



**OVERSTRAND MUNISIPALITEIT**  
**ERF 4949, MUSSONSTRAAT 3, EASTCLIFF,**  
**HERMANUS, OVERSTRAND MUNISIPALE GEBIED:**  
**AANSOEK OM OPHEFFING VAN BEPERKDE**  
**TITELAKTEVOORWAARDES, AFWYKING EN**  
**BEPALING VAN 'N ADMINISTRATIEWE BOETE:**  
**MINRE WRAP PROJECT OFFICE NAMENS JJ & MA**  
**VAN DER MERWE**

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 4949, Eastcliff, Hermanus (die eiendom) naamlik:

**Opheffing van beperkende titelaktevoorwaardes**  
Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelaktevoorwaardes 1(b)(A)(b) & 1(b)(A)(d) soos vervat in Titelakte T17182/2021 van die eiendom;

**Afwyking**  
Aansoek ingevolge Artikel 16(2)(b) van die Verordening om die suidwestelike sy-boulyn van die eiendom vanaf 2m na 1.55m te verslap om die bestaande tweede wooneenheid te akkommodeer; en

**Bepaling van 'n administratiewe boete**  
Aansoek ingevolge Artikel 16(2)(q) van die Verordening vir die bepaling van 'n administratiewe boete om die bestaande struktuur te wettig.

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

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

Enige kommentaar moet skriftelik wees bogenoemde en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) voor of op Vrydag, **07 June 2024** met u naam, adres en kontakbesonderhede, belang in die aansoek, asook die redes vir kommentaar. Telefoniese navrae kan gerig word aan die Stadsbeplanner, **Town Planner, Mr. P Roux** by 028-313 8900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer.

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

Munisipale Kennisgewing Nr. 76/2024

**OVERSTRAND MUNICIPALITY**  
**ERF 4949, 3 MUSSON STREET, EASTCLIFF,**  
**HERMANUS, OVERSTRAND MUNICIPAL AREA:**  
**APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE**  
**DEED CONDITIONS, DEPARTURE &**  
**DETERMINATION OF AN ADMINISTRATIVE**  
**PENALTY: MESSRS WRAP PROJECT OFFICE ON**  
**BEHALF OF JJ & MA VAN DER MERWE**

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 4949, Eastcliff, Hermanus (the property) namely:

**Removal of restrictive title deed conditions**  
Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions 1(b)(A)(b) & 1(b)(A)(d) as contained in Title Deed T17182/2021 of the property;

**Departure**  
Application in terms of Section 16(2)(b) of the By-Law to relax the south-western building line of the property from 2m to 1.55m to accommodate the existing second dwelling unit; and

**Determination of an administrative penalty**  
Application in terms of Section 16(2)(q) of the By-Law for the determination of an administrative penalty to legalize the existing structure.

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

Any comments must be in writing to reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) on or before Friday **07 June 2024**, quoting your name, address and contact details, interest in the application, as well as the reasons for comment. Telephonic enquiries can be made to the Town Planner, **Mr. P Roux** at 028-313 8900. The Municipality may refuse to accept comment received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.

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

Municipal Notice No. 76/2024

**UMASIPALA WASE-OVERSTRAND**  
**I-ERF 4949, 3 MUSSON STREET, HERMANUS:**  
**INDAWO KAMASIPALA YASE-OVERSTRAND:**  
**ISICELO SOKUSUSWA KWEZITHINTELO**  
**NGOKWEMIGAQQO, UKUNCITSHISWA KUNYE**  
**NOKUMISELWA KWESOHLWAYO SOLAWULO:**  
**WRAP PROJECT OFFICE EGAMENI JJ KUNYE MA**  
**VAN DER MERWE**

Isaziso siyanikezelwa ngokweCandelo lama-47 nelama-48 loMthetho kaMasipala woLungiso loLungiso lukaMasipala waseOverstrand kuCwanciso lokuSetyenziswa koMhlaba kaMasipala, ka-2020 (uMthetho kaMasipala) kwezi zicelo zilandelayo zisebenza kwiSiza 4949, Eastcliff, Hermanus (kwipropati), oko kukuthi:

