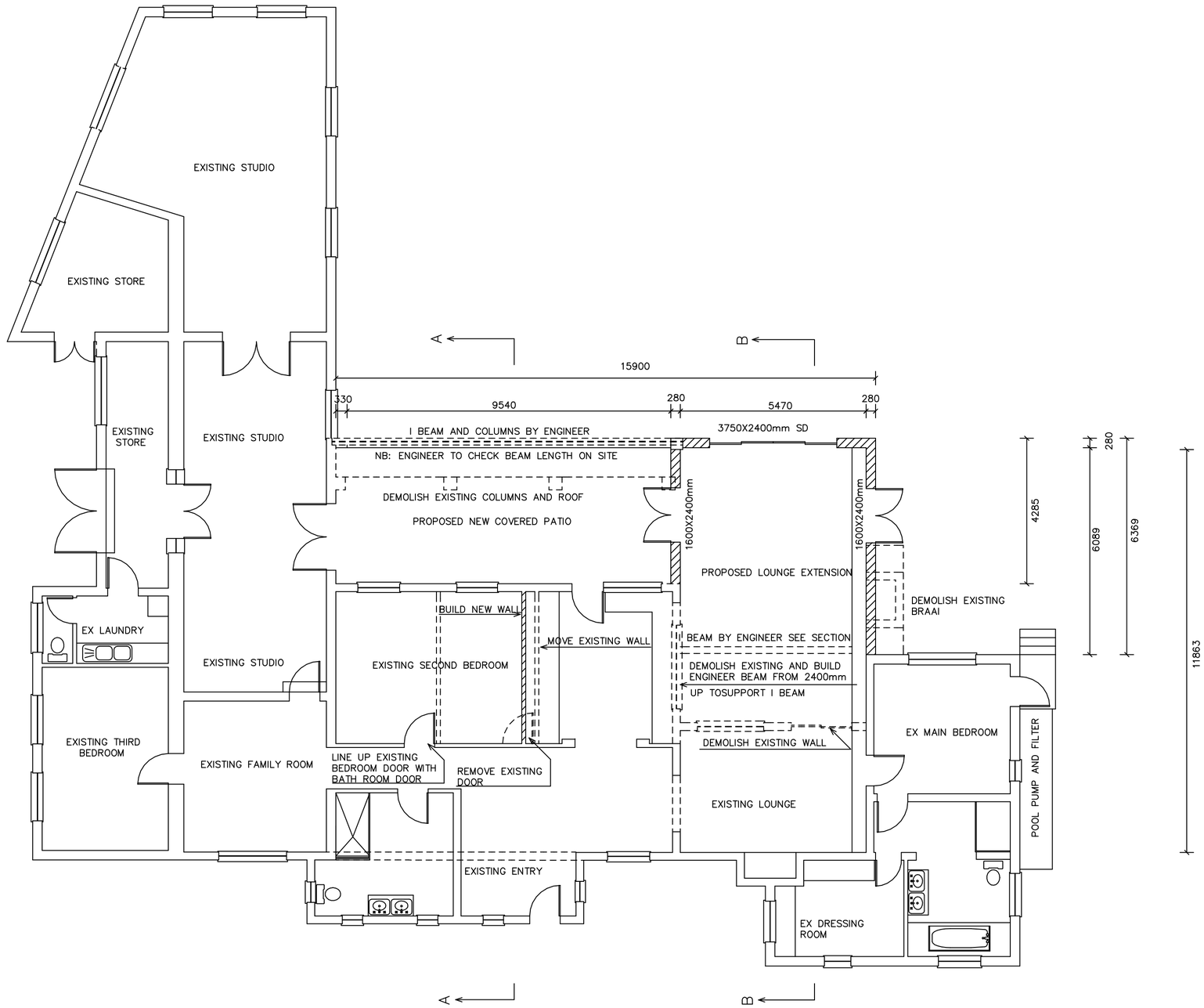
SACAP reg no T0365



PLAN

SCALE 1:100

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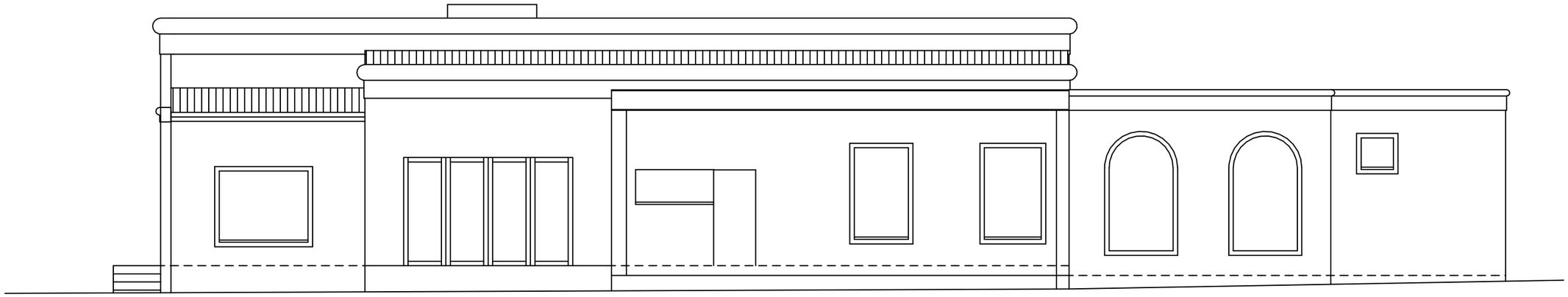

NORTH ELEVATION SCALE 1:100

