



**OVERSTRAND MUNICIPALITY
ERF 4836, 52 NINTH AVENUE,
KLEINMOND: APPLICATION FOR
SUBDIVISION AND RIGHT OF WAY
SERVITUDE: PLAN ACTIVE (obo FG
& JCI BRITS)**

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 that the following applications applicable to Erf 4836, Kleinmond, have been received:

Subdivision

In terms of Section 16.(2)(d) of the By-Law to create 4 Residential Zone 1: Single Residential (SR1) erven and 2 Transport Zone 2: Road and Parking (TR2) erven.

Right of Way Servitude

Registration of a right of way servitude in terms of Section 26.(1)(h)(v) of the By-Law over proposed Erven 8077, 8078 and 8080 in favour of proposed Erven 8078, 8079 and 8080 Kleinmond.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning at 16 Paterson Street, Hermanus and at the Kleinmond Library, Fifth Avenue, Kleinmond.

Any written comments must be submitted to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) in accordance with the provisions of Sections 51 and 52 of the said By-Law on or before **28 January 2022**, quoting your name, address and contact details, interest in the application and reasons for comment. Telephonic enquiries can be made to the **Senior Town Planner, Ms. H van der Stoep** 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 to formulate their comment.

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

Municipal Notice No. 166/2021

**OVERSTRAND MUNISIPALITEIT
ERF 4836, NEGENDELAAN 52,
KLEINMOND: AANSOEK OM
ONDERVERDELING EN REG-VAN-
WEG SERWITUUT: PLAN ACTIVE
(nms FG & JCI BRITS)**

Kennis word hiermee gegee ingevolge Artikels 47 en 48 van die Overstrand Munisipaliteit Gewysigde Verordening vir Munisipale Grondgebruikbeplanning, 2020 dat die volgende aansoeke van toepassing op Erf 4836, Kleinmond ontvang is:

Onderverdeling

Ingevolge Artikel 16.(2)(d) van die Verordening om 4 Residensielesone 1: Enkel Residensieël (SR1) erwe en 2 Vervoersone 2: Pad en Parkering (TR2) erwe te skep:

Reg-Van-Weg Serwituut

Registrasie van 'n reg-van-weg serwituut ingevolge Artikel 26.(1)(h)(v) van die Verordening oor voorgestelde Erwe 8077, 8078 en 8080 ten gunste van Erwe 8078, 8079 en 8080, Kleinmond.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus, en by die Kleinmond Biblioteek, Vyfdelaan, Kleinmond.

Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening by die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) voor of op **28 Januarie 2022** met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan die **Senior Stadsbeplanner, Me. H van der Stoep** by 028313 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. 166/2021

**UMASIPALA WASE-OVERSTRAND ISIZA
ESINGU-ERF 4836, 52 NINTH AVENUE,
KLEINMOND: ISICELO FOR
SOKWAHLULAHLULA NENDAWO
NOKUVULA INDAWO EYINDLELA
YOKUNQUMLA ABAHAMBISA IINKONZO:
NGABAKWAPLANACTIVE (egameni
labakwa FG & JCI BRITS)**

Kukhutshwe isaziso esingemiba emayela nemiba yeSolotyama lama47 nelama48 Omthethwana Osisihlomelo kaMasipala waseOverstrand ngeZicwangciso ZokuSetyenziswa koMhlaba ku2020 esithi kufunyenwe ezi zicelo zilandelayo nezisebenziseka kwisiza esinguErf 4836, Kleinmond:

Ukwahlulahlula

Ngokwemiba yeSolotyama le16.(2)(d) loMthethwana ukwakha Izowuni 4 eyiZowuni Yokuhlala (Residential Zone 1: Single Residential (SR1) neziza neZowuni ezi- 2 ZeziThuthi ezibizwa ngeTransport Zone 2: indlela neziza eziyiNdawo Yokupaka (Road and Parking) (TR2).

