

| OVERSTRAND MUNICIPALITY | OVERSTRAND MUNISIPALITEIT | UMASIPALA WASE-OVERSTRAND |
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| <p><u>ERF 1093, 22 BIETOU STREET, VERMONT: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND DEPARTURE: IC@PLAN TOWN PLANNERS ON BEHALF OF THE TRUSTEES FROM TIME TO TIME OF THE VISSER FAMILY TRUST</u></p> <p>Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), of the following applications applicable to Erf 1093, Vermont (the property), namely:</p> <p><u>Removal of Restrictive Title Deed Conditions</u> Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions E.6.(b)(i) and (ii) as contained in Title Deed T91725/98 of the property to accommodate the proposed braai and pizza oven.</p> <p><u>Departure</u> Application in terms of Section 16(2)(b) of the By-Law to relax the rear building line from 2m to 0m to accommodate the proposed braai and pizza oven.</p> <p>Full details regarding the proposals above are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town and Spatial Planning, 16 Paterson Street, Hermanus.</p> <p>Any comments must be in writing and reach the Municipality (16 Paterson Street, Hermanus / (e) loretta@overstrand.gov.za) on or before 25 July 2025, with your name, address, contact details, interest in the application and the reasons for comment. Telephonic inquiries can be made to the Town Planner, Mr. H. Olivier at 028-3138900. The Municipality may refuse to accept comments after the closing date. Any person who cannot read or write can visit the Town and Spatial Planning Department where they will be assisted by a municipal official in formulating their comments.</p> | <p><u>ERF 1093, BIETOUSTRAAT 22, VERMONT: AANSOEK OM OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDES EN AFWYKING: IC@PLAN STADSBEPLANNERS NAMENS DIE TRUSTEES VAN TYD TOT TYD VAN DIE VISSER FAMILIETRUST</u></p> <p>Kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die onderstaande aansoek van toepassing op Erf 1093, Vermont (die eiendom), naamlik:</p> <p><u>Opheffing van Beperkende Titelaktevoorwaardes</u> Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelaktevoorwaardes E.6.(b)(i) en (ii) soos vervat in Titelakte T91725/98 van die eiendom om die voorgestelde braai en pizza oond te akkommodeer.</p> <p><u>Afwyking</u> Aansoek ingevolge Artikel 16(2)(b) van die Verordening om die agterboulyn vanaf 2m na 0m te verslap om die voorgestelde braai en pizza oond te akkommodeer.</p> <p>Besonderhede aangaande die voorstel lê ter insae gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stads- en Streekbeplanning te Patersonstraat 16, Hermanus.</p> <p>Enige kommentaar moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (e) loretta@overstrand.gov.za) voor of op 25 Julie 2025, met u naam, adres, kontak besonderhede, belang in die aansoek en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die Stadsbeplanner, Mnr. H. Olivier by 028-3138900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stads- en Streekbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer.</p> | <p><u>ISIZA 1093,22, BIETOU STREET,VERMONT: ISICELO SOKUSUSWA KWEZITHINTELO KWISIVUMELWANO SOBUNINIMHLABA KUNYE NOPHAMBUKO: IC@PLAN TOWN PLANNERS EGAMENI LE TRUSTEES FROM TIME TO TIME OF THE VISSER FAMILY TRUST</u></p> <p>Isiziso siyanikezelwa ngokweCandelo lama-47 nelama-48 loMthetho kaMasipala woLungiso loMthetho kaMasipala kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, ka-2020 (uMthetho kaMasipala), kwezi zicelo zilandelayo zisebenza kwiSiza 1093, eVermont(kwipropati), ezizezi:</p> <p><u>Ukususwa kweMiqathango yeSivumelwano soBunini esiThintelweyo</u> Isicelo ngokungqinelana neCandelo 16(2)(f) loMthetho kaMasipala sokushenxisa imiqathango yesithintelo setayitile yobunini E.6(b)(i) kunye (ii) njengoko iqulethwe kwiSivumelwano soBunini T91725/98 sale proprati ukulungiselela isiphakamiso se brayi kunye ne Pizza oveni.</p> <p><u>Uphambuko</u> Isicelo ngokwemiGaqo yeCandelo le-16(2)(b) loMthetho kaMasipala soku -Nyenya umda wesakhiwo ngasemva ukusuka kwi 2 mitha ukuya ku 0 mitha ukulungiselela isiphakamiso se brayi kunye nePizza oveni.</p> <p>linkcukacha ezipheleleyo mayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini phakathi kwentsimbi ye-08:00 neye-16:30kwiSebe: Lezicwangciso Zedolophu neNdawo, 16 Paterson Street, Hermanus.</p> <p>Naziphi na izimvo ezibhaliweyo mazifike kwaMasipala (16 Paterson Street, Hermanus / (e) loretta@overstrand.gov.za) ngomhla okanye ngaphambi komhla wama-25 Eyekhala 2025, zibe negama lakho idilesi, iinkcukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zokuhlomla kwakho. Imibuzo ngefowuni ingathunyelwa kuMcwangcisi Omkhulu weDolophu, uMnu H.Olivier ku-028-3138900. UMasipala unokwala ukwamkela izimvo ezifike emva komhla wokuvala. Nabani ongakwazi ukufunda nokubhala angahambela kwiSebe Lezicwangciso zeDolophu neNdawo apho baza kuncedwa ligosa likamasipala ukwakha uluvo nokubhala izimvo zakhe.</p> |
| <p>Dr DGI O'Neill Municipal Manager / Munisipale Bestuurder / Umphathi Kamasipala PO Box / Posbus / Ibhokisi yePosi 20 HERMANUS 7200</p> <p style="text-align: right;"><i>Notice no. / Kennisgewing nr. / Inothiisi yeNomb: 119/2025</i></p> | | |

