

OVERSTRAND MUNISIPALITEIT
ERF 4607, STEENBOK STRAAT 10, NORTHCLIFF, HERMANUS:
AANSOEK OM OPHEFFING VAN BEPERKENDE
TITELAKTEVOORWAARDES, AFWYKING EN BEPALING VAN 'N
ADMINISTRATIEWE BOETE: MB PLAN STADS BEPLANNING
NAMENS R MARITZ EN A LABUSCHAGNE

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 4607, Northcliff (die eiendom), naamlik:

Opheffing van beperkte titelaktevoorwaardes

Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkte titelaktevoorwaardes C.2 en C.4. soos vervat in titelakte T54905/2023 van die eiendom om die bestaande tweede woning asook vir die bestaande en voorgestelde titelakte boulyn oorskrydings te akkommodeer.

Afwyking

Aansoek ingevolge Artikel 16(2)(b) van die Verordening vir die volgende:

- verslapping van die noordelike straat boulyn vanaf 4m na 3.9 om die bestaande woning te akkommodeer,
- verslapping van die noordwestelike straat boulyn vanaf 4m na 3.49m om die bestaande woning en die bestaande afdak te akkommodeer,
- verslapping van die westelike straat boulyn vanaf 4m na 3.94m om die bestaande afdak te akkommodeer,
- Verslapping van die suidelike syboulyn vanaf 2m na 0m om die bestaande wendy huis te akkommodeer.
- verslapping van die westelike straat boulyn vanaf 4m na 0m om die voorgestelde motorafdak te akkommodeer

Bepaling van 'n administratiewe boete

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

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

Enige kommentare op die voorstel moet skriftelik wees in ooreenstemming met Artikels 51 en 52 van die Verordening en die Munisipaliteit (Patersonstraat 16, Hermanus / (e) loretta@overstrand.gov.za) bereik voor of op Vrydag, **14 Maart 2025**, met u naam, adres en kontakbesonderhede, belang in die aansoek, asook die redes vir kommentaar. Telefoniese navrae kan gerig word aan die **Senior Stadsbeplanner, Me. H van der Stoep** by 028-3138900. Die Munisipaliteit mag weier om kommentare wat na die sluitingsdatum ontvang word, te aanvaar. 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.17/2025

OVERSTRAND MUNICIPALITY
ERF 4607, 10 STEENBOK STREET, NORTHCLIFF, HERMANUS,
OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS, DEPARTURE AND
DETERMINATION OF AN ADMINISTRATIVE PENALTY: MB PLAN
TOWN PLANNING ON BEHALF OF R MARITZ AND A LABUSCHAGNE

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 4607, Northcliff (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 C.2 and C.4 as contained in the title deed T54905/2023 of the property to accommodate the existing second dwelling as well as for existing and proposed title deed building line encroachments.

Departure

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

- relaxation of the northern street building line form 4m to 3.9m to accommodate the existing dwelling
- relaxation of the northwestern street building line from 4m to 3.49m to accommodate the existing dwelling and existing awning.
- relaxation of the western street building line from 4m to 3.94m to accommodate the existing awning,
- relaxation of the southern side building line from 2m to 0m to accommodate the existing wendy house.
- relaxation of the western street building line from 4m to 0m to accommodate the proposed carport.

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

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 on the proposal must be in writing in accordance with Sections 51 and 52 of the By-Law to reach the Municipality (16 Paterson Street, Hermanus / (e) loretta@overstrand.gov.za) on or before Friday, **14 March 2025**, 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 **Senior Town Planner, Mrs. H van der Stoep** at 028-3138900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.

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

Municipal Notice No.17/2025

UMASIPALA WASE-OVERSTRAND
ISIZA 4607, 10 STEENBOK STREET, NORTHCLIFF, HERMANUS:
ISICELO SOKUSUSWA KWEZITHINTELO NGOKWEMIGAQQ
UNDULUKO KUNYE NOKUMISELWA KWESOHLWAYO
SOLAWULO: MB PLAN TOWN PLANNING EGAMENI LIKA R
MARITZ AND A LABUSCHAGNE

Isaziso siyanikezelwa ngokweCandelo lama-47 nelama-48 loMthetho kaMasipala woLungiso loMthetho kaMasipala kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, ka-2020 (uMthetho kaMasipala) kwezi zicelo zilandelayo zisebenza kwiSiza-4607, eNorthcliff (kwipropati), ezizezi:

Ukususwa kweMiqathango yeSithintelo setayitile yoBunini

Isicelo ngokwemigaqo yeCandelo 16(2)(f) loMthetho kaMasipala sokusiswa kwemiqathango ethintelayo yetayitile yobunini C.2. no-C.4. njengoko iqulethwe kwitayitile T54905/2023 kule propati ukulungiselela indawo yesibini ekhoyo yokuhlala kwakunye nesiphakamiso esikhoyo seshintelo sobunini umda wesakhiwo esiqathileyo kumlinganiselo.

Unduluko

Isicelo ngokwemigaqo yeCandelo le-16(2)(b) loMthetho kaMasipala ngoku kulandelayo

- Ukunyeniswa komda wesakhiwo kwisitalato esingentla ukusuka ku 4mitha ukuya 3.9mitha ukulungiselela indawo zohlala ezikhoyo
- Ukunyeniswa komda wesakhiwo kwisitalato ukusuka ku 4mitha ukuya 3.49mitha ukulungiselela indawo yokuhlala ekhoyo kunye nendawo yomthunzi ekhoyo.
- Ukunyeniswa komda wesakhiwo kwisitalato esisekunene ukusuka ku 4mitha ukuya ku 3.94mitha ukulungiselela indawo yomthunzi ekhoyo.
- Ukunyeniswa komda wesakhiwo kwicala elingezantsi ukusuka ku 2 mitha ukuya ku Omitha ukulungiselela indlu eyenziwe ngamaplanga ekhoyo.
- Ukunyeniswa komda wesakhiwo ukusuka ku4mitha ukuya ku Omitha ukulungiselela isiphakamiso sendawo yokugcina imoto ikhuselekile.

Ukumiselwa kwesohlwayo solawulo

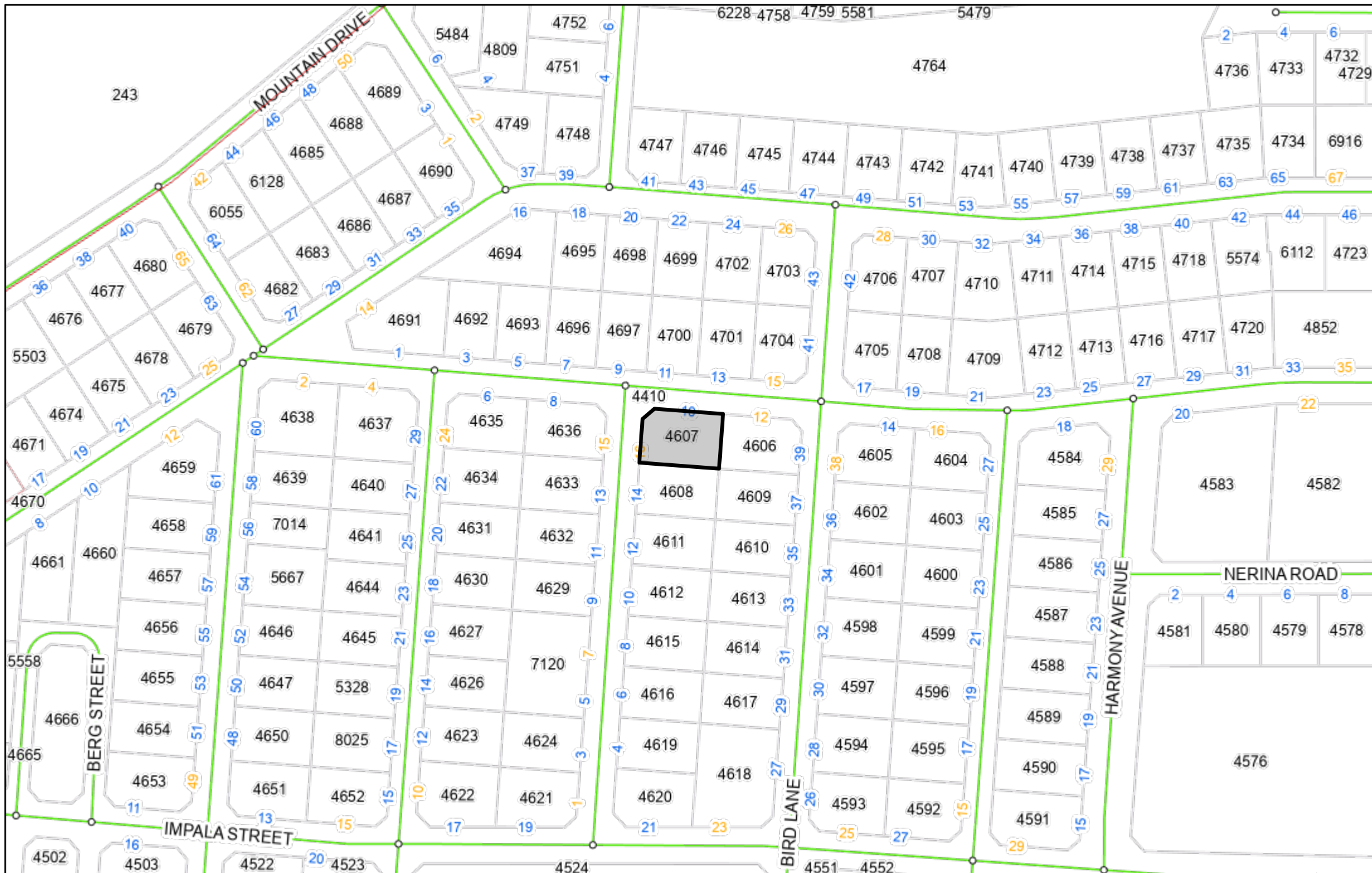
Isicelo sokumiselwa kwesohlwayo solawulo ngokweCandelo le-16(2)(q) loMthetho kaMasipala.

Iinkcukacha ngesi sindululo ziyafumaneka ukuze zihlolwe ngeentsuku zokusebenza ngamaxha eveli phakathi kwentsimbi ye-08:00 neye-16:30 kwiSebe: Zicwangciso ngeDolophu kwa-16 Paterson Street, Hermanus.

Naziphi na izimvo ezibhaliweyo zingangeniswa ngokungqinelana nemigaqo yeCandelo lama-51 kunye nelama-52 alo Mthetho kaMasipala oxelweyo kuMasipala (16 Paterson Street, Hermanus / (e) loretta@overstrand.gov.za) ngomhla okanye ngaphambi koko Lwesihlanu **14 eyoKwindla 2025** ucaphula igama lakho, idilesi kunye neenkukacha zoqhagamshelwano, umdla kwisicelo kunye nezizathu zezimvo Imibuzo ngomnxeba ingenziwa **kuMchwangciso weDolophu, uNksz. H van der Stoep** kule nombolo 028-3138900. UMasipala unokwala ukwamkela izimvo ezifunyenwe emva komhla wokuvala. Nabani na ongakwaziyo ukufunda okanye ukubhala angandwendwela iSebe loCwangciso lweDolophu apho igosa likamasipala liya kuthi limcedise ukuze abhale ngokusesikweni izimvo zakhe.

Umphathi kamasipala, Umasipala iOverstrand, Ibhokisi yePosi 20, HERMANUS, 7200

Inombolo yesaziso.17/2025



1. Introduction

1.1 Brief

MB Plan Town Planning was appointed by the registered owners, Regardt Maritz and Antoinette Labuschagne, to prepare and submit an application for Removal of Restrictive Title Deed Conditions, Building Line Departures and the Waiving/Determination of an Administrative Penalty for the application area, Erf 4607, Northcliff, Hermanus, in terms of the relevant legislation.