Indlela evulelwe ukuhanjiswa kweenkonzo

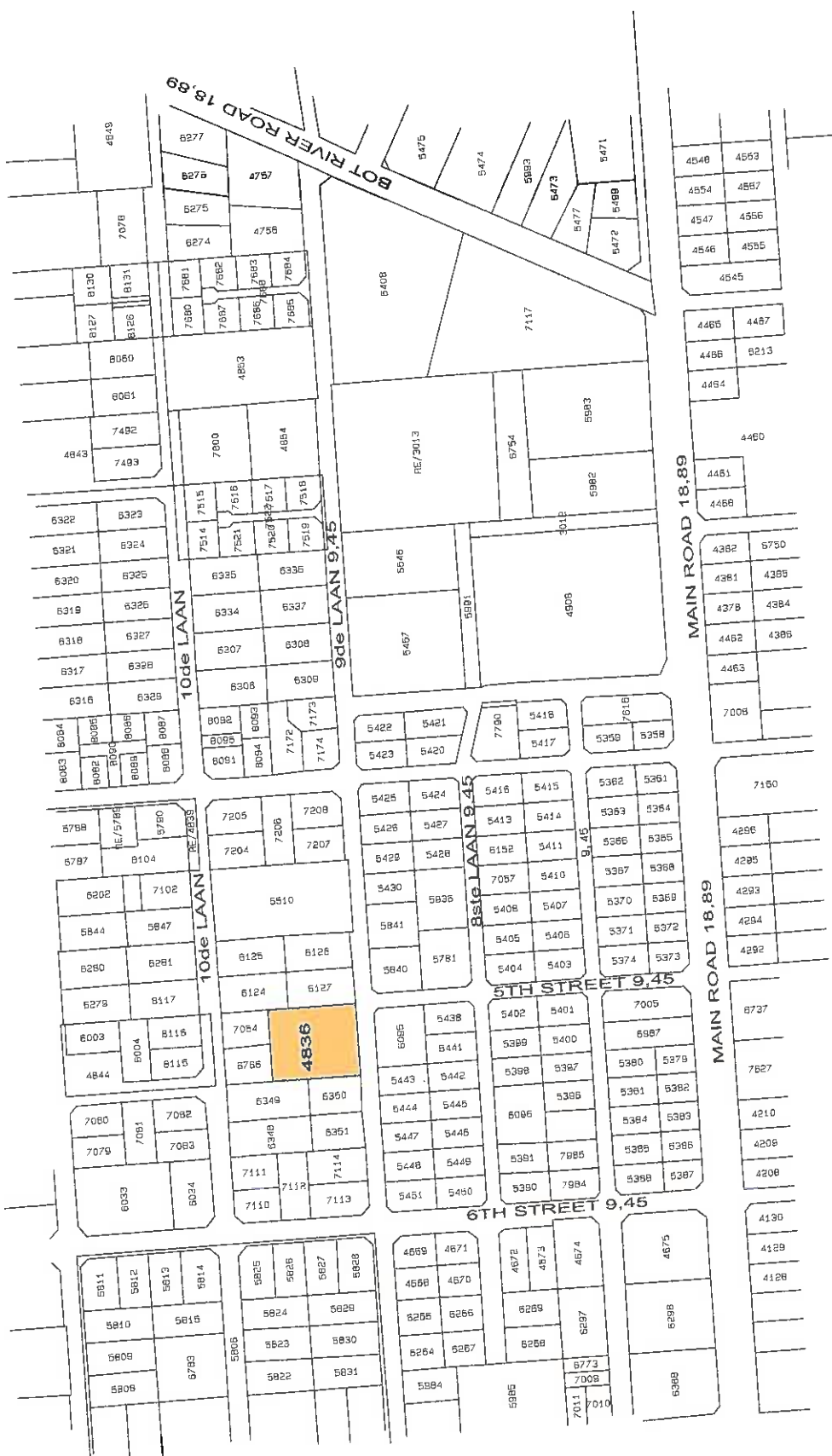
Ubhaliso lwendlela evumela ukuhanjiswa kweenkonzo ngokwemiba yeSolotyama lama26(1)(h)(v) oMthethwana ophakanyiswayo kwiziza ezinguErven 8077, 8078 no-8080 oluvumelana neziza eziphakanyiswe kwiziza ezinguErven 8078, 8079 kunye no-8080 eKleinmond.

linkcukacha ezipheleleyo mayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwintsuku eziphakathi evekini ukusukela ngentsimbi ye-08:00 ukuya kweye-16:30 kwiSebe: IziCwangciso zeDolophu kwa16 ePaterson Street, Hermanus naseKleinmond Library, Fifth Avenue, eKleinmond.

Naziphi na izimvo ekumele zingeniswe mazifike kwaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ngokwezibonelelo zeSolotyama lama51 nelama52 oMthethwana ngomhla okanye ngaphambi komhla wama **28 January 2022**, uchaze igama lakho, idilezi neenkukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zokuhlomla. Imibuzo ngefowuni ingabuzwa kuMchwangciso Omkhulu weDolophu, uNkszn H van der Stoep kwa028-313 8900. UMasipala angala ukwamkela izimvo ezifike emva komhla wokuvala. Nabani na ongakwazi ukufunda nokubhala angaya kwiSebe LeziCwangciso ngeDolophu apho igosa likaMasipala liza kumnceda ahlomle ngokusemthethweni.