**Erf 1093 Vermont:
Motivation report for
Removal of Restrictive Title Deed Conditions
&
Departure Application**

1. BACKGROUND



Figure 1: Location

Erf 1093, Vermont (hereinafter referred to as “the site”), located at 22 Bietou Street, Vermont, is zoned Residential Zone 1: Single Residential and is currently developed with a single residential dwelling. The owner intends to undertake additions in the form of an outside braai and pizza oven, to be situated along the western boundary of the erf. In order to facilitate the proposed additions, application is required for the removal of restrictive title deed conditions and a departure from the applicable building line.

I.C.@Plan Town Planners were accordingly appointed by the Trustees of Die Visser Familietrust, the owner of the property, to apply for the above. The Power of Attorney & Trust Resolution authorizing this firm to lodge the application is attached in **Annexure B**.

2. THE APPLICATION

Application is hereby made for the following:

- I. **'Removal of Restrictive title conditions** E6(b)(i)(ii), as set out in Deed of Transfer Number T91725/1998 of Erf 1093, Vermont, in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to accommodate the proposed braai structure and pizza oven that encroach the rear boundary of the property.
- II. **Permanent Departure** in terms of the Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to relax the rear building line from 2m to 0m to accommodate the braai and pizza oven proposed at the rear boundary of the property.

The application form duly completed and signed is herewith attached in **Annexure A** for your perusal

3. PROPERTY DETAILS

| | |
|-------------------------------------|--|
| PROPERTY DESCRIPTION | Erf 1093, Vermont |
| EXTENT | 658m ² |
| TITLE DEED NO | T 91725/1998 |
| RESTRICTIVE TITLE CONDITIONS | Yes |
| REGISTERED OWNER | Die Trustees van tyd tot tyd van die Visser Familietrust |
| APPLICANT | I.C.@Plan Town Planners |
| ZONING | Residential Zone 1: Single Residential |

Table 1: Property details

3.1 Locality and Accessibility

Erf 1093 is located at 22 Bietou Street within the residential suburb of Vermont. Vermont can be described as a predominantly low-density residential neighbourhood characterised by single residential dwellings. The surrounding area is defined by its tranquil character, green corridors, and proximity to the coastal walking trails. The immediate urban form is typified by detached dwellings on relatively large erven, thereby preserving a suburban residential aesthetic.

Bietou Street connects to Vermont Avenue which is a key local distributor road that links Vermont with the broader road network including the R43 regional route, providing direct access to Hermanus and other regional service centres. The road infrastructure in the area is tarred and in good condition, with limited through-traffic, supporting a safe and low-impact residential environment.