Refer to Annexure A for the Application Forms and Annexure B for the Power of Attorney.

1.2 Background

The application area was registered to the current owners during December, 2023. The new owners received a copy of the latest approved 2016 building plans from the seller, which is presented in Figure 1 below.

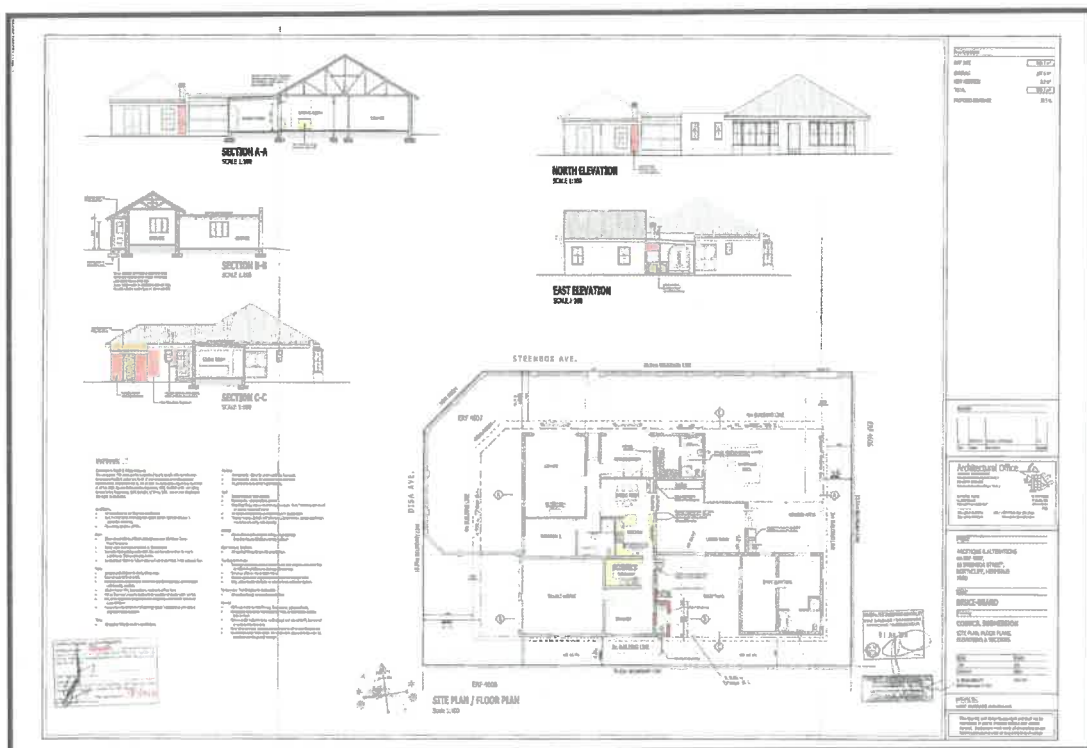


Figure 1: Extracts from Latest Approved 2016 Building Plan
Refer to Annexure G for the previously approved building plans

According to the previously approved building plans on record, the original main dwelling and garage with staff quarters were approved in 1948. No further approved plans could be located on record for the period between 1948 and 2002.

The following approved 2002 plans indicate that the original lounge was extended northwards between 1948 and 2002. Furthermore, the 2002 approved plans indicate proposed additions and alterations to the main dwelling which include, inter alia, two new bay windows for the bedroom and the lounge on the northern side of the house as well as a new garage on the western side of the application area. A further proposal on the 2002 plans consists of a conversion of the original garage and staff quarters into a bedroom, a bathroom and a lounge, which was later labeled as an

“out room” on the 2006 approved plans and as “staff quarters” on the 2016 approved plans, but with the interior layout remaining the same.

Subsequently the interior of the staff quarters was modified to convert it into an existing second dwelling consisting of a bedroom, a bathroom and a breakfast nook/kitchenette.

Between 2002 and 2006 the open stoep on the eastern side of the dwelling was covered, as indicated on the 2006 plans. A few other changes to the main dwelling were approved on the 2006 and 2016 building plans, including, inter alia, the enclosure of a section of the covered stoep to create an indoor braai area and later the conversion of the braai area into a living room. The only building line encroachment indicated on the 2016 approved building plans, is the northern title deed building line which is exceeded by the lounge and one of the bedrooms.

The new owners were under the impression that the 2016 approved building plans corresponded with the existing as-built structures.

When the current owners decided to affect changes to their property, they visited the municipality to discuss their proposal and were informed that the title deed restricted the existing second dwelling on the property which would require a removal of the restrictive condition to rectify the land-use contravention.

When the draughtsman and town planner were approached by the owners for assistance in this regard, it also came to light that the buildings were constructed 3.4m closer to the western boundary than indicated on the 2016 approved building plans and that a land surveyor would be required to determine the accurate as-built positions for the buildings on the property. Refer to Figure 2 below which indicates the approved versus as-built position of the buildings on the subject property.



Figure 2: Approved versus As-Built Position of Structures

Subsequently a topographic survey was conducted which revealed the following building line contraventions for which legalisation is required namely:

- Garage slightly exceeds the western 4.72m title deed street building line
- Unapproved awning exceeds both the northwestern and western 4.72m title deed and 4m Zoning Scheme street building lines
- Dwelling (lounge and bedroom) exceeds both the northwestern and northern 4.72m Title Deed and 4m Zoning Scheme street building lines
- Unapproved Wendy house exceeds the southern 2.36m title deed and 2m Zoning Scheme building lines

The building plans should also be updated to indicate the covered pergola which partly extends over the existing courtyard without exceeding any building lines.

All the existing building line and land-use contraventions as well as building amendments and/or additions were caused by the previous owners. The current owners are merely responsible for utilising the second dwelling for self-catering accommodation purposes in accordance with the Land Use Scheme, 2020 parameters and wish to legalise this income-generating tourist accommodation facility.

The owners intend to rectify all existing building line and land-use contraventions by following the correct statutory procedure required by the municipality for achieving this. Furthermore, the owners propose to construct a carport in front of the garage proposed to exceed the western street building lines. The carport will adhere to all Scheme requirements provided for a carport proposed to exceed a Land Use Scheme street building line.

Although the original main dwelling and garage, of which the last-mentioned is currently a second dwelling, are older than 60 years and therefore classified as C3 Heritage worthy, no further amendments to the existing structures are proposed.

1.3 Summary of Development Objective and Application Proposal

The development objective is as follows, namely:

1. Legalise the following existing unapproved and approved but erroneously built structures exceeding the building lines as well as the existing unapproved land use not exceeding the building lines:
 - Existing northern, northwestern, western and southern Title Deed and Land Use Scheme building line encroachments by the unapproved Awning and Wendy house as well as by the approved but erroneously built Dwelling (Lounge & Bedroom) and Garage
 - Existing unapproved Second Dwelling unit not exceeding any building lines
2. Permit proposed construction of a Carport in front of the garage which is proposed to exceed the western Title Deed and Land Use Scheme street building lines

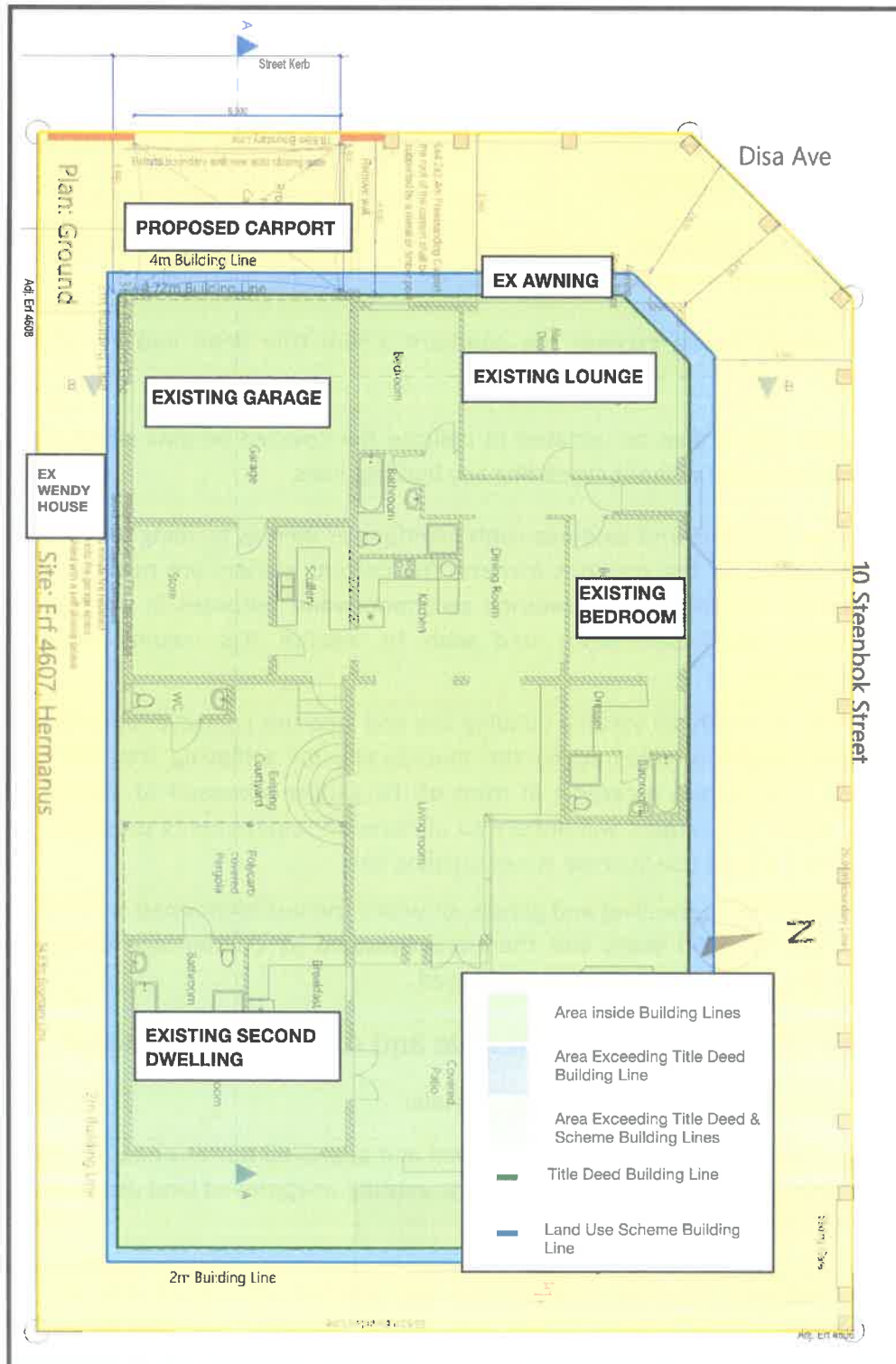


Figure 3: Structures and Land Use Requiring Legalisation

Refer to Figure 3 above which illustrates the existing erroneously built and unapproved structures exceeding the building lines, the existing unapproved second dwelling not exceeding any building lines and the proposed carport proposed to exceed building lines.

Therefore, the application proposal entails a removal of restrictive title deed conditions, building line departures and the determination of an administrative penalty.

2.2 Locality

2.2.1 Regional Context

Within the regional context, the application area is located within Northcliff residential suburb, within the Overstrand Municipal area. Northcliff is situated less than 1km west of the Hermanus CBD.



Figure 5: Regional Locality Plan
Refer to Annexure E for Locality Plan.

2.2.2 Local Context

From a local perspective, the application area street address is 10 Steenbok Street.