**Ukususwa kweMiqathango yeSivumelwano soBunini esiThintelweyo**  
Isicelo ngokuhambelana neCandelo le-16(2)(f) loMthetho kaMasipala sokususa imiqathango yesithintelo setayitile yobunini 1(b)(A)(b) & kunye 1(b)(A)(d) njengoko iqulethwe kwiSivumelwano soBuniniMhlaba esinguNombolo T17182/2021 kwipropati;

**Ukutenxa**  
Isicelo ngokuhambelana neCandelo le-16(2)(b) loMthetho kaMasipala wokunciphisa umda wesakhiwo kwicala elingasentshona ukusuka kwi-2m ukuya kwi-1.55m kunye ne-1.33m ukulungiselela indawo yokuhlala yesibini ekhoyo; kunye

**Ukumiselwa kwesohlwayo solawulo**  
Isicelo ngokuhambelana kweCandelo le-16(2)(q) loMthetho kaMasipala ukuwisa isohlwayo solawulo ukwenza ngokusemthethweni ulwakhiwo obukhoyo.

Inkcukacha mayela nesindululo siyafumaneka ukuze sihlolwe phakathi evekini ngamaxesha omsebenzi ukusuka kwintsimbi ye08:00 ukuya kweye16:30 kwiSebe: Izicwanciso Zedolophu kwanombolo 16 Paterson Street, eHermanus.

Naziphi na izimvo mazibalwe phantsi ukuze zifike kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) okanye ngaphambi koko **07 Isilimela, 2024** ucaphula igama lakho, idilesi kunye neenkukacha zoqhagamshelwano, umdla kwisicelo, kunye nezizathu zokuphawula. Imibuzo ngomnxeba ingenziwa kuCwanciso weDolophu, uMnu. **P Roux** kule nombolo 028-313 8900. UMasipala unokwala ukwamkela izimvo ezifunyenwe emva komhla wokuvula. Nabani na ongakwaziyo ukufunda okanye ukubhala angandwendwela iSebe loCwanciso lweDolophu apho igosa likamasipala liya kuthi limncedise ukuze abhale ngokusesikweni izimvo zakhe.

Umlawuli kaMasipala, Masipala waseOverstrand, P.O. Ibhokisi 20, **HERMANUS**, 7200