3.2 Surrounding Land Uses and Zoning

The Overstrand Municipal Zoning Scheme is applicable to this area and in terms of the zoning scheme, the site is zoned Residential Zone 1: Single Residential. The surrounding properties are pre-dominantly zoned for residential purposes and provides a variety of erf sizes.

4. REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS

Certain conditions as set out in Deed of Transfer T 91725/1998 in respect of Erf 1093, Vermont are proposed to be removed. The intention of the restrictive title deed conditions as set out in the title deed was to protect the residential character of the Vermont neighbourhood. Land use in the Western Cape, however, is currently regulated by the Land Use Planning Act (Act 3 of 2014) and in the Overstrand areas by the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 and the Overstrand Zoning Scheme. The Overstrand Municipality is, in terms of the beforementioned legislation, the controlling authority who regulates land use in the area. The below conditions impose building line restrictions inconsistent with modern planning principles and the applicable land use scheme.

The application therefore seeks the removal of these conditions in order to align with current zoning provisions, facilitate the optimal use of land, and allow for a contextually appropriate development.

4.1 Removal of Restrictive Title Deed Conditions

The following conditions appear in the Deed of Transfer T 91725/1998 in respect of Erf 1093, Vermont and is proposed to be removed from the Title Deed (also see attached conveyancer certificate):

E. ONDERHEWIG VERDER aan die volgende voorwaardes opgelê deur die Administrateur kragtens die bepalings van Ordonnansie nr 33 van 1934 by die goedkeuring van VERMONT DORP UITBREIDING NR 2, soos vervat in die Transportakte No T24863/1977, naamlik:

6(b) Geen gebou of struktuur of enige gedeelte daarvan, behalwe grensmure en heinings, mag behalwe met die toestemming van die Administrateur nader as 5 meter van die straatlyn wat 'n grens van hierdie erf uitmaak, asook nie binne 3 meter van die agtergrens of 1.5 meter van die sygrens gemeen aan enige aangrensende erf

opgerig word nie, met dien verstande dat met die toestemming van die Plaaslike Owerheid:

- (i) *‘n Buitegebou wat uitsluitend vir die stalling van motorvoertuie gebruik word en hoogstens 3 meter hoog is, gemeet van die vloer van die buitegebou tot by die muurplaat daarvan, binne sodanige sy- en agterruimtes oopgerig mag word, en enige ander buitegebou van dieselfde hoogte binne die agterruimte en syruimte opgerig mag word vir ‘n afstand van 12 meter gemeet van die agtergrens van die erf, met dien verstande dat in geval van ‘n hoekerf die afstand van 12 meter gemeet moet word van die punt wat die verste is van die strate wat die erf begrens.*
- (ii) *‘n Buitegebou ingevolge subparagraaf (i) slegs nader aan ‘n sygrens of agtergrens van ‘n perseel as die afstand hierbo voorgeskryf, opgerig mag word indien geen vensters of deure in enige muur, wat op sodanige grens front, aangebring word nie.*

4.2 Requirements for the amendment, suspension or removal of restrictive title conditions

The Overstrand Municipality By-Law on Land Use Planning, 2015 discuss the municipal considerations for the removal, suspension or amendment of restrictive title deed conditions in section 35(4). The proposal to remove the above-mentioned restrictive title deed conditions will now be assessed in terms of these considerations.

4.2.1 Section 35 (4)(a): “The financial or other value of the rights in terms of the restrictive conditions enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the personas of the owner of a dominant tenement”

The restrictive building lines were historically imposed to ensure uniformity, privacy, and access to light. However, modern land use planning and zoning regulations, including lateral and rear building line provisions in the Overstrand Zoning Scheme, adequately safeguard these interests through up-to-date spatial planning mechanisms. In the context of Erf 1903 Vermont, the removal of these conditions will not infringe upon any unique, vested rights of adjacent property owners. The existing rights they enjoy are preserved through the municipality's development control mechanisms. The removal of the restrictive condition will not negatively affect any party's financial interests or enjoyment of their property. Contemporary planning policy and zoning regulations now provide sufficient safeguards to protect light, privacy, and space between buildings. These planning instruments effectively supersede the value once offered by the restrictive title condition.