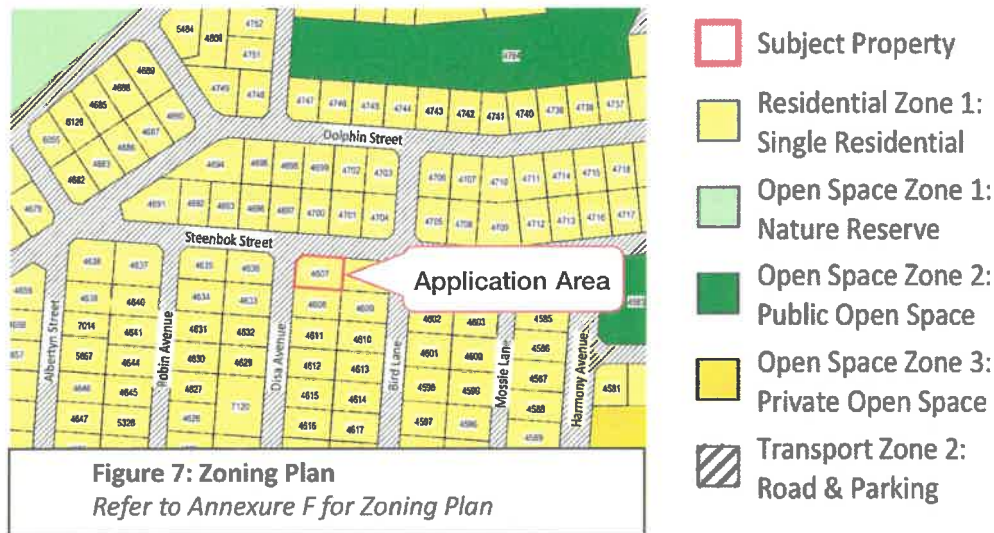
Figure 6: Local Locality Plan
Refer to Annexure E for Locality Plan.

2.3 Zoning and Land Use

2.3.1 Zoning Plan

The application area is zoned Residential Zone 1: Single Residential. The surrounding erven are mostly zoned Residential Zone 1 as well, with a few Open Space Zone 2: Public Open Space erven, an Open Space Zone 3: Private Open Space erf and an Open Space Zone 1: Nature Reserve area. No change in zoning is proposed.

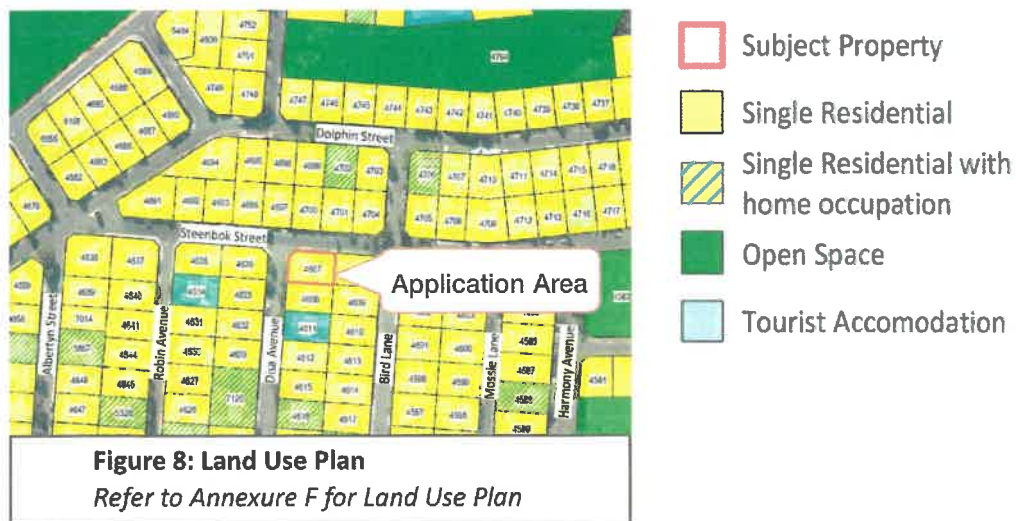
The application area is **consistent** with the zoning of the area.



2.3.2 Land Use Plan

The main dwelling on the application area is utilised for single residential use and the second dwelling is utilised for self-catering tourist accommodation. According to Google Maps, two other properties in close proximity to the application area as well as a property a little further to the north are also utilised for tourist accommodation. Ten properties in close proximity to the application erf are used for home occupation.

The land use is **consistent** with the zoning of the application area as well as the zoning and land use of the surrounding erven.



2.3.2 Zoning Criteria

The Zoning Criteria are presented in the table below and indicate that all Scheme criteria are adhered to, except for the northern, northwestern and western 4m street building lines which are currently exceeded up to 3.9m, 3.49m and 3.94m from the respective erf boundaries, as well as the 2m southern side building line which is currently exceeded up to 0m from the southern erf boundary. The western 4m street building line is proposed to be exceeded up to 0m.

Criteria	Existing Zoning	Proposal	Comments
Zoning	Residential Zone 1: Single Residential	Residential Zone 1: Single Residential	Consistent
Primary Uses	Crèche, dwelling house, guest rooms, home occupation, second dwelling unit and self-catering	Dwelling house, Second Dwelling & Self-Catering	Consistent
Consent Uses	Day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and intensive horticulture	N/A	Consistent
Coverage	50%	45%	Consistent
Height	8m	6.095m	Consistent
Building lines	4m northern street	3.9m street	Application includes departure
	4m northwestern street	3.45m street	
	4m western street	0m street	
	2m southern common	0m common	Consistent
	2m eastern common	2m common	
Parking	2 bays per dwelling unit	2 bays	Consistent
	1 bay per second dwelling unit	1 bay	

2.4 Laws and Policies Applicable to the Application

The following laws and policies are applicable to the proposal, namely:

- Overstrand Municipal Spatial Development Framework, 2020
- Overstrand Municipal Growth Management Strategy, 2010
- Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020

2.4.1 Overstrand Municipal Spatial Development Framework, 2020

According to the OMSDF, 2020, the application area is located within an urban development area within the urban edge.

“2.5 OUR ECONOMY

a) Growth in GVA

In the Overberg District, the transport, storage and communication sector achieved the highest annual growth rate of 5.7%, followed by the wholesale and retail trade, catering and accommodation sector at 4.8%. Mining and quarrying are the under performer in both the Western Cape Province (- 4.8%) and Overberg (-4.5%).

b) Growth in employment Employment growth for the Western Cape suggests that transport, finance, insurance, real estate and business services sectors as well as the transport, storage and communication sector had the highest growth of 2.9% per annum, followed by wholesale and retail trade, catering and accommodation (2.7% per annum).

Tourism in Hermanus makes a considerable contribution to the economy, although difficult to quantify, especially at a local level. Notwithstanding, from a qualitative perspective, tourism is an important sector for the economy of Overstrand but is not recognised as a stand-alone sector in the Industrial Standards Classification (SIC).

3.7 AN OVERSTRAND THAT ENABLES A PROSPEROUS AND DIVERSE ECONOMY

Description

In order to be a prosperous area, the Overstrand should value its rural and natural environments, tourist attractions and heritage resources and profit from these economic pillars.

Where we want to be in 2050

The Overstrand builds on its reputation as being a world class tourism destination attracting increasing amounts of tourists to its prime locations and facilities. Tourists in addition to visitors and new skilled labourers are drawn to the Overstrand's unique natural, heritage and cultural attributes and well-designed built environment, providing a consistent economic influx to the area.

A diversity of agricultural, tourism, commercial and industrial activities occur in strategic locations throughout the Overstrand's rural and urban settlements, providing a range of local employment opportunities.

What we will do

An Overstrand that enables a Prosperous and Diverse Economy

OBJECTIVE	POLICIES
ECO 1. Overstrand maintains and strengthens its tourism sector.	iii Market the Overstrand as a world-class tourism destination. Overstrand LED Principles and Strategies (2019/23).
ECO 8. Support the expansion and retention of the Overstrand's existing local businesses and generating new local economic / business opportunities.	ii. Making local markets work well by creating places and opportunities to match supply and demand. Refer Overstrand LED Principles & Strategies (2019/23). vii. Persuade local stakeholders to look for specific project ideas that are quickly implementable and can make a difference for local businesses. This can be partnered and facilitated with the Economic Development Partnership (EDP). Refer Overstrand LED Principles & Strategies (2019/23).

The application proposal is thus considered compatible with the Overstrand Municipal Spatial Development Framework, 2020.

2.4.2 Overstrand Municipal Growth Management Strategy, 2010

In terms of the Overstrand Municipal Growth Management Strategy, 2010, the subject property is located within a Densification zone of less than 10 dwelling units per hectare.

This application merely entails a legalisation of existing building line encroachments and of an existing second dwelling. The only new development proposed on the application area is a carport.

The application proposal is in accordance with the more updated Land Use Scheme, 2020 parameters permitting a second dwelling as a primary use on a Residential Zone 1 property.

No further densification is applicable.

The application proposal is thus considered compatible with the Overstrand Municipal Growth Management Strategy, 2010.

2.4.3 Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020

35. Requirements for amendment, suspension or removal of restrictive conditions

(4) When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following:

- (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;*
- (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;*
- (c) the personal benefits which will accrue to the person seeking the removal of the*

restrictive condition, if it is removed;

(d) the social benefit of the restrictive condition remaining in place in its existing form;

(e) the social benefit of the removal 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 proposal is discussed under each of these headings in Section 3.1.8

90. Application for administrative penalty

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

(2) A person making an application contemplated in Subsection (1) must –

(a) submit an application;

(b) pay the prescribed fee;

(c) provide the information contemplated in Subsections (3); and

(d) comply with the duties of an applicant in Section 84.

(3) The applicant must, to the satisfaction of the Municipality, provide the following information such as-

(a) the nature, duration, gravity and extent of the contravention;

(b) the conduct of the person (allegedly) involved in the contravention;

(c) a report by a quantity surveyor in matters of unauthorised building/construction;

(d) whether the unlawful conduct was stopped; and

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

The proposal is discussed under each of these headings in Section 3.1.9

3 Motivation

3.1 Proposal

3.1.1 Development Objective

The development objective is as follows:

1. **Legalise** the following existing structures:
 - Existing unapproved 2.4m² Wendy House exceeding the southern side 2.36m Title Deed and 2m Land Use Scheme building lines up to 0m
 - 4.1m² of Existing unapproved Awning exceeding the northwestern and western street 4.72m Title Deed and 4m Land Use Scheme building lines up to 3.59m and 3.94m respectively
 - 6.3m² of Existing approved but erroneously built Dwelling exceeding the northern and northwestern street 4.72m Title Deed and 4m Land Use Scheme building lines up to 3.9m and 3.49m respectively
 - 1m² of Existing approved but erroneously built Garage exceeding the western street 4.72m Title Deed building line up to 4.55m
 - Existing unapproved 43m² Second Dwelling not exceeding any building lines with a separate vehicle entrance from the northern side of the application area and an additional parking space provided

2. **Permit proposed** construction of a 25m² Carpport in front of the garage proposed to exceed the western street 4.72m Title Deed and 4m Zoning Scheme building lines up to 0m