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

Inothi kaMasipala Nomb. 166/2021



Scale: **NTS**
 Drawing Nr: **basemap.drw**
 Date: **SEPTEMBER 2021**

Plan Description:
LOCALITY MAP

Property Description:
ERF 4836
KLEINMOND

All distances approximate
 and subject to survey.
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Stads- en Streeksbeplanners
 Town & Regional Planners



**PROPOSED SUBDIVISION AND RIGHT OF
WAY SERVITUDE**

REMAINDER ERF 4836

KLEINMOND

DIVISION: CALEDON

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

The new owners of Remainder Erf 4836 Kleinmond, Mr. F.G. Brits and Mrs J.C.I. Brits, have instructed the company Plan Active to apply for the subdivision of Erf 4836 Kleinmond and the registration of a right of way servitude.

An application for the subdivision of the Remainder of Erf 4836 Kleinmond was approved in terms of Section 25 of the Land Use Planning Ordinance, Ordinance 15 of 1985 in 2006. At the time it was proposed to create 4 single residential erven and a right of way servitude. The subdivision and right of way servitude diagrams were approved by the Surveyor-General, they were however not registered within the 5-year period and subsequently the approval lapsed.

The new owners now intend to submit a new application to subdivide the subject property on the exact same subdivision lines to create 4 residential portions and two road portions that were previously approved. The two road portions that are already created must be transferred to the Overstrand Municipality, they are already zoned Transport Zone 2 and therefore no rezoning application is required for these two portions, namely Portion A and B. The position of the proposed right of way servitude will however be moved ± 1.6 meters to the west to make provision for a 2-meter buffer between the proposed edge of the right of way servitude and the position of the existing dwelling established on the subject property.

Remainder Erf 4836 Kleinmond has recently been transferred to the new owners.

Remainder Erf 4836 Kleinmond is 2 943m² in extent and is held by Title Deed No. 33351/2021.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(d) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the subdivision of Remainder Erf 4836 Kleinmond.
- Chapter 4, Section 26(1)(h)(v) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the registration of a right of way servitude that is exempted in terms of the last-mentioned section, over proposed Erven 8077, 8078 and 8080 Kleinmond, in favour of proposed Erven 8078 and 8079 and 8080 Kleinmond.

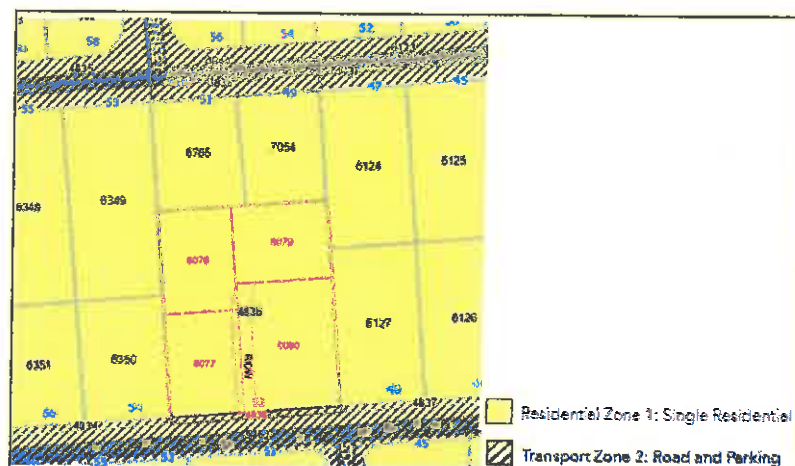
3. DESIRABILITY

3.1 PROPERTY DESCRIPTION

Remainder Erf 4836 Kleinmond is located at 52, 9th Avenue, Kleinmond and it is 2 943m² in extent. Please refer to the enclosed locality plan.

3.2 ZONING

The two portions of Remainder Erf 4836 Kleinmond abutting 9th and 10th Avenue are zoned Transport Zone 2 and the remaining extent of Remainder Erf 4836 Kleinmond is zoned Residential Zone 1 and is utilized as such. The surrounding properties are zoned for single residential purposes and public roads.



Zoning abstract from the Overstrand municipal GIS Viewer

3.3 LAND USE

Remainder Erf 4836 Kleinmond is used for residential purposes. A dwelling with a single garage are situated on the subject property. Access to Remainder Erf 4836 Kleinmond is obtained from 9th Avenue.

Land uses that surround Remainder Erf 4836 Kleinmond are single residential dwellings and public roads. It is therefore evident that Remainder Erf 4836 Kleinmond is situated within a predominantly single residential area.

3.4 PROPOSAL

The following are proposed:

- The subdivision of Remainder Erf 4836 Kleinmond in terms of Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020.
- The registration of a right of way servitude that is exempted in terms of Chapter 4, Section 26(1)(h)(v) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, over proposed Erven 8077, 8078 and 8080 Kleinmond, in favour of proposed Erven 8078 and 8079 and 8080 Kleinmond.