4.2.2 Section 35 (4)(b): “The personal benefits which accrue to the holder of rights in terms of the restrictive condition”

Any benefit enjoyed by neighboring property owners—such as sunlight, privacy, and separation—is already

protected under current lateral and rear building lines in the zoning scheme. The restrictive title deed condition provides no additional enforceable benefit beyond that. Therefore, its removal would not diminish any specific right or tangible benefit held by others.

4.2.3 Section 35 (4)(c):" The personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed"

The applicant seeks to develop a low-scale, non-habitable braai and pizza oven structure within the rear setback area, which would not be permitted under the current restrictive title deed condition. Removal of the condition enables the owner to utilize the property more effectively, enhancing residential amenity and outdoor living functionality. The removal of the restrictive conditions eliminates the need for redundant dual compliance (i.e., with both the zoning scheme and title deed), ensuring clarity, flexibility, and efficient site development.

4.2.4 Section 35 (4)(d)" The social benefit of the removal or amendment of the restrictive condition"

There is no demonstrable social benefit to maintaining this condition in parallel with zoning scheme regulations. Its continued enforcement perpetuates outdated control mechanisms, increases administrative complexity, and restricts development potential in a manner inconsistent with current spatial planning policies.

4.2.5 Section 35 (4)(e)" The social benefit of the removal or of the restrictive condition"

The removal simplifies the regulatory environment and allows the Municipality to rely solely on its zoning scheme and applicable development controls, all of which are up-to-date, transparent, and enforceable.

Removing the condition promotes spatial equity and consistency, facilitates property improvements aligned with contemporary planning goals, and supports context-sensitive development without undermining the residential character or liveability of the area.

4.2.6 Section 35 (4)(e):" 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".

Only certain restrictive conditions are proposed for removal or amendment. Importantly, none of these conditions grant specific rights upon any individual or member of the public. As such, their removal or amendment does not constitute a deprivation of any vested rights and will not result in any prejudice to third parties.

4.3 Permanent Departure from the rear building line

The owner proposes the construction of a permanent outdoor braai (barbecue) and pizza oven, to be positioned along the western boundary of the erf. This positioning requires a departure from the standard 2.0m rear building line to 0.0m. The erf is bounded on its western edge by public open space, and Erf 1092, which is located to the northwest, is positioned on a dune that elevates it significantly above Erf 1093. As such, the western boundary abuts non-residential land use and an elevated erf, reducing the likelihood of any negative impacts. The open space directly adjacent to the western boundary further acts as a buffer zone, mitigating potential concerns regarding privacy, overshadowing, or sense of enclosure for neighbouring properties.

5. SPATIAL PLANNING LAND USE MANAGEMENT ACT (ACT16 OF 2013) (SPLUMA) AND THE WESTERN CAPE LAND USE PLANNING ACT(ACT 3 OF 2014) (LUPA)

Section 7 of SPLUMA and Section 59 of LUPA prescribe five development/planning principles that should be considered in the evaluation of the application. The proposal adheres to these principles as follow:

Spatial Justice

Spatial justice seeks to redress past spatial imbalances, promote equitable access to land, and ensure fair treatment in the spatial planning process.

The restrictive title deed conditions impose limitations that no longer align with the current zoning parameters and the intent of inclusive, modern residential development. Their removal would allow the owner to fully realise the rights and benefits conferred by the applicable zoning scheme. The western boundary abuts public open space, and the proposed encroachment into the building line does not restrict any other property's access to light, views, or services.

The departure and removal of restrictions support the principle of fair use of land, by enabling the landowner to utilise their property to its full potential in a responsible and context-sensitive manner, without adversely affecting others. The proposal contributes to balanced spatial development, especially in a context where neighbouring properties have already exercised similar development rights or are unaffected by such amendments.

Spatial Sustainability

This principle promotes development that is environmentally responsible and resource-efficient over the long term.

Removing restrictive title deed conditions enables land use that is responsive to modern environmental considerations rather than outdated controls that were conceived without these sustainability goals in

mind. The placement of the structures along the boundary optimises solar orientation and wind conditions for smoke dispersion, avoiding pollution or discomfort within the property or adjacent areas.