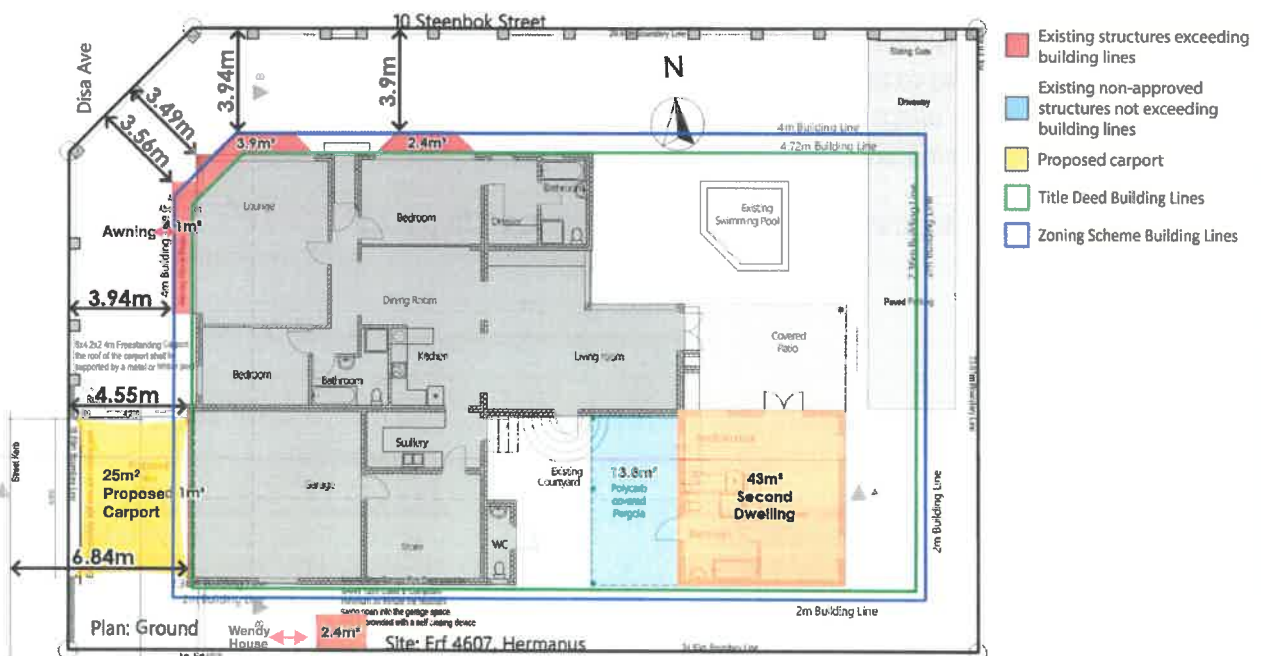


Figure 9: Development Proposal

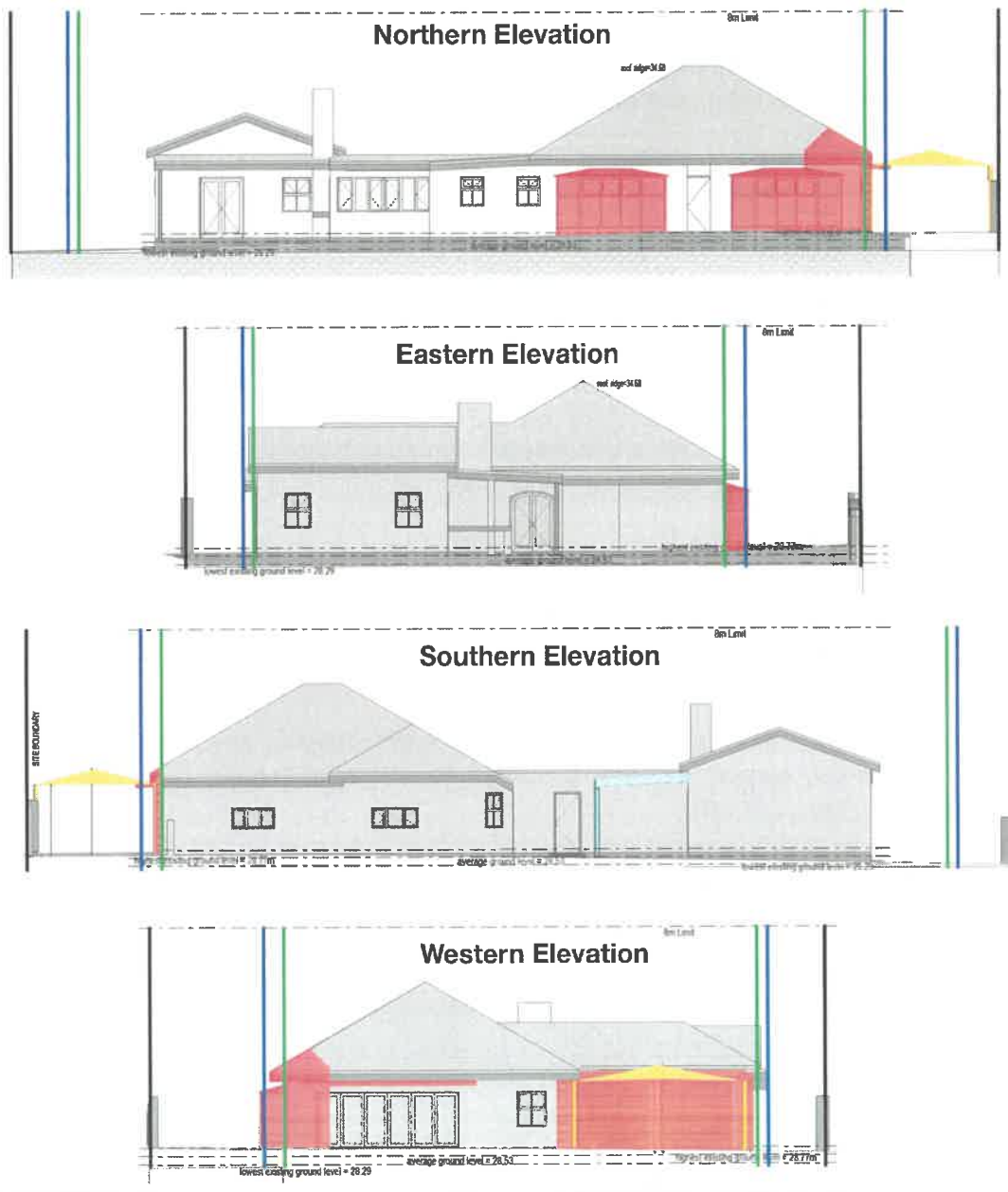


Figure 10: Elevations Illustrating Building Line Contraventions to be Legalised
 Refer to Annexure H for proposed building plans & Annexure J for ROR & Departure Plan

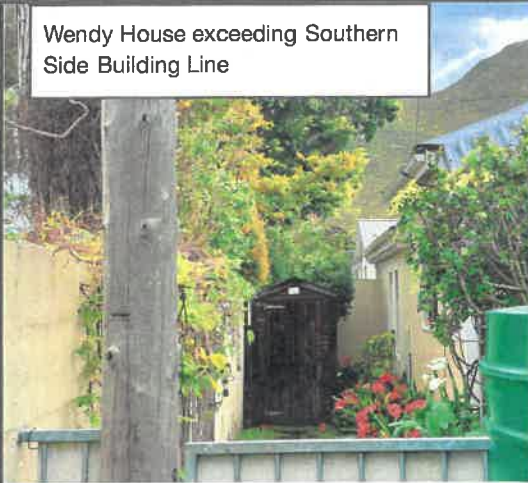
3.1.2 The Application

Application is subsequently made in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:

- Removal of Restrictive Title Deed Conditions C.2 and C.4 from Title Deed T54905/2023 of Erf 4607, Hermanus to allow for the existing second dwelling as well as for existing and proposed title deed building line encroachments, in terms of Chapter IV, Section (16)(2)(e).
- Building Line Departure to relax the northern street building line from 4m to 3.9m to accommodate the existing dwelling which exceeds this building line, in terms of Chapter IV, Section (16)(2)(b).
- Building Line Departure to relax the northwestern street building line from 4m to 3.49m to accommodate the existing dwelling and existing awning which exceed this building line, in terms of Chapter IV, Section (16)(2)(b).
- Building Line Departure to relax the western street building line from 4m to 3.94m to accommodate the existing awning which exceeds this building line, in terms of Chapter IV, Section (16)(2)(b).
- Building Line Departure to relax the southern side building line from 2m to 0m to accommodate the existing Wendy house which exceeds this building line, in terms of Chapter IV, Section (16)(2)(b).
- Building Line Departure to relax the western street building line from 4m to 0m to accommodate the carport which is proposed to exceed this building line, in terms of Chapter IV, Section (16)(2)(b).
- Waiving/Determination of the Administrative Penalty for the existing building line and land use contraventions, in terms of Chapter IV, Section 16(2)(q).

3.1.3 Photos of Contraventions

Wendy House exceeding Southern Side Building Line



Awning exceeding the Northern and Northwestern Building Lines



Garage exceeding western Title Deed Street Building Line



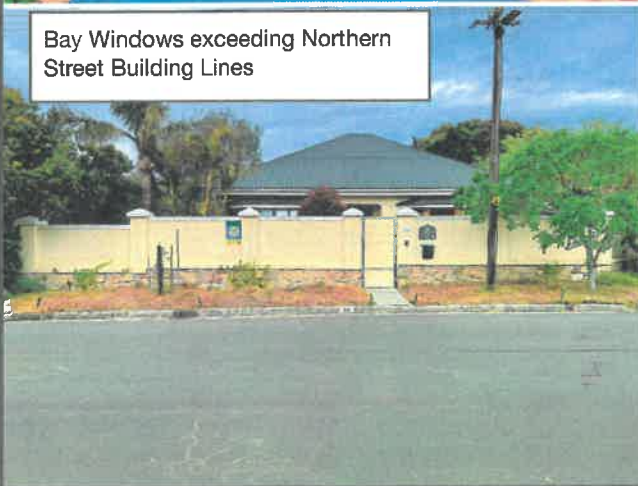
Second Dwelling Proposed to be Legalised



Northern and Northwestern Street View



Bay Windows exceeding Northern Street Building Lines



Northern Entrance to Second Dwelling



3.1.4 Northern Street Building Line Departure

The structures which exceed the 4m northern Zoning Scheme street building line are mostly the bedroom and the lounge bay windows. This building line encroachment is hardly detectable as the building line is merely exceeded by a maximum of 0.1m up to a distance of 3.9m from the northern erf boundary. Furthermore, although the bay windows actually enhance the architecture of the house, the dwelling is partly hidden from the street by the northern boundary wall so that only a small section at the top of the bay windows along with the roof are noticeable from the street.

The house was originally built without bay windows which were first proposed and approved on the 2002 approved building plan. However, on this plan the dwelling is erroneously situated approximately 10.5m away from the northern erf boundary and therefore no building line encroachments were noted.

No material visual impact is caused by this building line encroachment, which therefore does not affect the surrounding properties or character of the area in any way.

3.1.5 Northwestern Street Building Line Departure

The 4m northwestern Zoning Scheme building line is slightly exceeded by two existing structures. Firstly this building line is exceeded by the corner wall of the lounge, causing a minor encroachment of 0.51m, thus up to 3.49m from the northwestern erf boundary. Secondly, this building line is exceeded by the awning causing a second minor encroachment of 0.4m thus up to 3.59m from the northwestern erf boundary. According to the Scheme, an awning is allowed to encroach over the building line without an application, as long as it does not project more than 1m from the wall. The awning projects 1.15m from the wall, thus exceeding only 15cm over the limit for “no application required”. The 15cm consists of the gutter along the edge of the awning.

The awning consists of a neat white structure with the same slant angle as the roof and therefore blends in and does not cause a negative visual impact when viewed from the street.

The encroachment of the corner wall was indirectly caused during the original ownership of the property due to the original house, approved in 1948, being erroneously positioned. As the second encroachment by the awning was never indicated on the latest approved 2016 plan, it is presumed to have originated sometime between 2016 and 2023 and was caused by the previous owner.

These minor encroachments do not result in any material visual impact on the surroundings and do not affect the character of the area either.

3.1.6 Southern Common Building Line Departure

The Wendy house which exceeds the southern side 2m Zoning Scheme building line up to the erf boundary should hardly if at all be detectable by the southern neighbours, as the height of the Wendy house is approximately equivalent to that of the southern boundary wall with trees providing additional screening. Furthermore, the Wendy house merely covers a small extent of 2.4m² and represents a non-habitable space used for storage purposes.

Therefore, no material impact is caused by the Wendy house on the adjacent southern neighbours in terms of visual impact, privacy or noise.

