

ERF 7190, 57 ROCKLANDS ROAD, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DETERMINATION OF AN ADMINISTRATIVE PENALTY, SUBDIVISION & DEPARTURE: PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF MHR GLAS

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-law) for the following:

Determination of an administrative penalty in terms of Section 16(2)(q) of the By-Law for the for the as-built boundary walls, braai and braai area to the property.

Subdivision in terms of Section 16(2)(d) of the By-Law for the subdivision of the erf in two (2) portions namely Portion A ($\pm 655\text{m}^2$) and Remainder: ($\pm 694\text{m}^2$).

Departure in terms of Section 16(2)(b) of the Bylaw for the following:

- Relaxation of the street building line from 4m to 0.18m to accommodate the as-built braai area with a total height of $\pm 1.53\text{m}$,
- Relaxation of the street building line from 4m to 3.18m to accommodate the as-built braai with a total height of $\pm 3.4\text{m}$,
- Relaxation of the north-eastern lateral building line from 2m to 1.2m to accommodate the as-built braai area,
- Relaxation of the north-eastern lateral building line from 2m to 1.13m to accommodate the as-built braai,
- Relaxation of the south-western lateral building line of Remainder erf 7190 from 2m to 0m to accommodate the as-built carport after subdivision, and

Departure in terms of Section 16(2)(b) of the Bylaw for the relaxation of the street building line from 4m to 0m and deviate from the maximum permissible height allowed for boundary walls on the 0m street building line for the following:

- from 2.1m to 2.28m (lowest point) and from 2.1m to 2.48m (highest point) on Remainder erf 7190, and
- from 2.1m to 2.27m (lowest point) and from 2.1m to 2.45m (highest point) on Portion A, a portion of erf 7190.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, Paterson Street, Hermanus. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (e) alida@overstrand.gov.za) on or before **18 October 2024**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the **Town Planner, Mr. B Minnaar** at 028-313 8900. 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.

ERF 7190, ROCKLANDS WEG 57, WESTCLIFF, HERMANUS, OVERSTRAND MUNISIPALE GEBIED: AANSOEK VIR BEPALING VAN 'N ADMINISTRATIEWE BOETE, ONDERVERDELING & AFWYKING: PLAN ACTIVE STADS- EN STREEK BEPLANNERS NAMENS MHR GLAS

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) vir die:

Bepaling van Administratiewe Boete ingevolge Artikel 16(2)(q) van die Verordening vir die bepaling van 'n administratiewe boete vir die vir die bestaande grens mure, braai en braai area.

Onderverdeling ingevolge Artikel 16(2)(d) van die Verordening vir die onderverdeling van die erf in twee (2) gedeeltes naamlik Gedeelte A: ($\pm 655\text{m}^2$) en die Restant ($\pm 695\text{m}^2$).

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

- Verslapping van die straat bou lyn vanaf 4m na 0.18m om 'n geboude braai area met 'n totale hoogte van $\pm 1.53\text{m}$ te akkommodeer.
- Verslapping van die straat bou lyn vanaf 4m na 3.18m om 'n geboude braai met 'n totale hoogte van $\pm 3.4\text{m}$ te akkommodeer,
- Verslapping van die noord-oostelike sy boulyn vanaf 2m na 1.2m om 'n soos geboude braai area te akkommodeer,
- Verslapping van die noord-oostelike sy boulyn vanaf 2m na 1.13m om 'n soos geboude braai te akkommodeer,
- Verslapping van die suid-westelike sy boulyn van Restant erf 7190 vanaf 2m na 0m om die soos begoude motorafdak te akkommodeer.

Afwyking ingevolge Artikel 16(2)(b) van die Verordening vir die verslapping van die straat boulyn vanaf 4m na 0m en afwyk van die maksimum toelaatbare hoogte aanvaarbaar vir grensmure op die 0m straat bou lyn vir die volgende:

- vanaf 2.1m na 2.28m (laagste punt) en vanaf 2.1m na 2.48m (hoogste punt) op Restant erf 7190, en
- vanaf 2.1m na 2.27m (laagste punt) en vanaf 2.1m na 2.45m (hoogste punt) op Gedeelte A, 'n gedeelte van erf 7190.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) voor of op **18 Oktober 2024**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan die **Stadsbeplanner, Mnr. B. Minnaar** by 028-313 8900. Die Munisipaliteit mag weier om die kommentaar 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 formaliseer.