Remainder Erf 4836 Kleinmond is 2 943m² in extent. The intention of the owners of the subject property is to subdivide Remainder Erf 4836 into 6 portions, 4 single residential erven, two portions road, and a right of way servitude. The detail of the subdivision can be described as follows:

3.4.1. Proposed Subdivision

Subdivision of Remainder Erf 4836 Kleinmond			
PROPOSED ERVEN	SIZE	LAND USE	PROPOSED ZONING
ERF 8077	±550m ²	Vacant	Residential Zone 1
ERF 8078	±550 m ²	Vacant	Residential Zone 1
ERF 8079	±550m ²	Vacant	Residential Zone 1

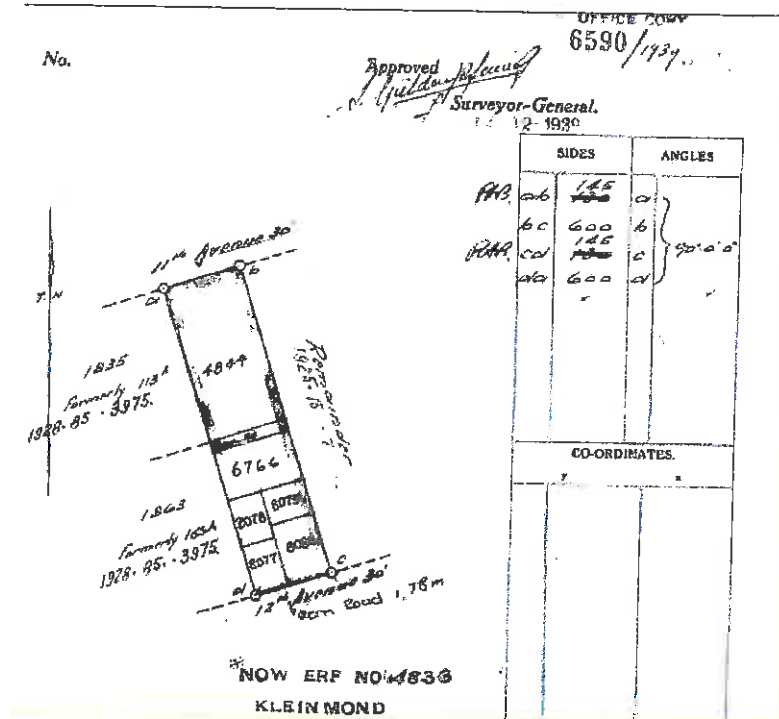
Motivation report

ERF 8080	±913m ²	Dwelling and single garage	Residential Zone 1
Portion A	±81 m ²	Road	Transport Zone 2
Portion B	±299 m ²	Road	Transport Zone 2

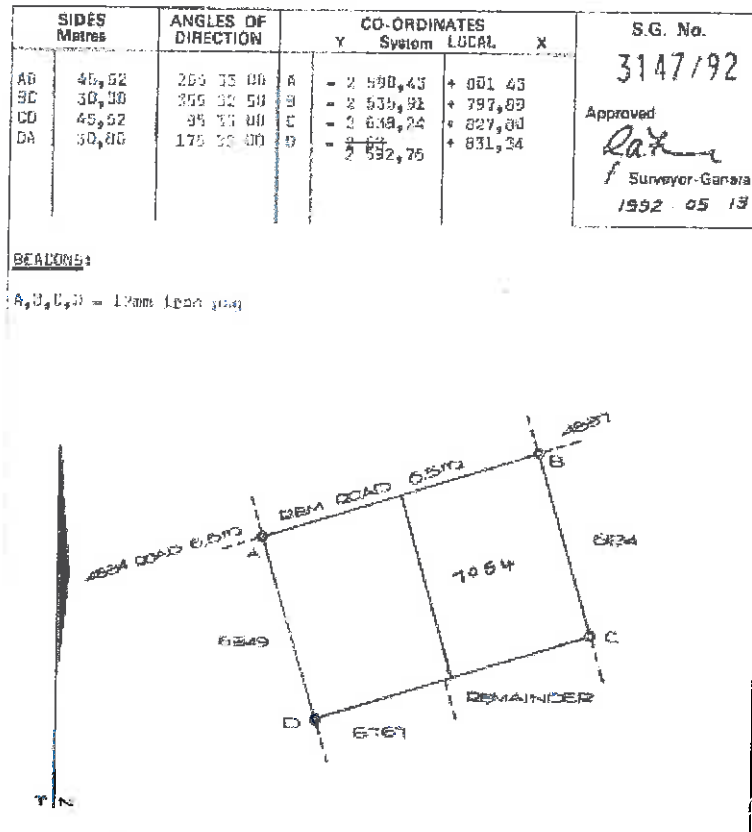
The proposed subdivision of Remainder Erf 4836 Kleinmond follows the same configuration as the residential erven in the same residential block and would also be of a similar size.