3.1.7 Western Street Building Line Departure

A free standing shade net carport is proposed in front of the existing garage which will exceed the western 4m Zoning Scheme street building line up to 0m. The owners further propose to enclose the property on the western side by extending the boundary wall and installing an automated sliding gate providing uninterrupted access to the subject property and a secure parking space beneath the carport.

The proposed carport will adhere to all Scheme requirements stipulated in Section 16.1.2(b) for a carport to be permitted over the street building line. The dimensions proposed for the carport is 4.2m x 6m with a height of 2.4m at its highest point. Furthermore, the carport is proposed to be supported by metal posts and will not be enclosed on any of the sides, although the garage on the eastern side and the entrance gate on the western side as well as the boundary wall on the southern side of the proposed carport will form barriers on 3 of the 4 sides. The aesthetic appeal of the western street view is foreseen to be augmented by the proposal for a neat shade net carport together with secure enclosure of the property as described above.

Conclusion

The existing building line encroachments were mostly caused by the erroneous construction and positioning of the original house, are hardly notable and have no significant impact on the surroundings in terms of visual impact, noise, privacy or the character of the area.

Therefore, approval of the building line departures is considered the most reasonable approach to the existing contraventions on the application area.

The proposed carport will provide shelter against inclement weather to vehicles parked outside on the subject property, will adhere to all Scheme conditions for allowing a carport over the street building line and will not cause a negative visual impact or adverse effect on the character of the area.

3.1.8 Removal of Restrictive Title Deed Conditions

The title deed T54905/2023 includes building line restrictions and does not allow for a second dwelling unit. The above-mentioned title deed thus restricts the existing and proposed structures exceeding title deed building lines as well as the existing second dwelling land use and reads as follows:

"C. SUBJECT FURTHER to the following conditions created in Deed of Transfer T6910/1945 and imposed by the Administrator of the Cape Province with approval of Hermanus Township Extension No. 4, namely:

2. That only one dwelling together with such outbuildings as are ordinarily required to be used therewith, be erected on this erf.

4. That no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than fifteen (15) feet to the street line which forms a boundary of this erf. No such building or structure shall be situated within seven and a half (7.5) feet of the lateral boundary common to any adjoining erf."

The application proposal has been evaluated in terms of Section 35(4) of the Overstrand Amendment By-law on Municipal Land-use Planning, 2020 regarding personal and social

benefits which are foreseen to result from the amendment versus non-amendment of the two restrictive title deed conditions and the following conclusions were made:

(a) 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

Permitting a second dwelling on the application area which adheres to the Land Use Scheme, 2020 requirements for second dwellings, will allow the owners to continue deriving an additional income from the self catering tourist accommodation for which the second dwelling was set-up.

Removal of the title deed building lines in order to legalise the portions of the existing structures exceeding these building lines is considered the most cost-efficient approach to the building line contraventions caused by the previous owners and for which no material impact on the surroundings or character of the area is evident or foreseen.

(b) Personal benefits which accrue to the holder of rights in terms of the restrictive condition

No personal benefits which accrue to the holder of rights in terms of the restrictive conditions are apparent, as no material impact on the surroundings or character of the area due to the removal of restrictive conditions, is evident or foreseen.

(c) Personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if it is removed

The removal of the title deed building lines would allow for future building additions or extensions up to the less restrictive Land Use Scheme building lines.

Furthermore, the removal of the restrictive conditions will allow for a Wendy house which provides additional storage space, an awning which prevents rain from entering the house through the access doors to the lounge and a carport which provides shelter against inclement weather for vehicles parked outside on the subject property.

(d) The social benefit of the restrictive condition remaining in place in its existing form

No material social benefits to the restrictive conditions remaining in place in its existing form, are evident.

(e) The social benefit of the removal or amendment of the restrictive condition

The development proposal will contribute to the tourism industry in Hermanus by providing self-catering accommodation to tourists and other visitors. These tourists will support the local businesses and tourist facilities in the area which contributes to the growth of the local economy. This in turn contributes to sustaining/creating employment opportunities within the local tourism/business industry.

(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?

Firstly, the removal of the restrictive condition which allows for only one dwelling to be erected on the subject property, will allow for the second dwelling and the continuation of the self-catering accommodation facility. The tourist accommodation is foreseen to continue generating additional income for the owners as well as contributing to the growth of the local tourism industry without materially impacting on the surroundings or the character of the area.

Furthermore, a second dwelling and self-catering accommodation are permitted by the Land Use Scheme, 2020 as primary land-use rights on a Residential Zone 1 property. Therefore, the proposal would align the existing development and land use on the application area with the more updated Scheme parameters.

Secondly, the removal of title deed building lines will legalise the portion of the existing structures exceeding these building lines, allow for a proposed carport proposed to exceed the title deed building line and allow for further development up to the more updated Land Use Scheme, 2020 building lines, without causing any notable impact.

Conclusion

Therefore, the removal of the restrictive title deed conditions to allow for the existing second dwelling land use, structures exceeding the title deed building lines as well as the proposed carport, is considered desirable, aligning the existing, proposed and potential future development with the more updated Land Use Scheme, 2020 parameters. This allows for the optimisation of the subject property to unlock the opportunities created by the Land Use Scheme, 2020 in terms of the second dwelling/self-catering accommodation and less restrictive building lines.

3.1.9 Waiving/Determination of an Administrative Penalty

Waiving/Determination of an Administrative Penalty in terms of Chapter IV, Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

The following information with regards to the administrative penalty is provided as required according to Chapter X, Section 90(3) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020:

3.1.9.1 The Nature, Duration, Gravity and Extent of the Contravention

The extent of the various building line contraventions, are as follows:

Extent of Structure Exceeding Northern Street Building Lines

- The northern bedroom bay window with an extent of 2.4m² - previous owner responsible - first appeared on 2002 approved building plan

Extent of Structures Exceeding Northern and Northwestern Street Building Lines

- Northwestern corner of lounge and north/northwestern lounge bay window with a total extent of 3.9m² - previous owner responsible - lounge approved in 1948 and extended northwards between 1948 and 2002 and bay window first appeared on 2002 approved building plan

Extent of Structure Exceeding Northwestern and Western Street Building Line

- Awning with an extent of 4.1m² - previous owner responsible - uncertain about date of origin as it was never indicated on an approved plan but presumably between 2016 after latest updated plan and 2023 before new owners purchased the property

Extent of Structure Exceeding Western Street Building Line

- Garage front wall and doors with an extent of 1m² - previous owner responsible - garage approved in 2002

Extent of Structure Exceeding Southern Common Building Lines

- Wendy house with an extent of 2.4m² - previous owner responsible - uncertain of date of origin but earliest date traced back to is the 2018 municipal public viewer aerial photo

Extent of Land Use Not Exceeding Building Lines

- Second dwelling with an extent of 43m² - previous owner responsible - uncertain of date of origin as this building was originally approved as a garage and staff quarters in 1948 and indicated on the 2002 plan as a bedroom, a bathroom and a lounge. It appears as staff quarters on the latest 2016 approved building plans but was converted into a second dwelling by the previous owner. Presumably the conversion occurred after the latest 2016 plan was approved. The previous owner also utilised the second dwelling for self-catering accommodation.

3.1.9.2 The Conduct of the Persons (Allegedly) Involved in the Contravention

To be duly noted, is that all building line and land use contraventions were caused by the previous owners.

When the current owners decided to affect changes to their property they visited the municipality to discuss their proposal. This is a clear indication that the new owners intended to follow the correct statutory procedures to create the desired changes right from the start.

The municipality as well as the appointed draughtsman and town planner made the owners aware of the unapproved structures and land-use as well as the approved but erroneously built and positioned structures on the subject property.

In response to this, the owners have been exceptionally co-operative and willing to follow the required procedures in order to rectify all existing contraventions, as well as to ensure that the proposed changes are in accordance with the municipal prescribed parameters.

3.1.9.3 Report by a Quantity Surveyor in Matters of Unauthorised Building/Construction

Application is made to **waive or else to minimise** the administrative penalty.

The following reasons are presented for waiving or minimising the administrative penalty namely:

- All existing building line and land use contraventions were caused by the previous owners of the subject property created in 1944 and of which the first approved building plans date back to 1948
- Nature, scale and immaterial impact of the existing building line and land use contraventions

- Owners' co-operation and willingness to rectify the existing contraventions
- Owners' sincere aspiration to follow the required statutory procedures for affecting proposed changes
- Owners' fervour and resourcefulness to seize the opportunity for providing tourist accommodation, thereby generating an additional income and positively contributing to the growth of the local tourism/business sector and the creation of employment opportunities

A building quote for the building line encroachments will be provided ASAP, should the municipality decide to impose an administrative penalty.

3.1.9.4 Whether the Unlawful Conduct was Stopped

The nature of the contraventions are unapproved building line encroachments and an unapproved existing second dwelling not causing any material impact on the surroundings or on the character of the area. "Stopping" the unlawful conduct would imply demolishing the sections of the structures which exceed the building lines and converting the second dwelling to an outbuilding or back to staff quarters. This would be considered extreme, costly, unreasonable and impractical as well as would undermine the heritage value of the buildings on the subject property. Furthermore, this would prevent the owners from fully realising the opportunity offered by the Land-Use Management Scheme to generate an additional income from providing tourist accommodation on the subject property.

Approval of this application to legalise the contraventions will enable the residents to fully utilise all existing structures and land use on the property.

Therefore, the most reasonable, effective and cost-efficient approach in dealing with the unlawful conduct would be to legalise the existing building line and land use contraventions.

3.1.9.5 Whether the Persons Allegedly Involved in the Contravention has Previously Contravened this By-Law or a Previous Planning Law

No, the current owner has not previously contravened this by-law or a previous planning law.

3.2 Desirability

To summarise, the proposal is therefore considered **desirable** for the following reasons, namely:

- In accordance with the relevant spatial planning legislation, policies and frameworks for the area
- Full co-operation and willingness of the current owners to rectify the existing contraventions caused by the previous owners at their own expense, by following the correct statutory procedures
- Valuable contribution to the growth of the local tourism/business industry and the sustainability and creation of employment opportunities
- Aligns the property with the more updated Land Use Scheme, 2020 which creates the opportunity for additional income generation and provides additional space for further development within the less restrictive Land Use Scheme building lines

- Practical addition of a carport to the property, providing shelter to vehicles against inclement weather
- Contributes to preserving the heritage buildings on the application area
- Adds value to the property
- No material impact on the surroundings in terms of visual impact, privacy, or noise
- Consistent with the character of the area
- Most reasonable, cost-effective and efficient solution to the existing contraventions
- Adherence to all other Land Use Management Scheme criteria

Therefore, the land will be optimally utilised to provide a satisfactory residential environment as well as an income generating opportunity which contributes to local economic growth, without any significant impact on the surroundings or the character of the area.

3.3 Planning Principles

In terms of Chapter VI of the Spatial Planning and Land Use Management Act, 2013 the following Planning Principles have been applied to the application site:

3.3.1 Spatial Justice

Spatial Justice which refers to the need for redressing the past apartheid spatial development imbalances and aims for equity in the provision of access opportunities, facilities, services and land.

Possible Results of the Development

The proposal will in no way contribute to the perpetuation of past apartheid spatial development imbalances as it will merely legalise the existing building line and land use contraventions as well as allow for a proposed carport on a single residential erf.

The application proposal is **consistent** with spatial justice.

3.3.2 Spatial Sustainability

Spatial Sustainability which refers to the fact that a spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.

Possible Results of the Development

The proposal will permit the existing building line and land use contraventions as well as a proposed carport on a single residential erf within the urban edge.

Therefore, no impact on agricultural land, environmentally sensitive areas and biodiversity rich areas will occur.

The application proposal can thus be deemed to be spatially sustainable.

3.3.3 Spatial Efficiency

Spatial efficiency which refers to the manner in which settlements themselves are designed to function in such a way that there will be a minimum need to travel long distances to access services, facilities and opportunities.