Isaziso sikaMasipala esinguNomb. **76/2024**

# 1. Locality Plan Erf 4949, Hermanus

Plan prepared by: Veronica Jansen

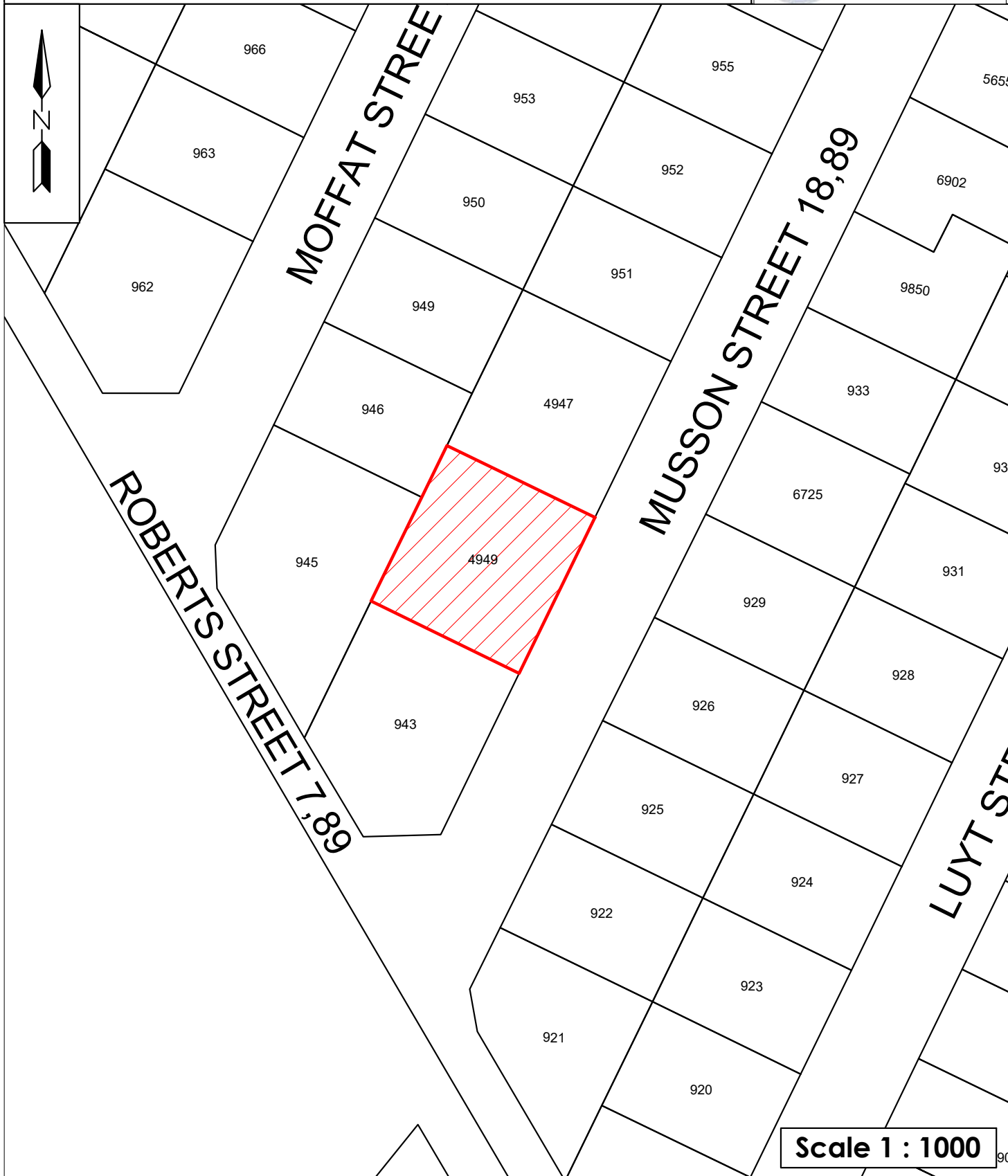
Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Unit B, Standard House,  
Corner of Royal and Dirkie Uys  
Street Hermanus, 7200



**Project Office**  
Town Planning & Project Management



Scale 1 : 1000



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### 1. ABBREVIATIONS

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

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### 2. PROPERTY DETAILS

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<b>Consultant</b>	WRAP Project Office
<b>Erf Number</b>	Erf 4949 Hermanus
<b>Extent</b>	1 041m <sup>2</sup>
<b>Zoning</b>	Residential Zone 1: Single Residential

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### 3. BACKGROUND AND INTENT

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Erf 4949 Hermanus, hereafter referred to as the subject property, is located at 3 Musson Street, Eastcliff, Hermanus. (refer to **Plan 1 - Locality Plan**). The property owners appointed WRAP Project Office to submit a land use application on their behalf, refer to **Annexure A - Power of Attorney**.

The owners converted the existing garage, situated within the side building line, into a second dwelling unit to rent it out. The Overstrand Municipality as a rule does not easily support building line departures for any habitable structures within the 2-meter side building line. In addition, there are two title deed conditions that relate to this application which prohibits the proposed second dwelling unit and its existing location. The first condition states that only one dwelling together with such outbuilding may be erected on this erf. The second condition relates to the building line which prohibits any building to be situated within 1.57 meters from the lateral boundary common to any adjoining erf.

The garage was allowed within the Scheme building line, however, due to the change of use, a second dwelling unit is not allowed within the side building line prior to land use approval for a departure from the building line.

Therefore, this application includes the removal of the restrictive title deed conditions to allow a second dwelling unit that was previously a garage.