ERF 7190, 57 ROCKLANDS ROAD, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DETERMINATION OF AN ADMINISTRATIVE PENALTY, SUBDIVISION & DEPARTURE: PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF MHR GLAS

Kukhutshwe isaziso esimayela nemiba yeSoloty lama-48 loMthethwana kaMasipala wase-Overstrand ngeZicwangciso zokuSetyenziswa koMhlaba kaMasipala ku2020 (Umthethwana) osebenza ngokulandelayo:

Ingqikelelo yomdliwo wobhaliso ngokwemiba yeSoloty le16(2)(q) loMthethwana wamadonga angumda asele akhiwe, ukubhraya/ukoja nendawo yokubhraya/yokoja kwesi siza.

Ukwahlula-hlula ngokwemiba yeSoloty le16(2)(d) loMthethwana wokwahlula-hlula wesiza sibe zizahlulo ezibini (2) ezibizwa iNxalenye A ($\pm 655m^2$) neNtsalela: ($\pm 694m^2$).

Ukwahlula ngokwemiba yeSoloty le16(2)(b) loMthethwana ongezi meko zilandelayo:

- Ukunyenyisa umgca wesitrato omelene nesakhiwo ukusuka kwimitha ezi-4m ukuya kwi-0.18m ukulungiselela indawo yokubhraya/yokoja inyama ekukuphakama kuzimitha eziyi- $\pm 1.53m$,
- Ukunyenyisa umgca wesitrato omelene nesakhiwo ukusuka kwimitha ezi- 4m ukuya ku-3.18m ukulungiselela isakhiwo sokubhraya/sokoja inyama ekukuphakama kuzimitha eziyi- $\pm 3.4m$,
- Ukunyenyisa umgca wesitrato omelene nesakhiwo kumntla-mpuma wesakhiwo ukusuka kwiimitha ezi-2m ukuya ku-1.2m ukulungiselela indawo esi sakhiwo sokubhraya/sokoja inyama,
- Ukunyenyisa umgca wesitrato omelene nesakhiwo kumntla-ntshona ukusuka kwiimitha ezi-2m ukuya kwi-1.13m ukulungiselela indawo esisakhiwo sokubhraya/sokoja inyama,
- Ukunyenyisa umgca wesitrato omelene nesakhiwo kumzantsi-ntshona kwiiNtsalela engu-7190 ukusuka kwiimitha ezi-2m ukuya ku- 0m ukulungiselela ikhapoti esemva kokwahlula, kunye noku;

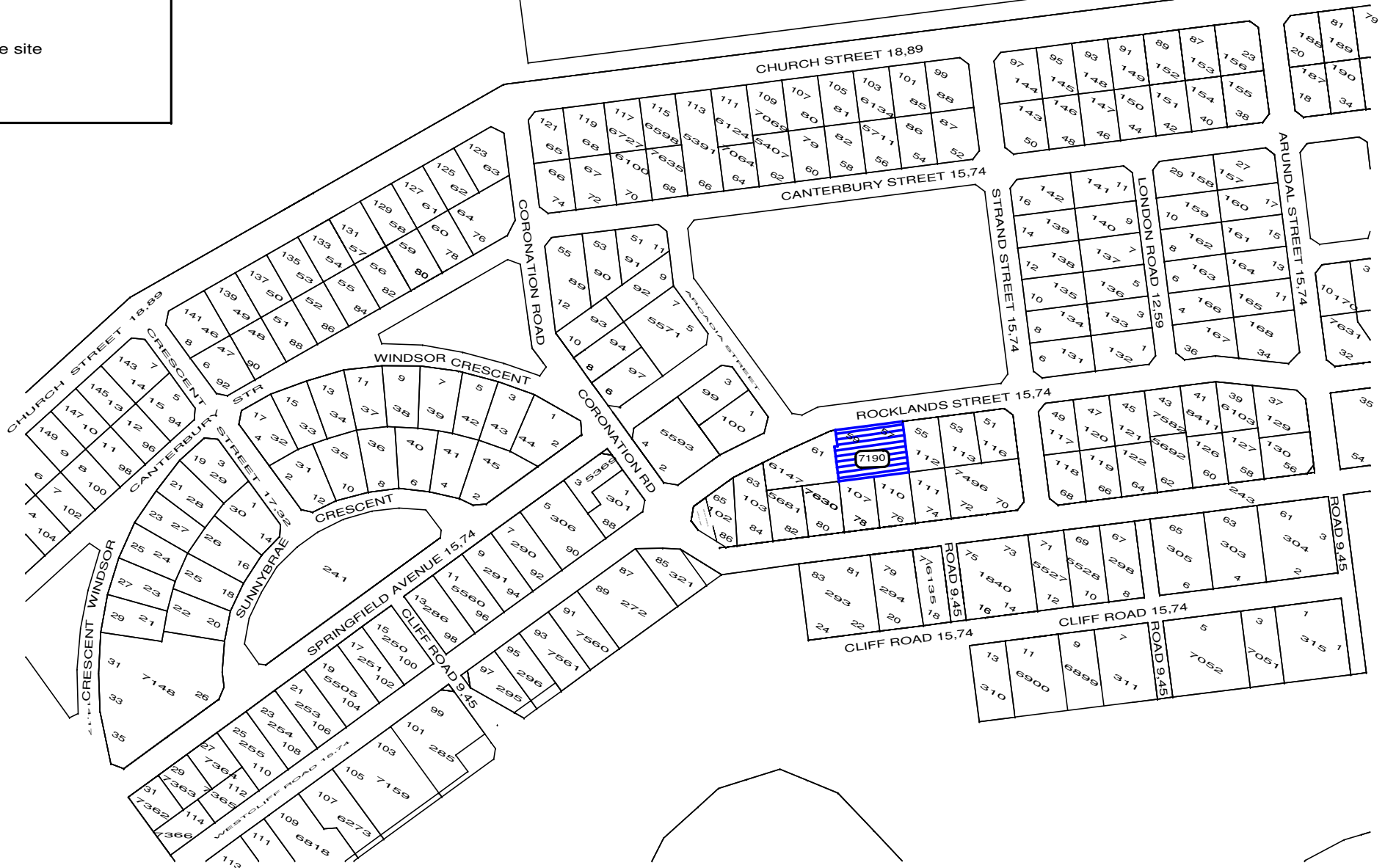
Ukwahlula ngokwemiba yeSoloty le16(2)(b) loMthethwana ongokunyenyisa umgca wesakhiwo ngeemitha eziyi-4m ukuya ku- 0m ukugqithe kumphakamo ovumelekileyo nokungagqithwayo kuyo ukuphakamisa umda wamadonga ozimitha eziyi-0m okumgca wesakhiwo njengoku kulandelayo:

- ukusuka kwiimitha ezi-2.1m ukuya kwimitha ezi-2.28m (kwincam esezantsi) neemitha eziyi-2.1m ukuya kwimitha ezi- 2.48m (kwincam ephakamileyo) kwiNtsalela yeSiza esingu-erf 7190, kunye
- nokusuka kwiimitha ezi-2.1m ukuya kwiimitha eziyi-2.27m (kwincam esezantsi) nokusuka kwiimitha ezi-2.1m ukuya kwimitha ezi-2.45m kwincam ephakamileyo) kwiNxalenye A, nenxalenye yesiza engu-erf 7190.

linkcukacha ezipheleleyo ngesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini phakathi kweentsimbi ye0-8:00 neye-16:30 kwiSebe: LeziCwangciso zeDolophu, Paterson Street, Hermanus. Naziphi na izimvo zingangeniswa ngokwezibonelelozeSoloty lama-51 nelama-52 loMthethwana kaMasipala ongasentla (16 Paterson Street, Hermanus / (e) alida@overstrand.gov.za) ngomhla okanye ngaphambi **komhla 18 ka-Oktobha 2024**, uchaze igama lakho, idilesi neenkukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zakho zokuhlomla. Imibuzo ngefowuni ingabuzwa ku**Mcwangcisi wedDolophu, uMnu. B Minnaar kwa-028-313 8900**. UMasipala angala ukwamkela izimvo ezifike emva komhla wokuvala. Nabani na ongakwazi ukufunda nokubhala angahambela kwiSebe LeziCwangciso zeDolophu apho igosa likaMasipala liza kumnceda ukubhala izimvo zakhe ukuze ahlomle ngokusemthethweni.

NOTES:

 The site



**PROPOSED DETERMINATION OF AN ADMINISTRATIVE
PENALTY, SUBDIVISION & DEPARTURE**

ERF 7190 HERMANUS

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

Plan Active Town & Regional Planners has been appointed by M.H.R. Glas, the owner of erf 7190 Hermanus, to apply for the administrative penalty, subdivision and departure of the subject property.

The property owner intends to subdivide the subject property to create one additional portion. In addition, the As Built boundary walls and the braai and braai preparation area exceeds the maximum permissible height for boundary walls and braai structures within the 2m lateral and 4m street building lines. One carport will be retained after subdivision and the latter is positioned on the 0m street and new common boundary (subdivision) line after subdivision. The current property owner bought the subject property As Built.

The application aims to address the encroachments and to create one additional portion. No new additions are proposed; rather, the focus is on addressing the existing deviations from approved plans on record.

A subdivision application was submitted but refused in 2005 due to insufficient electricity capacity. An approval was issued in 2015 for the relaxation of the street building line to 0m for the carports and the lateral building line to 1m for the existing dwelling.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an **administrative penalty** for erf 7190 Hermanus;
- Chapter 4, Section 16(2)(d) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, for the **subdivision** of erf 7190 Hermanus;
- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for **the departure** of erf 7190 Hermanus.