Possible Results of the Development

Approval of the application will ensure the optimal use of the application area by allowing for the continuation of the self-catering accommodation to generate additional income as well as permitting additional storage space, a shade net shelter for vehicles parked outside the garage and an awning with gutter to prevent it from raining in at the doors to the lounge.

The proposal for legalisation is considered the most reasonable, cost-effective and efficient approach to the existing contraventions when considering the benefits produced by the existing structures and land-use without causing any notable impact on the surrounding land or character of the area.

The application proposal is **consistent** with the efficiency principle.

3.3.4 Spatial Resilience

Spatial Resilience which, in the context of land use planning, refers to spatial plans, policies and land use management systems which should enable communities to be able to resist, absorb and accommodate any economic and environmental shocks which might occur in a timely and efficient manner.

Possible Results of the Development

The application proposal will not cause any economic or environmental shocks to the community.

The application proposal is **consistent** with the principle of spatial resilience.

3.3.5 Good Administration

Good Administration which, in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure that a joint planning approach is pursued.

Possible Results of the Development

Consultive practices are being followed in this application as it is done in consultation with the Planning Department of the Municipality who will also advertise the application in such a manner as to enable the Government and the general public to participate in the eventual decision-making process.

The application proposal is **consistent** with the principle of good administration.

3.3.6 Planning Principles Conclusion

The application proposal is therefore considered fully **consistent** with the planning principles of spatial justice, spatial sustainability, efficiency, spatial resilience and good administration.

4 Conclusion

The development proposal allows for the optimal use of the application area to generate an additional income by providing tourist accommodation. Therefore the proposal is consistent with the objective of the Spatial Development Framework to enable a prosperous and diverse economy by maintaining and strengthening its tourism sector. The proposal also aligns the property with the more updated Land Use Scheme, 2020 parameters which allow for a second dwelling and self-catering accommodation as primary land uses on a Residential Zone 1 erf.

The scope of the application as motivated in this report is considered the most reasonable, cost-effective and efficient approach to the existing building line and land use contraventions which improve the application area without causing any significant impact on the surrounding properties or character of the area.

Approval of the application will also allow for a proposed carport as well as for less restrictive building lines in accordance with the Land Use Scheme, 2020.

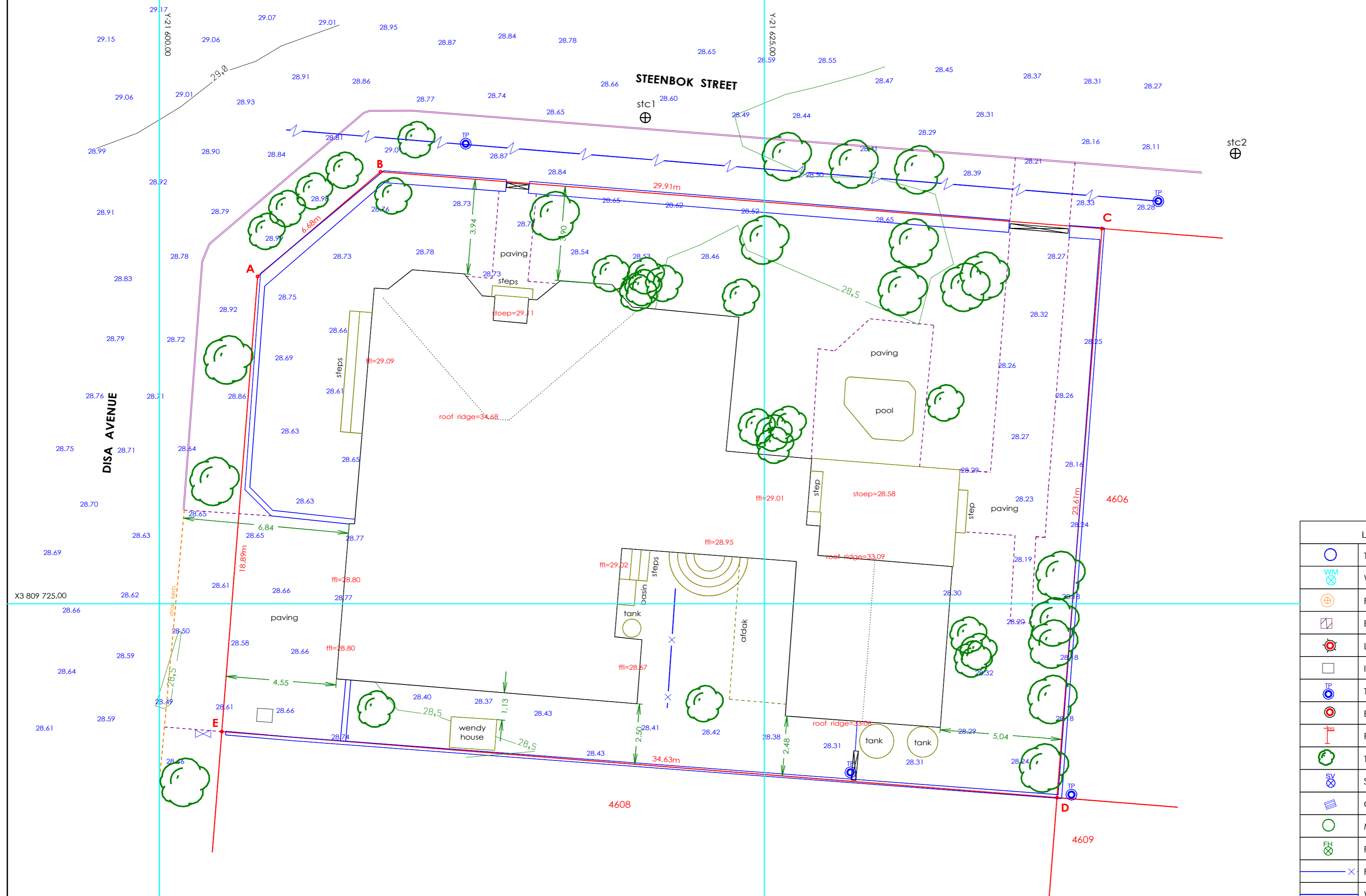
The application is considered **desirable** within its local context and **well-integrated** within the existing community land-use activities and it is therefore recommended that the application be **approved** in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 as follows:

- Removal of Restrictive Title Deed Conditions C.2 and C.4 from Title Deed T54905/2023 of Erf 4607, Hermanus to allow for the existing second dwelling as well as for existing and proposed title deed building line encroachments, in terms of Chapter IV, Section (16)(2)(e).
- Building Line Departure to relax the northern street building line from 4m to 3.9m to accommodate the existing dwelling which exceeds this building line, in terms of Chapter IV, Section (16)(2)(b).
- Building Line Departure to relax the northwestern street building line from 4m to 3.49m to accommodate the existing dwelling and existing awning which exceed this building line, in terms of Chapter IV, Section (16)(2)(b).
- Building Line Departure to relax the western street building line from 4m to 3.9m to accommodate the existing awning which exceeds this building line, in terms of Chapter IV, Section (16)(2)(b).
- Building Line Departure to relax the southern side building line from 2m to 0m to accommodate the existing wendy house which exceeds this building line, in terms of Chapter IV, Section (16)(2)(b).
- Building Line Departure to relax the western street building line from 4m to 0m to accommodate the proposed carport which is proposed to exceed this building line, in terms of Chapter IV, Section (16)(2)(b).
- Waiving/Determination of the Administrative Penalty for the existing building line and land use contraventions, in terms of Chapter IV, Section 16(2)(q).

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stc2	-21644.47	3809706.37	28.02	roofing screw in tar

X3 809 700.00

X3 809 725.00



LEGEND	
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	Water meter
	Fibre
	Electric box
	Lamp pole
	Inspection cover
	Telephone pole
	Electric pole
	Road sign
	Tree
	Stop valve
	Catchpit
	Manhole
	Fire hydrant
	Fence
	Wall
	Kerb
	Kerb and channel
	Cadastral boundary
	Edge of tar

Project
TOPOGRAPHIC SURVEY
ERF 4607
HERMANUS

Client
THE OWNER

Architect

Notes

Constants Y 0.00 X 0.00

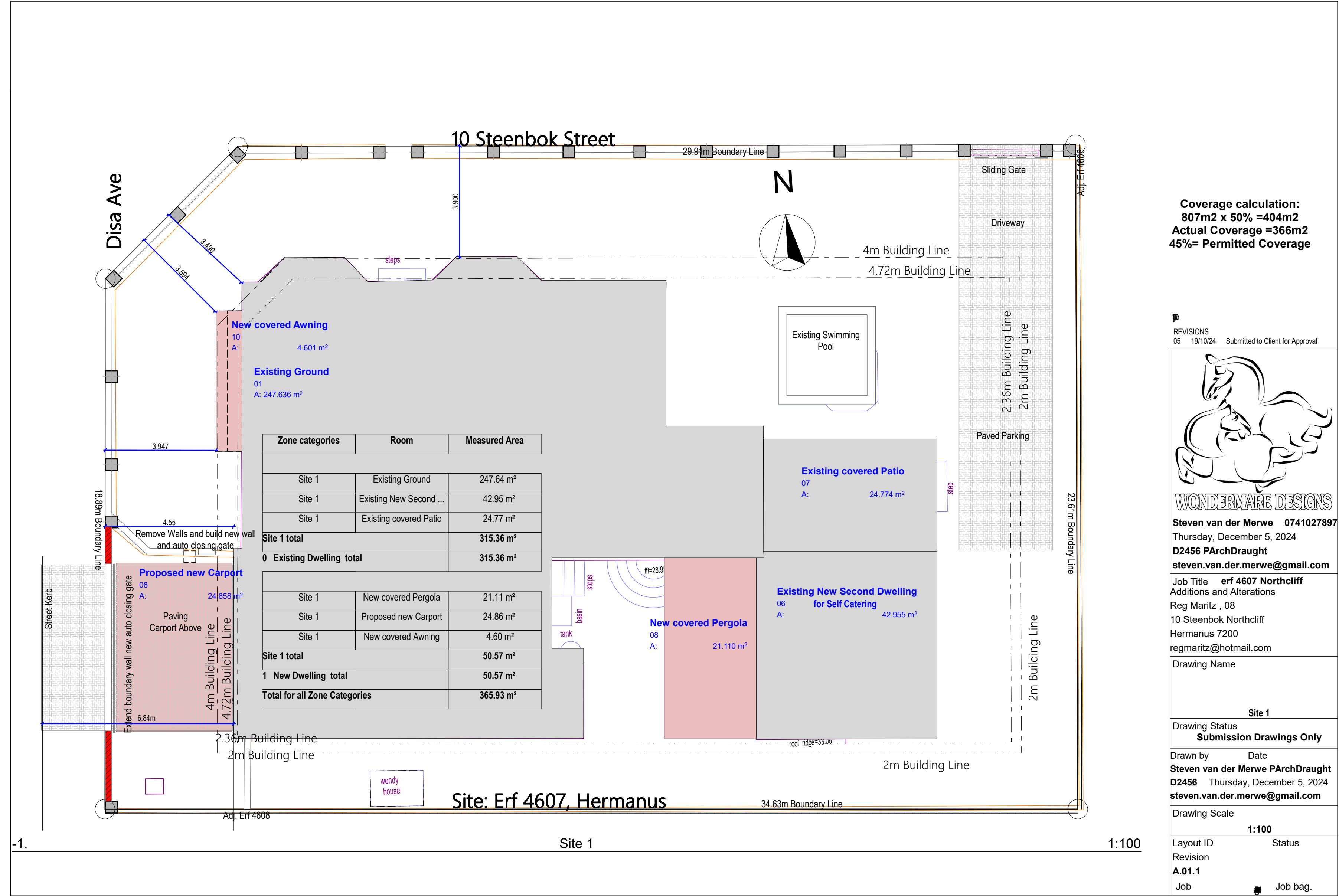
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Project No Drawing No
 H4607

Scale 1:125
 Date October 2024

PO Box 2245, Hermanus, 7200
 3 College Rd, Hermanus, 7200
 E-mail: info@geomatricsafrica.co.za
 Tel: 028 - 3131236 Fax: 028 - 3131237

N.A. Clark
 NA CLARK (PLS 1072)
 PROFESSIONAL LAND SURVEYOR



Coverage calculation:
 807m² x 50% = 404m²
Actual Coverage = 366m²
 45% = Permitted Coverage

REVISIONS
 05 19/10/24 Submitted to Client for Approval



WONDERMARE DESIGNS

Steven van der Merwe 0741027897

Thursday, December 5, 2024
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 steven.van.der.merwe@gmail.com

Job Title **erf 4607 Northcliff**
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 regmaritz@hotmail.com

Drawing Name
 Site 1

Drawing Status
Submission Drawings Only

Drawn by Date
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 steven.van.der.merwe@gmail.com

Drawing Scale
1:100

Layout ID Status
 Revision
A.01.1
 Job Job bag.