As a result, approval of the following applications is required:

- Removal of the restrictive title deed conditions 1(b)A(b) and 1(b)A(d);
- Permanent departure from the side building line to allow the existing second dwelling unit which was previously a garage; and
- Determination of an administrative penalty.



**4. PROCEDURE TO ACHIEVE THE OWNERS' INTENT**

WRAP compiled this report to ensure that the owners' requirements are met.

The following is proposed:

**4.1 Removal of restrictive title deed conditions** to accommodate the conversion of an existing garage to a second dwelling unit.

There are two title deed conditions that prohibit the land use rights necessary for the conversion of the garage to a second dwelling unit on the property and the rationale for the removal of this condition is discussed below:

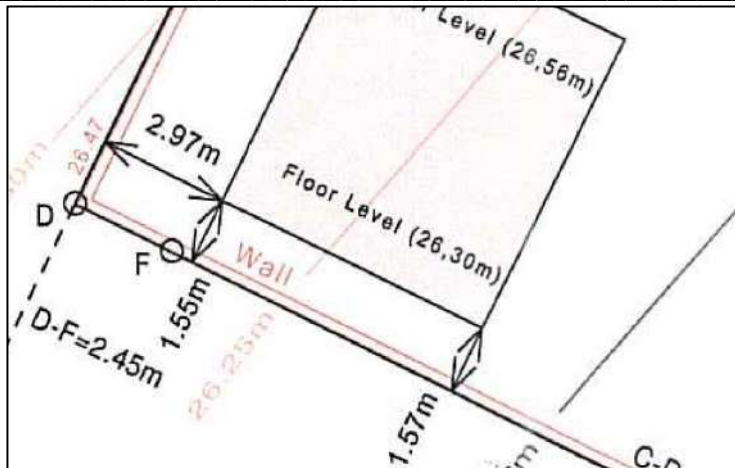
<b>Restrictive Title Deed Condition</b>
Condition 1(b)(A)(b) – <i>“That only one dwelling together with such outbuildings are ordinarily required to be used therewith, be erected on this erf.”</i>

The abovementioned condition prohibits a second dwelling unit on the subject property. It is important to note that a second dwelling unit is allowed in terms of the OMLUS on a single residential zoned property. Therefore, this condition is more restrictive than what is allowed in terms of the OMLUS.

The rationale for the removal of the restrictive title deed conditions is to enable the owners to achieve their intent highlighted in Section 3 of this report. The reasoning for the removal of this restrictive title deed condition will be discussed in detail in Section 7 of this report.

<b>Restrictive Title Deed Condition</b>
Condition 1(b)(A)(d) – <i>“That no building or structure of any portion thereof except boundary walls and fences shall be erected nearer than 4,72m to the street line which forms a boundary of this erf. <u>No such building or structure shall be situated within 1,57m of the lateral boundary common to any adjoining erf.</u>”</i>

The property was surveyed in 2021 by Van Dyk Land Surveyors (Refer to Annexure D – Historically Approved Building Plans). It is evident from Figure 1 that the existing structure that was converted to a second dwelling unit, was built at an angle that started on 1,57m from the boundary and ended at 1,55m from the boundary.



**Figure 1: Extract from Survey dated 2021**

It can be assumed that the structure was built at an incorrect angle and therefore, the existing structure is situated within 1,55m of the lateral boundary common to an adjoining erf. The reasoning for the removal of this restrictive title deed condition will be discussed in detail in *Section 7* of this report.

**4.2 Permanent Departure** from the 2m south-western side building line to 1,55m to accommodate the existing second dwelling unit, previously a garage.

The garage is an existing structure that the owners recently converted into a second dwelling unit. The garage was built in line with the historic 1,5m building lines of Hermanus at the time. However, due to the updated scheme regulations new, stricter building lines need to be adhered to. Additionally, the use of the structure also changed resulting in a change of use. The OMLUS allows for a garage to be located within the building line with consent from the neighbours. However, as the structure accommodates a second dwelling unit, it is not allowed within the side building line without prior approval thereof.