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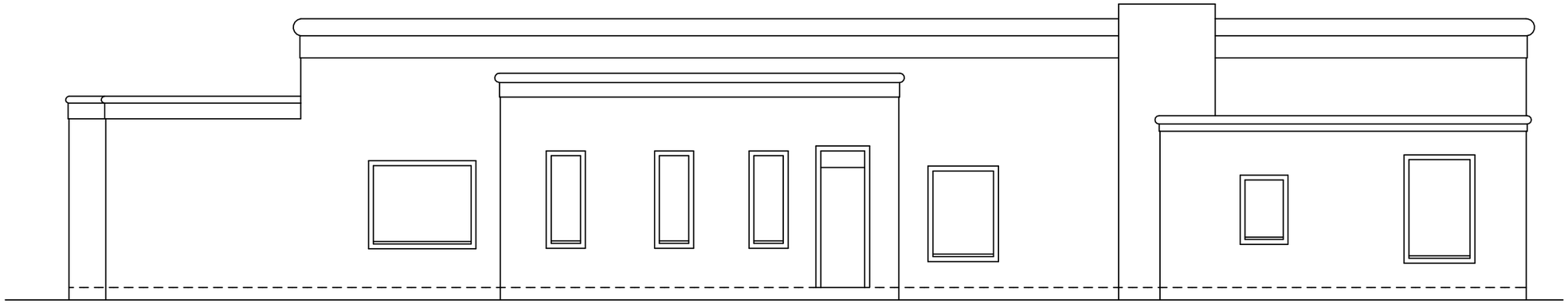

SOUTH ELEVATION SCALE 1:100

NOTES:

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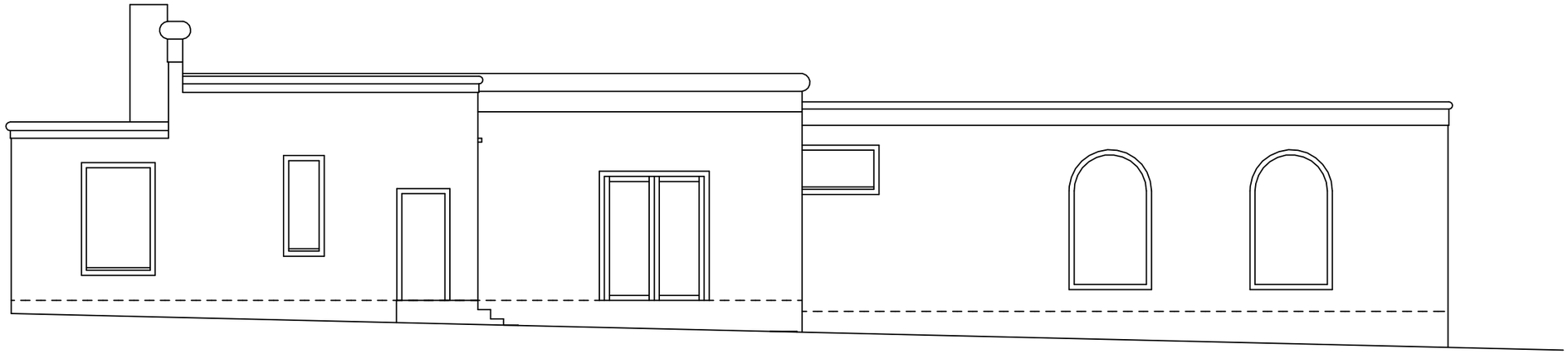