The proposed subdivision will not have a negative impact on the character of this particular area of Kleinmond. With the new subdivision application, the same layout is proposed to create the 4 residential portions, that were approved previously. The change that was made to the previously approved subdivision plan is insignificant because only the position of the right of way servitude has changed slightly. The right of way servitude has been moved by ±1.6m to create a 2m buffer between the servitude and the existing dwelling. The proposed subdivision also consist of two road portions, portion A and portion B, portions of Remainder Erf 4836 Kleinmond which are zoned Transport Zone 2 and will form part of the public road.

According to S.G Diagrams **No. 3147/92** and **No. 6590/1939** the remainder road has already vested in the municipality's name and the portions have the status of a road (as seen below).



Motivation report

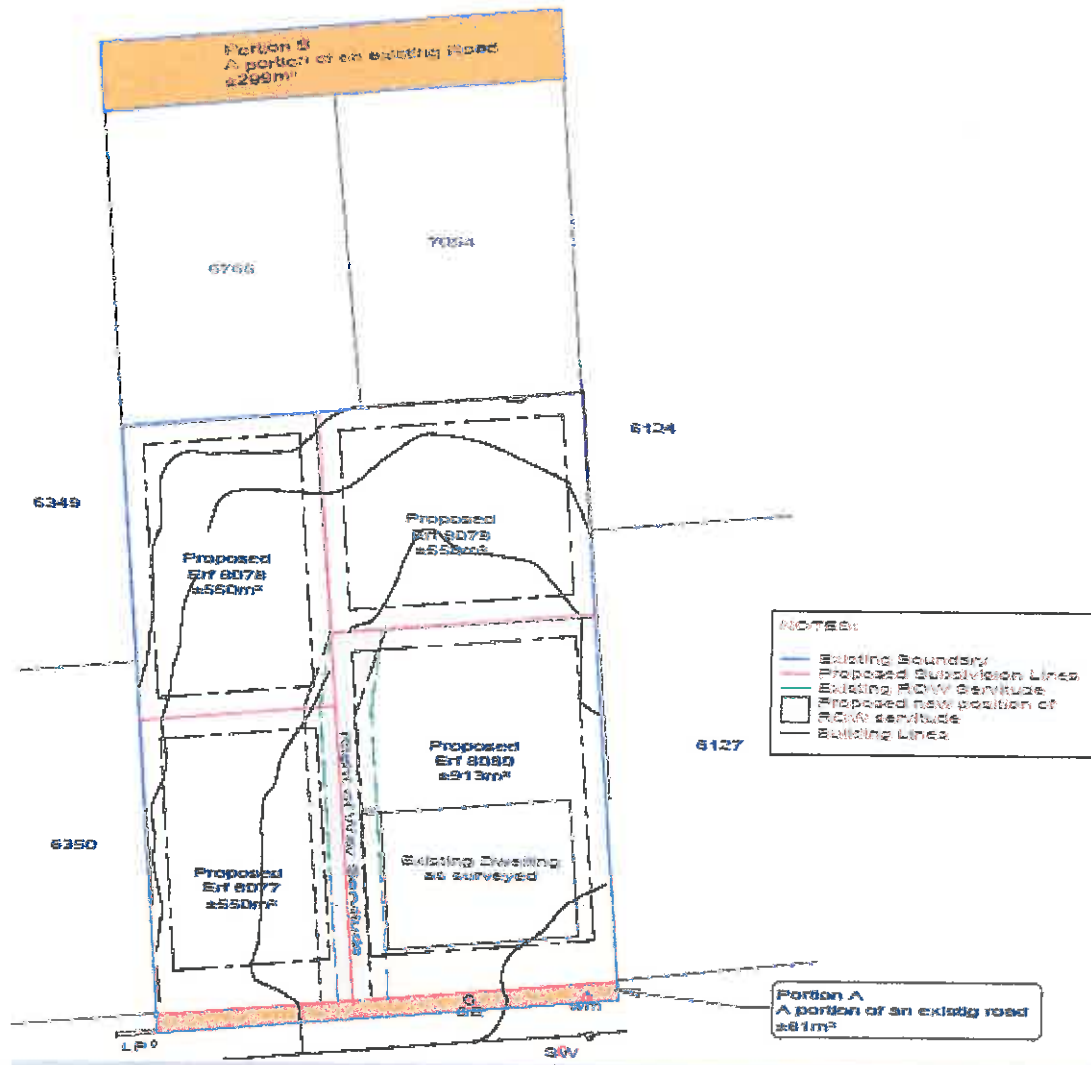


The proposed subdivision will have a positive impact on the economy of the area. By allowing the subdivision, three additional residential properties will be created from which the municipality can attain bulk services levies as well as monthly rates and taxes. Future possible plans to develop the newly created portions will create temporary employment during the construction phase thereof.