Zone categories	Room	Measured Area
Site 1	Existing Ground	247.64 m ²
Site 1	Existing New Second ...	42.95 m ²
Site 1	Existing covered Patio	24.77 m ²
Site 1 total		315.36 m²
0 Existing Dwelling total		315.36 m²
Site 1	New covered Pergola	21.11 m ²
Site 1	Proposed new Carport	24.86 m ²
Site 1	New covered Awning	4.60 m ²
Site 1 total		50.57 m²
1 New Dwelling total		50.57 m²
Total for all Zone Categories		365.93 m²

Site: Erf 4607, Hermanus

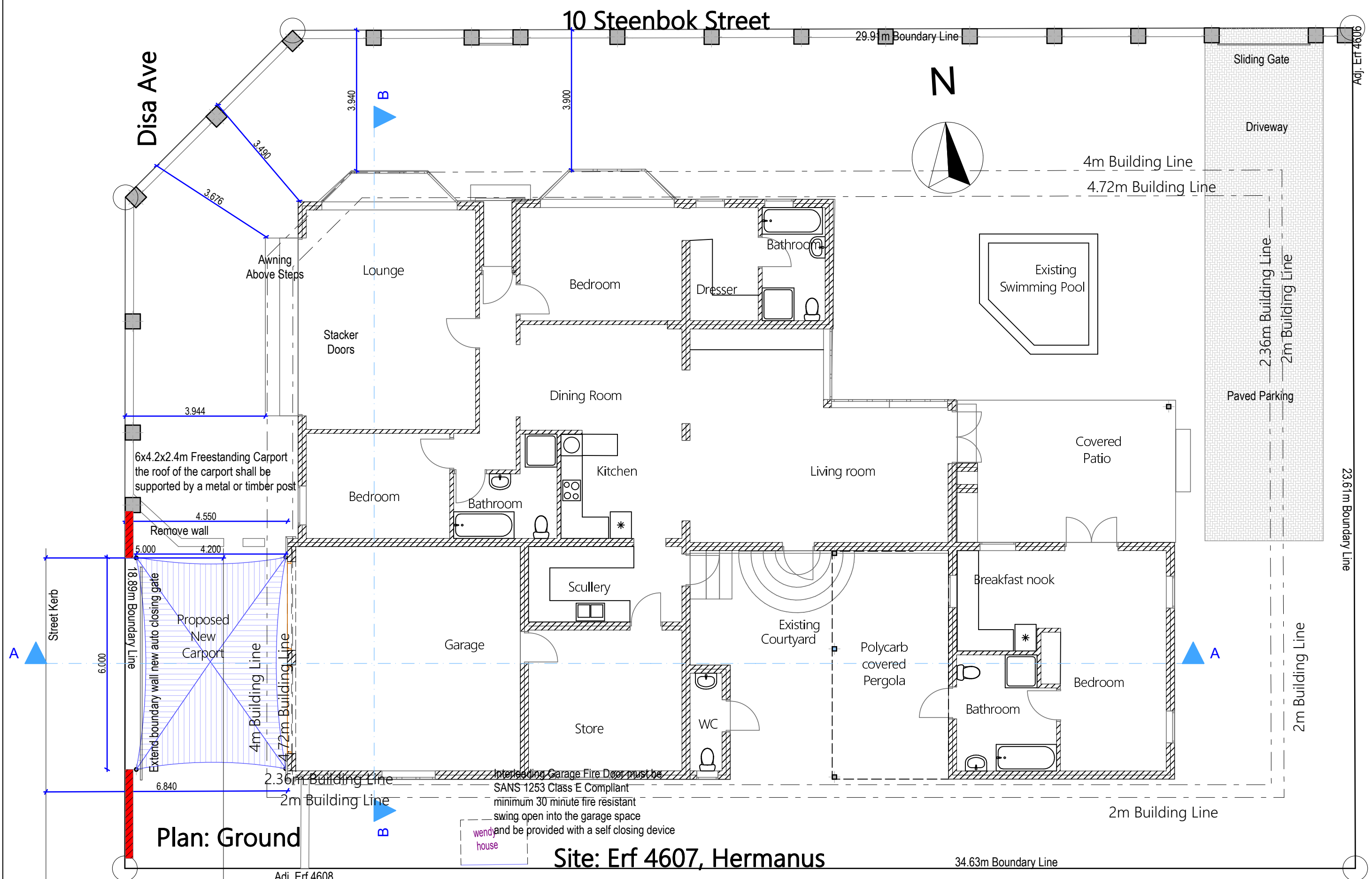
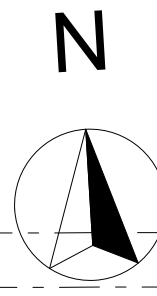
Site 1

1:100

-1.

10 Steenbok Street

Disa Ave



Plan: Ground

Site: Erf 4607, Hermanus

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Drawing Name

Ground

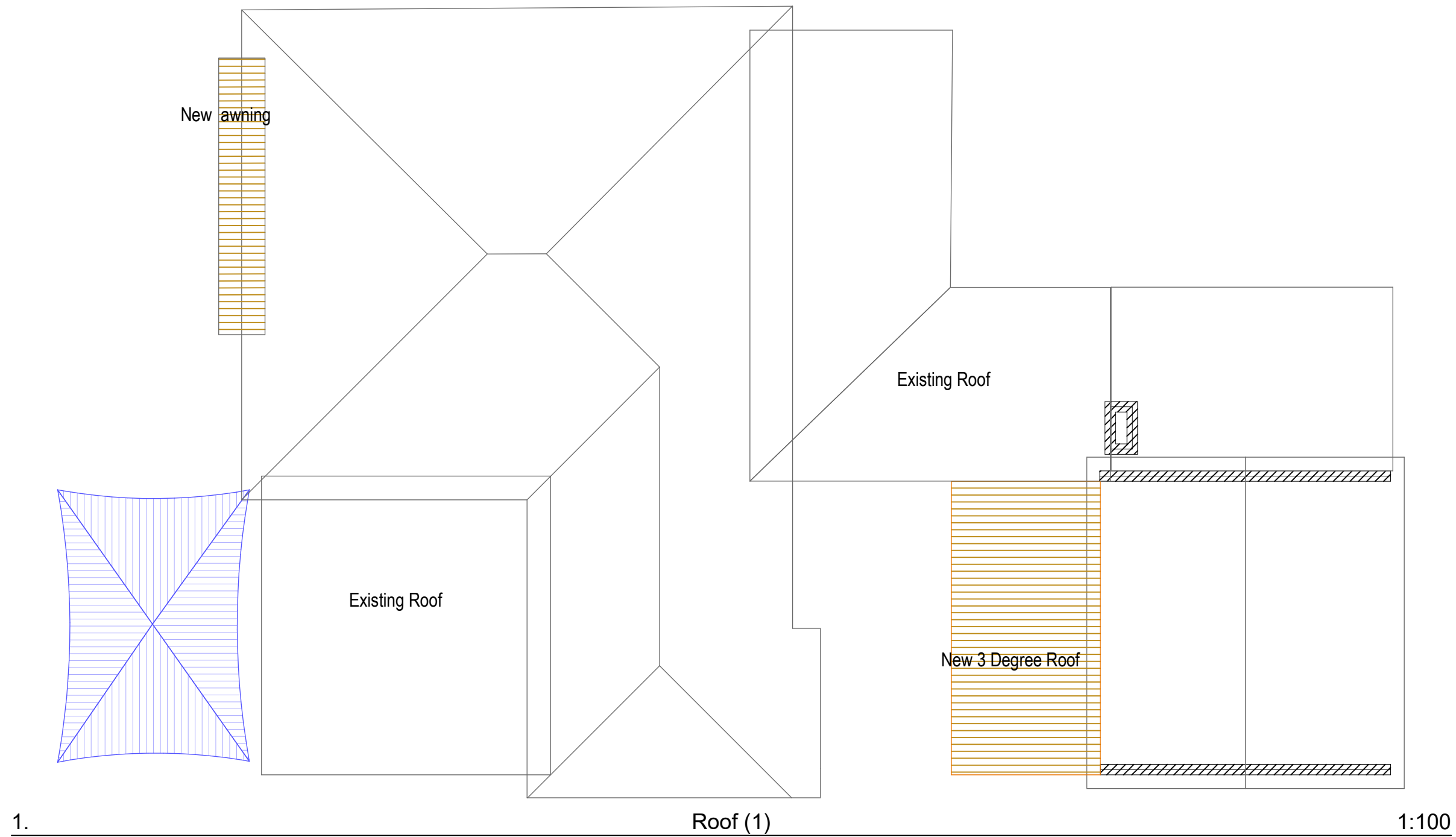
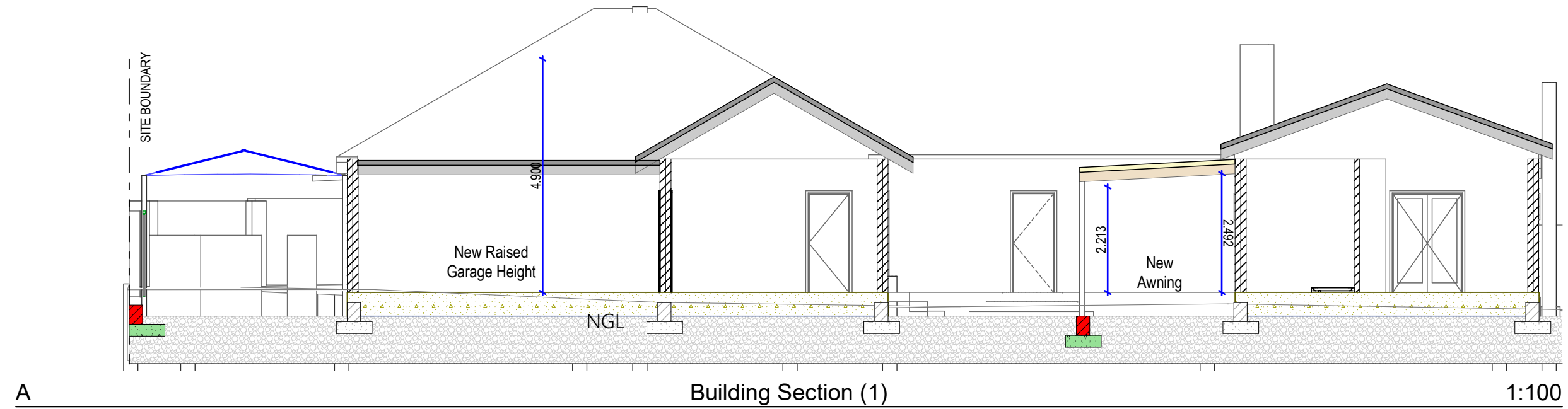
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Drawing Scale
1:100

Layout ID Status

Revision
A.01.4
Job Job bag.