EAST ELEVATION SCALE 1:100

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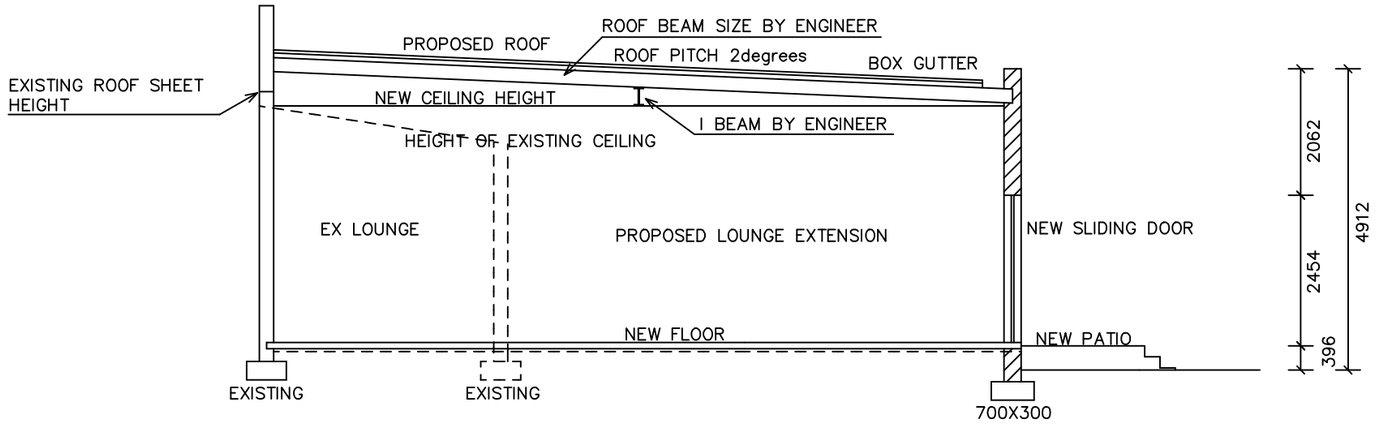
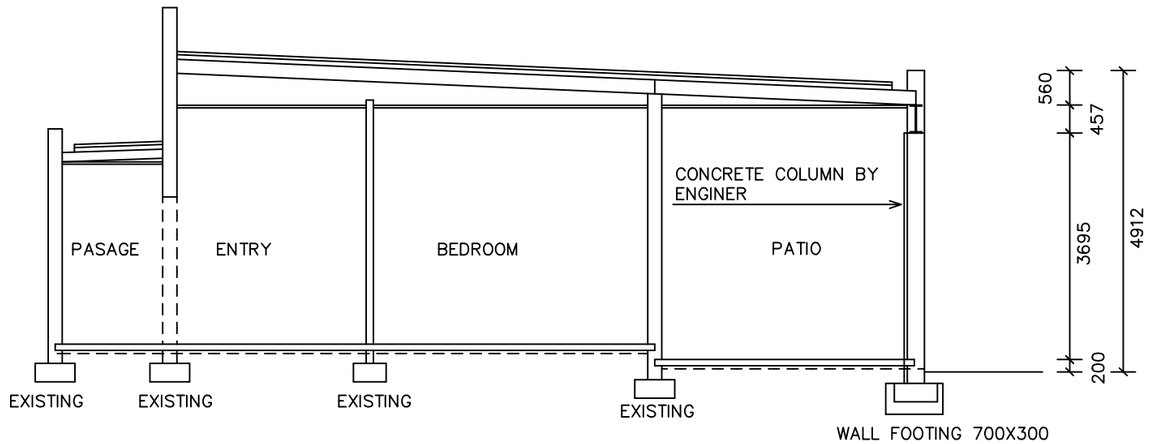


SECTION BB SCALE 1:100



SECTION AA SCALE 1:100

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