As seen in the proposed subdivision plan the existing dwelling does not contravene in terms of Section 84 of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020. The existing dwelling does not encroach any land use restrictions as set out in the Scheme regulations. Although a portion of the dwelling was erected without any approved building plans, the unauthorised building work is not in contraventions with the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 or the Overstrand Zoning Scheme Regulations, 2020 and therefore can be addressed through a building plan submission to the Overstrand Building Control Department.

3.4.2. Proposed Right of Way Servitude

With the previous subdivision application of the subject property a right of way servitude was also applied for. With the new, proposed subdivision the intention is to move the existing right of way servitude approximately 1.6 meters to the west on the property in order to create a 2-meter buffer between the existing dwelling and the edge of the proposed amended right of way servitude (as indicated below).



The proposed right of way servitude will be created over proposed erven 8077, 8078 and 8080 Kleinmond in favour of Erven 8078, 8079 and 8080 Kleinmond. The proposed servitude will provide access to proposed Erven 8078, 8079 and the rear of erf 8080 Kleinmond and will not have any impact on the surrounding property owners' rights.

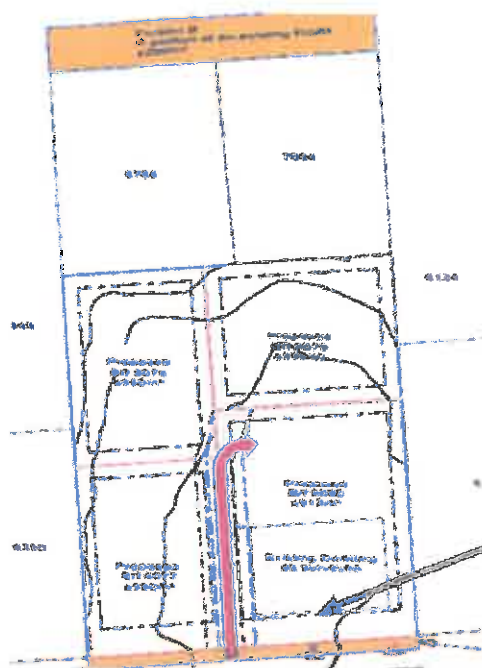
3.5 ACCESS AND PARKING

Vehicular and pedestrian access to proposed Erf 8077 and Erf 8080 Kleinmond with the existing dwelling and single garage are gained from 9th Avenue, Kleinmond. The access to the proposed Erven 8078 and 8079 Kleinmond will be via the proposed right of way servitude.

It is noted that two on-site parking bays need to be provided as per Chapter 17 of the Overstrand Zoning Scheme Regulations, 2020 per dwelling unit, provided that on erven less than 440m², only one on-site parking bay needs to be provided.

The proposed right of way servitude will also be in favour of proposed Erf 8080 Kleinmond to provide vehicular access to the rear of the property to access additional parking at the back of the dwelling on Erf 8080 Kleinmond to provide the required parking bays on-site. No off-street parking is proposed for the proposed new erven.

The exact position of the access point for proposed Erf 8077 Kleinmond, a portion of Erf 4836 Kleinmond will be confirmed with a building plan submission, when the new owners intend to build. The additional access points in 9th Avenue will not have a severe impact on the traffic in the area as the proposed subdivision will be in line with the current status quo for the specific area. The photograph below depicts the position of the single garage and the route towards the rear of the dwelling where additional parking will be provided.



3.6 SERVICES

Remainder Erf 4836 Kleinmond is situated in an already developed residential area. Municipal services already exist to which the newly created erven could connect to. All required services will be installed according to the specifications of the Overstrand Municipality.

3.7 TITLE DEED

There are no restrictive Title Deed conditions in the Title Deed that needs to be addressed in order to accommodate the proposed subdivision and registration of a right of way servitude.