With the conversion of the garage, it is not predicted that the existing structure situated within the building line creates a nuisance as the surrounding neighbours have become accustomed to the structure in its position. This suggests that the structure is not causing any significant disturbance or inconvenience to the surrounding neighbours. Allowing the garage, which was converted to a second dwelling unit, to remain in its current position would maintain the status quo. This approach would avoid the unnecessary demolition of the property in its current state.

Relaxing the building line to accommodate the existing structure and its change of use, is a pragmatic solution that balances regulatory compliance with practical considerations. The second dwelling is only used occasionally and have become a feature part of the property which adds value and character to the dwelling house.

The second dwelling is proposed to be used for various purposes. The owners want to allow this dwelling to be used by their family and friends, while also being able to rent it out as a self-catering unit. It is important to note the owners are permanently occupying the main dwelling, and they will be managing the unit themselves. This creates a sense



of personal involvement and ensures that the proposed use will not cause a nuisance to the surrounding neighbourhood.

**4.3 Determination of an administrative penalty**

The owners, as mentioned in Section 3 of this report, are currently in the process of rectifying the contravention by submitting this application. During the process of submitting building plans, it was discovered that approval is required for the conversion of the garage into a second dwelling unit.

In addition to the above, there have been no complaints from neighbouring property owners regarding the existing structures or its use. This indicates that the violation is not causing any significant harm or disruption to the surrounding neighbours.

To ensure compliance with the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, it is of importance to include an application for the determination of an administrative penalty. However, it is requested that the administrative penalty be reduced. The owners are actively engaged in rectifying the contravention that occurred prior to their knowledge about it being unlawful. Their proactive approach demonstrates a commitment to compliance with regulations and rectifying any issues promptly. Reducing the penalty would acknowledge and encourage such responsible behaviour.

Furthermore, as previously mentioned, it is not predicted to have a negative impact on the surrounding properties as their owners have become accustomed to the placement and position of the structure.

Section 90(3) of the By-law requires the following information:

**The nature, duration, gravity and extent of the contravention**

Section 4.1 indicates the nature and gravity of the additions that were constructed without prior approval. The total extent of the unlawful use of the structure is:

Use change of the second dwelling	±4,82m <sup>2</sup>
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It should be noted that the existing structure was built in its current position in 1971 and only the use change over the side building line was conducted by the current owners.

**The conduct of the person (allegedly) involved in the contravention**

The owners were responsible for ensuring that there were no contraventions in terms of the By-Law; however, it is important to note that no malicious intent was found in their actions and the owners aim to rectify the contravention to be able to change the use of the existing garage to a second dwelling unit and comply with OM regulations.

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

Due to the small-scale nature of the use change, no quantity surveyor was involved.

**Whether the unlawful conduct was stopped**

The construction that allowed the change of use has been completed.



**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 property owners have not previously contravened the By-Law.

**5. LAND USE ENVIRONMENT**

The subject property is located in Eastcliff, an established residential area in Hermanus. The property is surrounded by other Residential Zone 1: Single Residential properties and Public Streets. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan).

**6. TITLE DEED**

Title deed T17182/2021 (refer **Annexure B**) was perused and there are two restrictive conditions that require removal to allow the existing structure to be compliant.

**Title deed restrictions**

*Condition 1(b)(A)(b) – “That only one dwelling together with such outbuildings as are ordinarily required to be used therewith, be erected on this erf.”*

*Conditions 1(b)(A)(d) – “That no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 4,72m to the street line which forms a boundary of this erf. No such building or structure shall be situated within 1,57m of the lateral boundary common to any adjoining erf.”*

**Motivation**

**The rationale for the proposed removal**

The subject property is currently being used as a single dwelling house with a second dwelling unit. Due to the property not complying with the development parameters of the OMLUS and two restrictive conditions of the title deed, they are unable to ensure compliance with OMLUS legislation in order to receive approval for the building plans.

**Title deed condition background**

The restrictive title deed conditions were originally intended to protect the residential character of the Eastcliff area. Any amendment or removal of these conditions require the consent of the Administrator. This authority now vests with the Overstrand Municipality.