Spatial Efficiency

Spatial efficiency promotes optimal use of land, infrastructure, and resources, and discourages underutilisation of property.

By removing outdated title deed conditions and permitting the building line departure, the development achieves a more compact footprint while preserving the integrity of usable open space elsewhere on the property. The western boundary's adjacency to public open space and the topographic elevation of Erf 1092 means the use of this space does not impede existing land or infrastructure networks.

Spatial resilience

Spatial resilience refers to flexibility in spatial plans, land use management and policies to ensure sustainable livelihoods most likely to suffer the impact of environment or economic shocks.

In this context, the proposed removal of restrictive title deed conditions and permanent departure from the 2m rear building line on Erf 1093 contribute directly to the enhancement of spatial resilience at the site, neighbourhood, and municipal scale.

Good Administration

Good administration is founded on principles of consistency, transparency, and fairness in planning processes.

This application has been submitted in full compliance with the prescribed procedures, accompanied by a clear and comprehensive motivation, all relevant supporting documentation, and adherence to the applicable municipal planning requirements. The proposed removal of restrictive title deed conditions will eliminate legal ambiguities and potential conflicts between outdated private title controls and the current public planning framework. This alignment fosters legal certainty and simplifies future land use management, contributing to more efficient and coherent municipal governance.

6. DESIRABILITY ASSESSMENT

The following factors should be considered in terms of the desirability of the permanent departure from the rear building line:

Socio-Economic Impact

The proposed departure will have no negative socio-economic impact on the surrounding area. On the contrary, it may enhance the property's utility and livability, thereby supporting local property values and reinforcing

residential desirability. It also reflects small-scale investment into the property, contributing to local construction activity and economic participation.

Compatibility with surrounding uses

The proposed braai and pizza oven are ancillary residential structures consistent with the primary land use rights applicable to the property. They are in harmony with surrounding single residential uses. The western boundary adjoins public open space, and the nearest dwelling (on Erf 1092) is located on a dune and elevated, which further reduces any visual or use-based incompatibility.

Impact on external engineering services

The proposed departure will have no adverse impact on external engineering services. The structures are minor, non-habitable additions, and do not interfere with existing municipal infrastructure such as stormwater, sewer, or water networks. There are no known service alignments or servitudes along the affected boundary.

Impact on health, safety and wellbeing of the surrounding community

The location along the boundary facing open space, and not toward habitable areas of neighboring properties, ensures no risk of fire spread, smoke nuisance, or privacy infringement, thereby maintaining a safe and healthy environment for all

Impact on Heritage

There are no heritage resources on the property or within the immediate context of the proposed development. The structure is new, small in scale, and contemporary in design, and does not alter any historically significant landscapes, architectural fabric, or cultural assets. The departure therefore has no impact on heritage significance.

Impact on the biophysical environment

The proposed structures are located in an already developed residential setting and do not affect ecologically sensitive areas, watercourses, or natural habitats. As such, departure has a negligible impact on the biophysical environment.

Traffic impact, parking, access and other transport-related considerations

The departure does not involve any changes to vehicular access, parking allocation, or road reserve encroachment. The structures are located within the backyard, away from the street frontage, and do not obstruct driveways or pedestrian routes. There are therefore no traffic or transport-related impacts associated with the proposal.

7. CONCLUSION

The proposed removal of restrictive title deed conditions will eliminate legal ambiguities and potential conflicts between outdated private title controls and the current public planning framework. This alignment fosters legal certainty and simplifies future land use management, contributing to more efficient and coherent municipal governance. Given the unique spatial configuration of the erf, its interface with open space, and the lack of negative impacts on surrounding properties, the requested departure from 2.0m to 0.0m on the western rear building line is deemed both reasonable and appropriate. The proposed departure is in line with town planning best practice, has no adverse impact on public or private interests, and is supported by sound planning rationale. It is therefore respectfully recommended that the application for permanent departure be approved. It will result in the optimal utilization of the properties taking into account the character of the area. With this in mind, it is envisaged that Council will favorably consider the application.