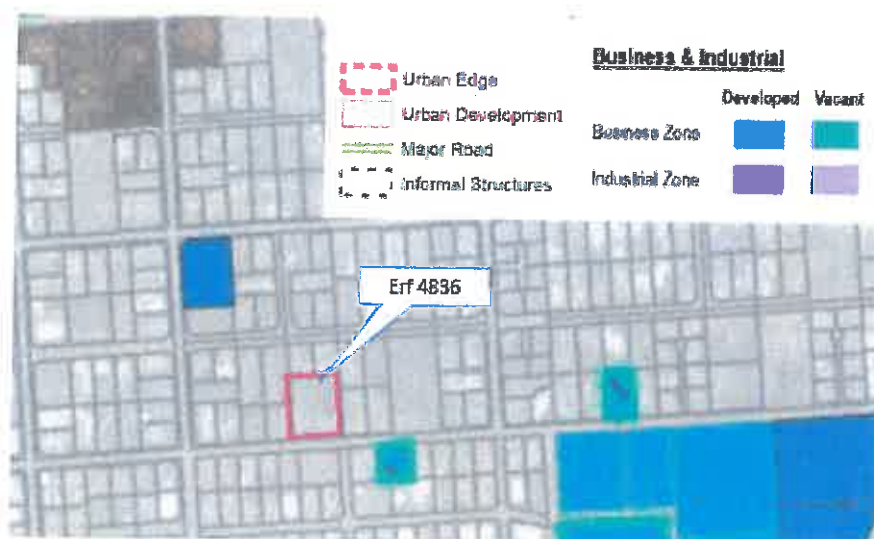
Remainder Erf 4836 Kleinmond is registered as per Title Deed No T33351/2021.

There is no bond registered over the erf.

3.8 FORWARD PLANNING

Overstrand Municipal Spatial Development Framework (2020).

In terms of the Overstrand Spatial Development Framework the subject property is earmarked for urban development purposes. The residential zoning of the new proposed portions will be retained after the subdivision of the erf.



Overstrand Growth Management Strategy (2010)

With reference to the Overstrand Growth Management Strategy the subject erf falls within Planning Unit 9 that consists of a mature middle to high income group residential area with limited densification opportunity. The planning unit is the largest planning unit in Kleinmond and is located in the northern central section of Kleinmond.

Densification proposed for this planning unit consists of a variety of incremental proposals and site development at densities between 17 and 46 dwelling units per hectare. Only 20% of this area is assumed to be suitable for densification.

Each subdivision application should be dealt with on its own merit. Remainder Erf 4836 Kleinmond is one of the largest erven in this residential block. The newly created erven will still be compatible with the areas of the other residential erven in the vicinity and the application can therefore be supported. It should also be noted that the proposed subdivision lines are in the exact same positions as what were formerly approved in 2006.

3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.9.1 HERITAGE VALUE

Remainder Erf 4836 Kleinmond is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010).

The subject property is not associated with any important persons or groups or important events and activities. The subject property has no association with the history of slavery and is not used for living heritage.

According to the Overstrand GIS Viewer the subject property falls within an area that is categorised with a 3C Grading as per the Overstrand Heritage Survey Report (2009).

Table 3: Grading criteria Grade 3C

	Intrinsic Significance	Associational Significance	Contextual Significance
GRADE 3C	<ul style="list-style-type: none"> • Historical fabric is significantly altered (scale and form still intact) • Limited evidence for historical layering • Few elements of construction are authentic • Remaining fabric has historical value (older than 60 years) • Remaining fabric contributes to understanding of uses and roles of place over time 	<ul style="list-style-type: none"> • Limited association with historic person/s or social grouping/s • Limited association with historic events and activities • Limited association with the uses or roles of a place over time • Limited value in terms of public memory • Limited association with living heritage 	<ul style="list-style-type: none"> • Contributes to the broader historical, visual-spatial character of a place • Contributes to the environmental quality of a Grade 3A/B heritage resource

In light of the above mentioned it is evident that the proposed subdivision will not have a negative impact on the heritage value of the subject property or the greater area of Kleinmond

3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed subdivision does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

The proposal will not have a negative impact on the environment. The current application does not constitute any further development, but the possibility is that future development will occur on the newly created erven.

3.10 PLANNING PRINCIPLES

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

Spatial Justice: The proposed subdivision is in line with the current erf sizes in the vicinity within the Kleinmond area. The proposed subdivision will create an opportunity for future landowners to obtain land.

Spatial sustainability: The proposed subdivision of Remainder Erf 4836 Kleinmond is in line with the current character of the established residential area. The proposed application will have no impact on the conservation worthy areas of Kleinmond. Spatially the land use and erf sizes of the created portions will be in line with the residential character of the Kleinmond area.

Efficiency: The proposed application for the subdivision will promote the optimisation of the use of space within a developed residential area. The subject property is also situated close to the CBD of the Kleinmond area

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

Good administration: Our Company is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020.