**Status quo**

The current OMLUS has clear development guidelines in place to ensure the whole of the Overstrand Area's residential properties are managed in a similar manner. The title deed condition 1(b)A(b) is more restrictive than the development parameters of the OMLUS. The development parameters of the OMLUS allows a second dwelling unit on single residential zoned properties. This condition made sense prior to the OMLUS, however, is now more restrictive than the provisions of the OMLUS. Therefore, removal of condition 1(b)A(b) is proposed to allow the second dwelling unit.



The title deed condition 1(b)(A)(d) was originally intended to be complied with in the construction phase of the garage prior to the current owners owning the property. However, it is evident from the survey represented in Figure 1 of this report, that the structure was unintentionally built at an angle starting at 1,57m from the boundary and ended at 1,55m from the boundary. It can be assumed that the initial intent of the previous owners was not to construct within the building line, but unintentionally did. Therefore, the removal of this condition is required. The removal is required due to the historic construction with no malicious intent and the small scale of the encroachment.

It is now the current owners' responsibility to ensure that the property complies with the applicable legislation and the title deed to be able to use the property as they intend to.

In terms of the requirements of LUPA, the following is addressed in terms of Section 39(5)(a-f):

<b>LUPA, Section 39(5) (a-f)</b>	
<i>(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;</i>	No person or entity will be affected financially by the removal of these restrictive title deed conditions.
<i>(b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;</i>	No person is personally benefitting from this condition as this condition is only restricting the owners.
<i>(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;</i>	The owners will be gaining from the removal of the restrictive conditions as it will allow them to have a second dwelling unit while not being forced to demolish an existing structure that was built prior to their ownership.
<i>(d) the social benefit of the restrictive condition remaining in place in its existing form;</i> <i>(e) the social benefit of the removal, suspension or amendment of the restrictive condition; and</i>	These restrictive conditions do not provide social benefits.
<i>(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.</i>	There is no specific beneficiary of these conditions, and no person or entity will be affected if this is removed.

**7. ZONING**

The following zoning parameters were assessed in conjunction with the SR1 OMLUS zoning as this is a relevant consideration in terms of Section 66(1)(q) of the OM By-Law:





RESIDENTIAL ZONE 1: SINGLE RESIDENTIAL			
	Parameters	Proposal	Comply/ deviate
Primary use	Crèche, Dwelling House, Guest Rooms, Home Occupation, Second Dwelling Unit and Self-Catering.	Dwelling House, Second Dwelling Unit	Comply
Consent use	Day Care Centre, Green House, Guest House, House Shop, Institution, Place of Instruction, Place of Worship, Residential Building, and Intensive Horticulture.	N/A	N/A
Development parameters			
Coverage	The maximum coverage for all buildings on the land unit is determined in accordance with the net erf area: 400m <sup>2</sup> and greater = 50%	Existing Structures = 444,5m <sup>2</sup> Existing Coverage = 42.7%	Comply
Building lines	(i) The street building line is determined in accordance with the net erf area: <ul style="list-style-type: none"> <li>400 m<sup>2</sup> and greater = 4m</li> </ul> (ii) The side and rear building lines are determined in accordance with the net erf area: <ul style="list-style-type: none"> <li>Greater than 400 m<sup>2</sup> = 2m</li> </ul>	<ul style="list-style-type: none"> <li>The street building line is being adhered to.</li> <li>Permanent Departure from the 2m south-western side building line to 1,55m to allow the existing structure.</li> </ul>	<b>Deviate, motivated and applied for.</b>
Height	The maximum height of a building, measured from the base level to the top of the structure, is 8,0 m.	The existing dwelling adheres to the 8,0m height restriction.	Comply
Garages and carports	Garages and carports may be constructed within building lines in accordance with Chapter 16.1.2.	There is a new garage with additional parking options on the property.	Comply



**8. SERVICES**

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

**Electricity, Water, Sewage and Solid Waste**

The subject property is connected to the existing networks in the area, which include electricity, water and sewage. The proposal of this application is not anticipated to impact on existing services.

Solid waste is collected every week by the OM.