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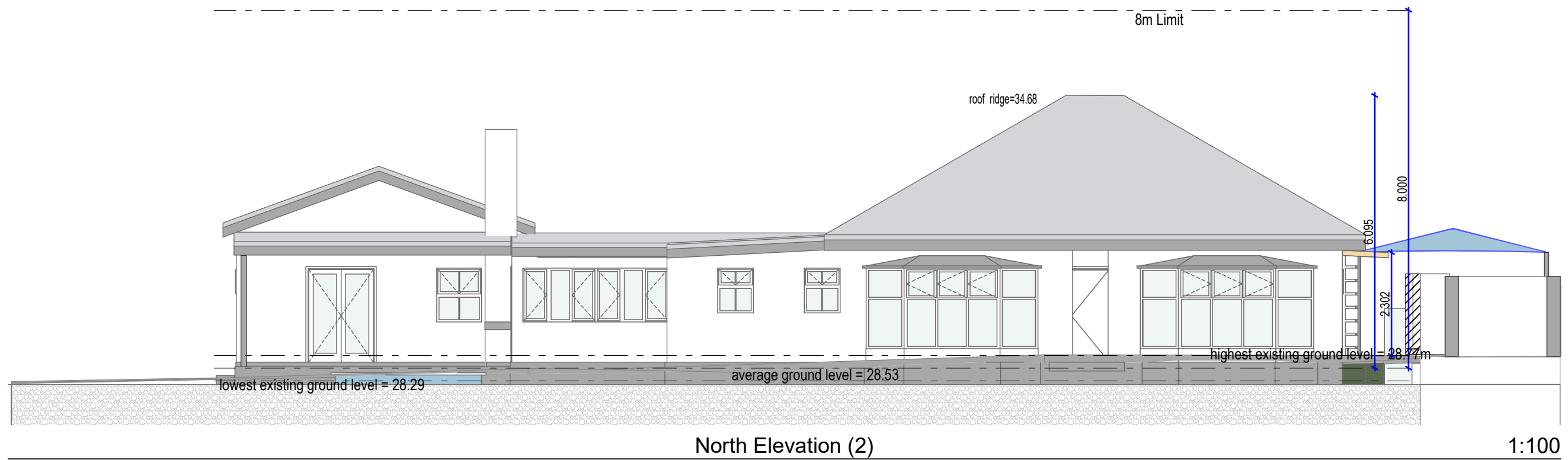
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Drawing Status
 Submission Drawings Only

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Drawing Scale
 1:100

Layout ID Status
 Revision
 A.01.5
 Job Job bag.



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Drawing Name

East Elevation (2), North Elevation (2)

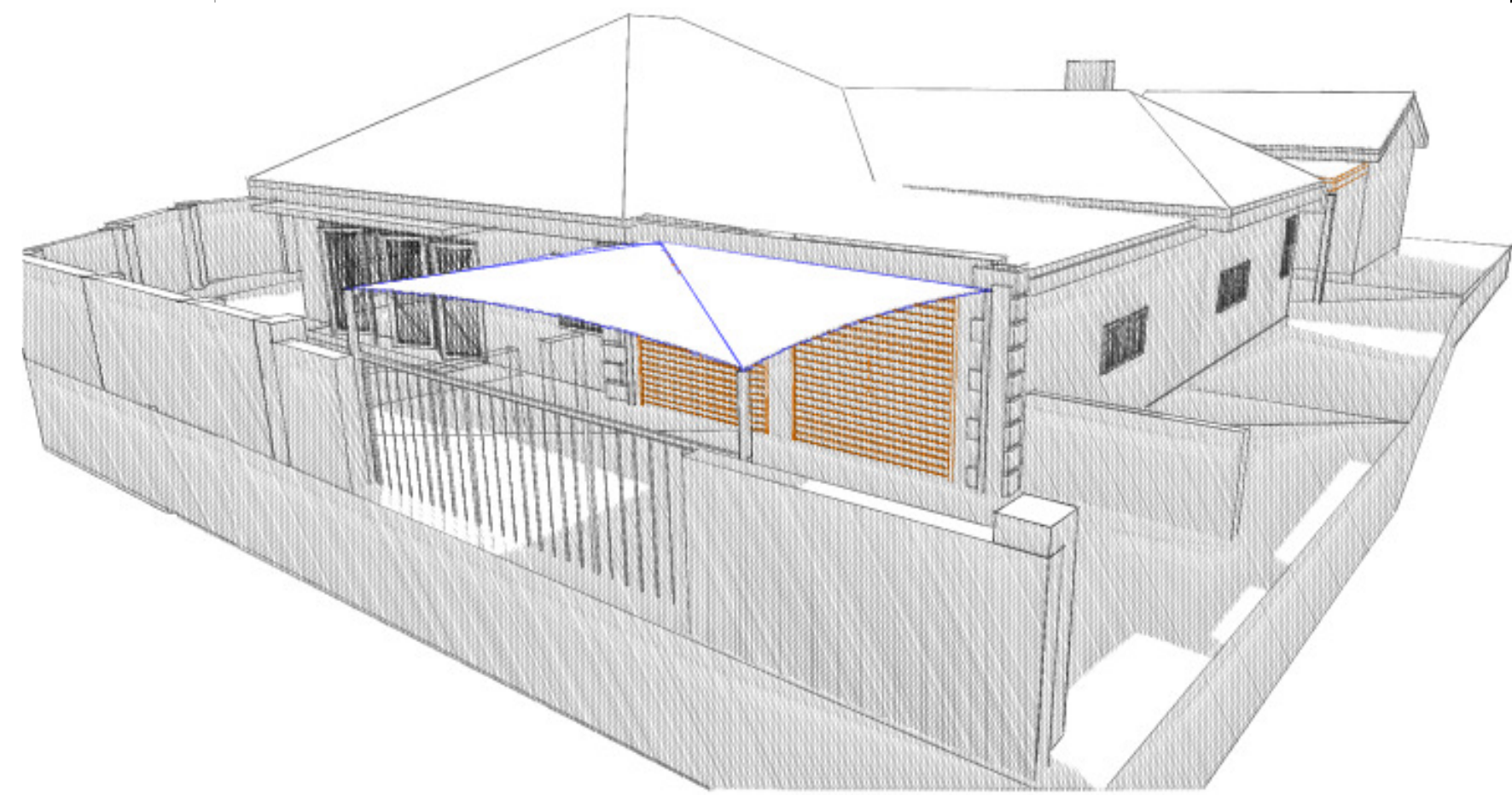
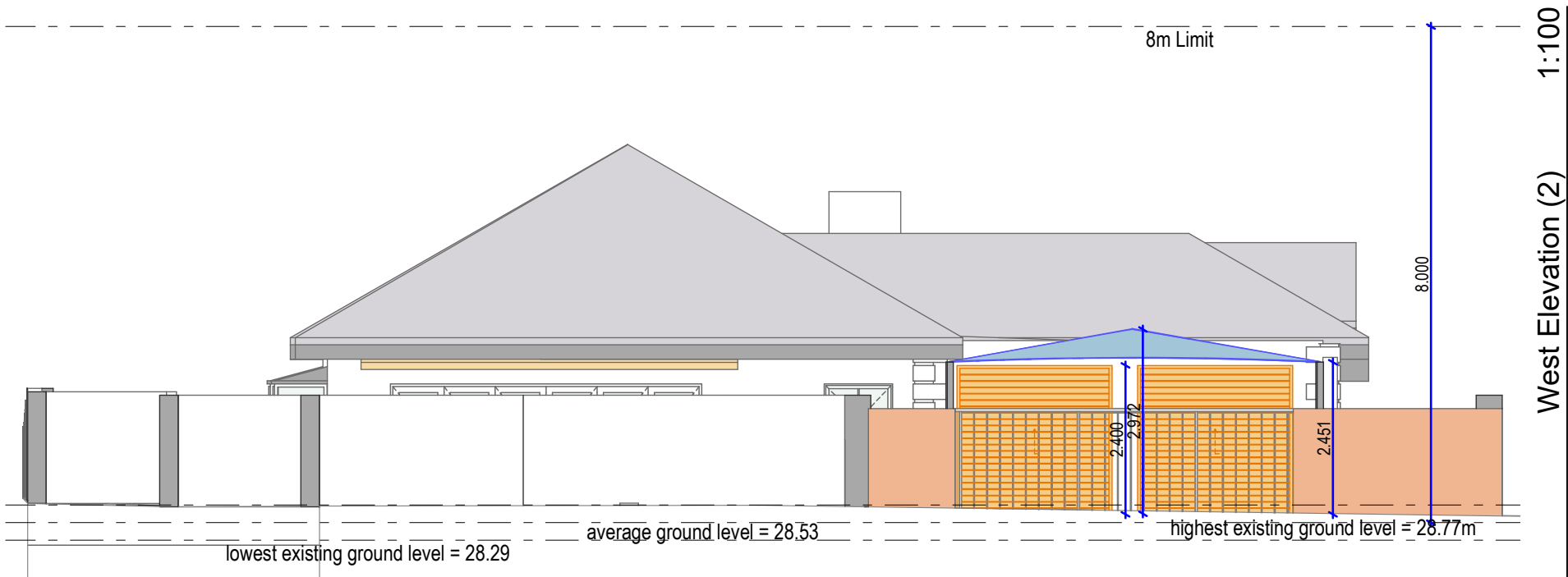
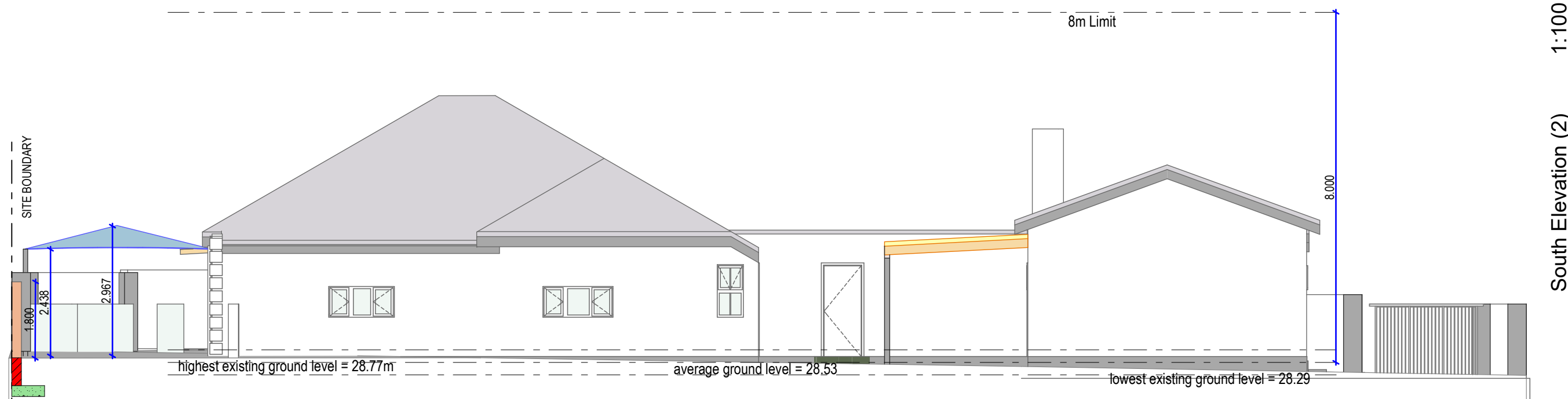
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Drawing Scale
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Layout ID Status
Revision
A.01.6

Job Job bag.



CituPlanners - Picture1

1:1.11

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WONDERMARE DESIGNS

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Drawing Name

South Elevation (2), West Elevation (2),
CituPlanners - Picture1

Drawing Status
Submission Drawings Only

Drawn by Date
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Drawing Scale
1:100, 1:1.11

Layout ID Status
Revision

A.01.7

Job Job bag.