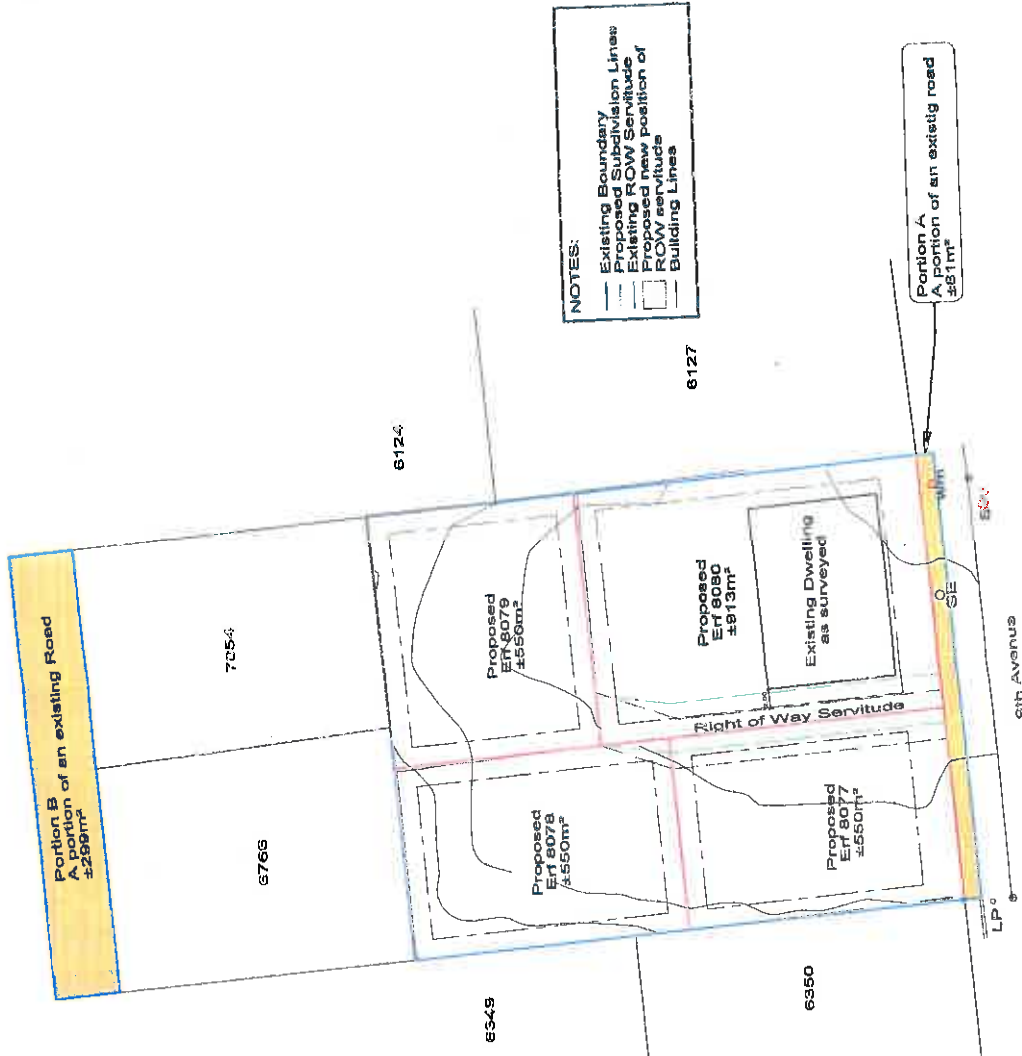
4. **RECOMMENDATION**

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

- The proposed subdivision of Remainder Erf 4836 Kleinmond, as described above, falls within the existing land use tendencies in the area;
- The proposal is compatible with the existing erf sizes in the area;

- The proposed subdivision will not have a negative impact on the current character and land values of the surrounding erven.
- The proposed subdivision layout will have no impact on the position of the existing dwelling as the structures will still comply with the land use restrictions applicable to erven with a Residential Zone 1 zoning.
- A subdivision for the subject property was already approved in 2006 (4 residential portions). The proposed subdivision follows the exact same subdivision lines that were formerly approved except for the repositioning of the access right of way servitude. Subsequently the proposed subdivision will not have a greater impact on the surrounding areas related to the previous approved subdivision.
- The proposed application is in line with Spatial Planning Land Use Management Act, 2013 (SPLUMA) and the Land Use Planning Act, 2014 (LUPA).

With regards to the above mentioned it would be appreciated if the Overstrand Municipality would consider the application favourably for the subdivision of - Remainder Erf 4836 Kleinmond in order to create 4 residential erven and a right of way servitude.



NOTES:

- Existing Boundary
- Proposed Subdivision Lines
- Existing ROW Servitude
- Proposed new position of ROW servitude
- Building Lines

Scale: 1:500
 Drawing No: Kleinm4836.dwg
 Date: 07/2021

Plan Description:
PROPOSED SUBDIVISION

Property Description:
ERF 4836 KLEINMOND

All distances approximate and subject to survey.
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 Town & Regional Planners