**Access and Egress**

Access and egress to the property is gained from Musson Street.

**9. 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 can be illustrated as follow:

**Need and desirability.**

The need for the land use application was a result of addressing all the land use requirements and ensuring the property meets the requirements of the owners. To achieve this, the owners are required to apply for a permanent departure from the building line and removal of restrictive title deed conditions.

Socio-economic impact	The permanent departure and removal of the restrictive title deed conditions are not predicted to have a socio-economic impact.
Compatibility with surrounding uses	The proposal is to ensure the property complies with the OMLUS. It is not predicted that the proposal is out of line with the surrounding area as it will still be used for residential purposes.
Impact on the external engineering services	Refer Section 9.
Impact on safety, health and wellbeing of the surrounding community	It is not predicted that the proposal will have an impact on safety, health, and wellbeing of the surrounding community.
Impact on heritage	The subject property is not listed in the OM Heritage Register.
Impact on the biophysical environment	It is not predicted that the proposal will have an impact on the biophysical environment.
Traffic impacts, parking, access and other transport related considerations	The proposal will not have an impact on traffic, parking or access.



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

The subject property is located in a residential setting and the structure is existing. The adjacent property owners are accustomed to the structures, and it is not predicted to affect any surrounding property owners. As motivated above, the structure is not being altered externally, except for one window installed on the south-western side of the structure.

**Economic impact**

The proposal is expected to have a long-term economic impact enabling the owners to rent out the second dwelling unit to receive an additional income. However, a short-term economic impact had occurred when the garage was renovated and converted.

**Opportunity cost**

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

**Environmental impact**

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

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**10. POLICIES AND REGULATIONS**

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

The property is not located within the EMOZ.

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

The property is not located within the HPOZ.

**10.3 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.

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**11. PLANNING PRINCIPLES**

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

**Spatial justice**

Spatial justice refers to planning proposals that do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal to rectify a past contravention of an existing structure, including a change in use from a garage to a second dwelling unit, is not predicted to influence past spatial injustices.



### **Spatial sustainability**

Spatial sustainability refers to planning proposals which result in communities that are viable. The proposed departure and removal of the restrictive conditions intend to ensure the subject property is utilised to its maximum capabilities.

### **Efficiency**

This proposal is intended to maximise the usage of the subject property while also not being forced to remove an existing structure as a result of previous owners.

### **Spatial resilience**

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

### **Good administration**

The OM has a credible track record of good administration regarding the method of public participation. Public participation forms an integral part of the land use planning process.

The public participation process provides people who may be affected by the proposal with an opportunity to provide comment and to raise issues of concern about the proposal or make possible suggestions that may result in an enhanced outcome of which both parties benefit. Comments will be reviewed and considered after which it will be addressed accordingly.



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### 12. EVALUATION

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The purpose of submitting this application is to enable the owners to rectify the contravention that occurred prior to their ownership of the property and to ensure the property has the necessary approvals for a second dwelling unit to be compliant with the parameters of the OMLUS. This application aims to balance the functional necessity of the existing garage that was converted to a second dwelling unit. The existing structure has been within the title deed building line prior to ownership of the current owners.

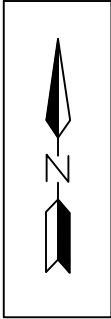
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### 13. RECOMMENDATION

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

- 13.1 Removal of restrictive title deed conditions** in terms of Section 16(2)(F) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;
- 13.2 Permanent Departure** from the 2m south-western side building line to 1,55m to allow the use change of an existing garage to a second dwelling unit in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020; and
- 13.3 Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020



Scale 1 : 100

#### 4. Proposed Departure Plan Erf 4949 - Hermanus

Extent = 1041m<sup>2</sup>

Coverage

Existing Buildings Footprint = 444,5m<sup>2</sup>

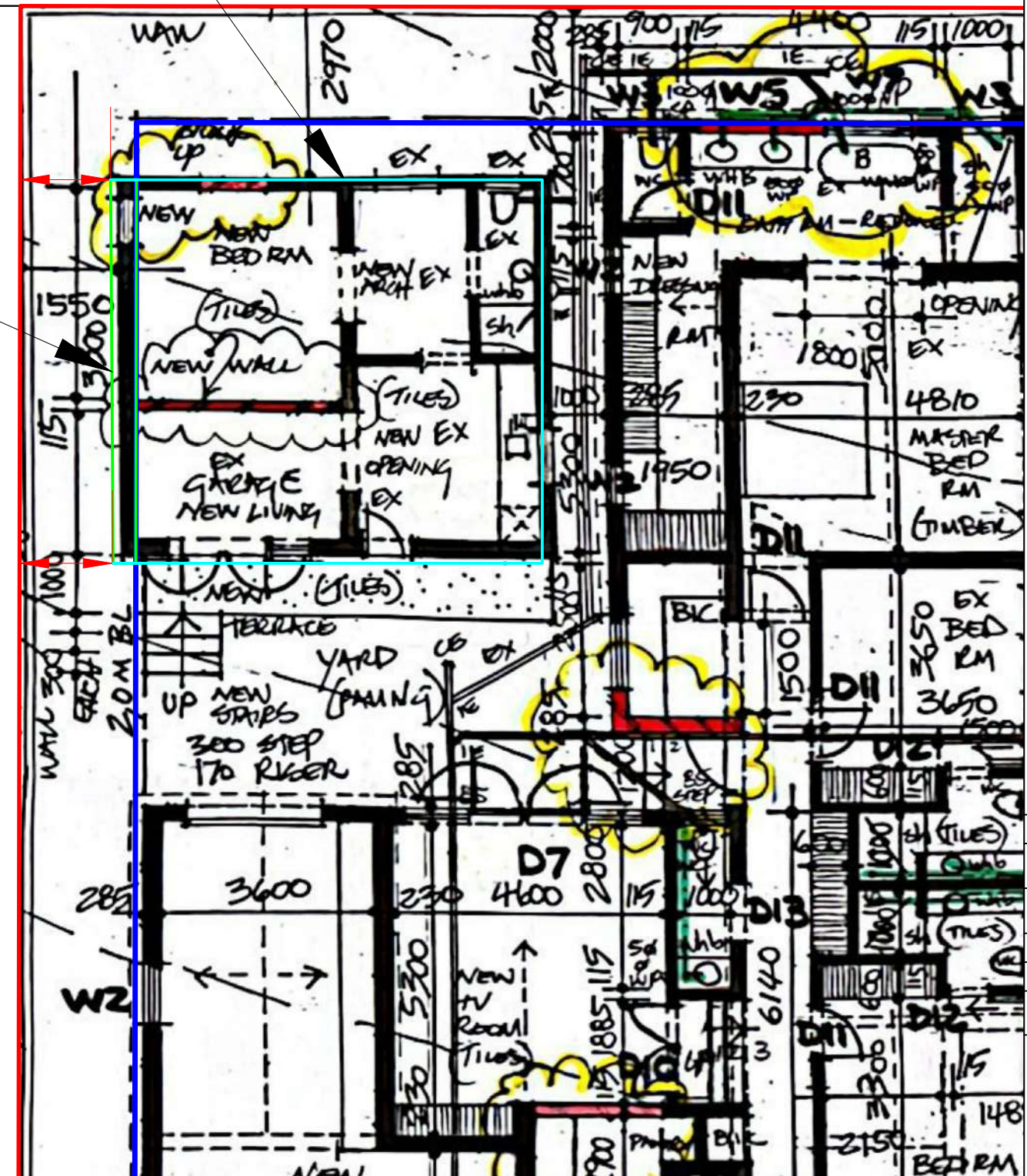
Proposed Coverage = 42,7%

Proposed Second Dwelling

Proposed Use Change  
±4,82m<sup>2</sup>

1,55

1,57



Plan Number: 24.04

Plan prepared by: Thian Jansen on 26/01/2024  
Based on plans by Jacobus A van Staden

All distances are approximate  
and subject to a survey

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**Project Office**  
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