3. NEED AND DESIRABILITY

3.1 PROPERTY DESCRIPTION

The subject property is situated at 57 / 59 Rocklands Street, Westcliff, Hermanus. Refer to the locality plan attached. Erf 7190 Hermanus is 1 349m² in extent and is held by title deed no. T19330/2021.

The property gently slopes in a south and south-westerly direction and is predominantly characterized by residential structures, including a dwelling with stoep, braai area and two carports.

3.2 ZONING

Erf 7190 Hermanus has the following land use rights:

ERF NUMBER	ZONING
Erf 7190 Hermanus	Residential Zone 1: Single Residential

Surrounding properties are zoned for single residential, public road and public open space purposes.

3.3 LAND USE

There is an existing double storey dwelling with stoep and two carports situated on the subject property. The extent of the existing dwelling is $\pm 185\text{m}^2$, carport is $\pm 38\text{m}^2$ and open stoep is $\pm 55\text{m}^2$. The subject property is therefore used for residential purposes only. A copy of the latest approved building plan dated 13 November 2012 is attached.

The surrounding land uses adjacent to the subject property consist primarily of single residential dwellings, interspersed with public open spaces and public roads. This context suggests a typical residential neighbourhood setting, characterized by a mix of housing units and amenities commonly found in urban or suburban areas.

3.4 PROPOSAL

The following is proposed:

1. The determination of an **administrative penalty** for erf 7190 Hermanus to accommodate the As Built boundary walls, braai and braai preparation area in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020;
2. The subdivision of erf 7190 Hermanus in terms of Chapter 4, Section 16(2)(d) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, into two portions as follow:
 - a. Portion A: $\pm 655\text{m}^2$
 - b. Remainder: $\pm 694\text{m}^2$;



3. The **departure** of erf 7190 Hermanus in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, to:
- relax the street building line from 4m to 0,18m to accommodate the As Built braai preparation area with total height of $\pm 1,53\text{m}$;
 - relax the street building line from 4m to 3,18m to accommodate the As Built braai with total height of $\pm 3,4\text{m}$;
 - north-eastern lateral building lines from 2m to 1,2m to accommodate the As Built braai preparation area and 2m to 1,13m to accommodate the As Built braai;
 - relax the south-western lateral building line of Remainder erf 7190 Hermanus from 2m to 0m to accommodate the as-built carport after subdivision;
 - relax the street building line from 4m to 0m and deviate from the maximum permissible height allowed for boundary walls on the 0m street building line:
 - from 2,1m to 2,28m (lowest point) and 2,48m (highest point) on Remainder erf 7190 Hermanus;
 - from 2,1m to 2,27m (lowest point) and 2,45m (highest point) on Portion A, a portion of erf 7190 Hermanus.

The previous property owners deviated from the approved building plans. The current owner has undertaken no unlawful building work on the subject property. The previous owners constructed a boundary wall (Rocklands Street boundary) that exceeds the permissible boundary wall height (most likely due to the slope of the subject property). In addition, a braai and braai preparation area were constructed within the street and north-eastern lateral building lines.

It is proposed to subdivide the subject property into two portions. The carport on the newly created Portion A will be demolished, however, the second carport will be positioned on the 0m common boundary and street building line after subdivision. This application proposes to accommodate the unlawful structures, to subdivide the subject property into two portions and to accommodate the carport on the 0m common boundary line after subdivision.

Herewith the detail of the proposed application for consideration:

3.4.1 Rectification of contravention

In terms of Chapter 5, Section 90(1) a person who is in contravention of the Municipal Planning Amended By-Law (2020), 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.

As the application is for the rectification of a contravention of the By-Law (As Built structures), an application is submitted for the determination of an administrative penalty fee in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020. However, the Municipal Planning Tribunal (MPT) has the authority not to impose such a fee. In terms of Section 90(3) of the MPBL, the MPT must at least consider the following factors when determining an appropriate administrative penalty:

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

The current owner bought the subject property in 2021. He was unaware of any unlawful structures on the subject property. It was only when he contemplated subdividing the subject property into two portions that the unlawful structures were pointed out to him.

It is unknown to the current owner when the boundary walls, braai and braai preparation area were constructed on the subject property. The only approved building plan on record is dated 13 November 2012. This building plan does neither reflect the boundary walls nor the braai structures.

The current owner (our client) intends to retain the boundary walls, braai preparation area, braai and one of the carports. The aforementioned structures encroach the relevant land use scheme regulations' building lines and maximum height requirements and the latter is addressed in the sections to follow. The total extent of the braai preparation area is $\pm 1,4\text{m}^2$ (2,36m x 0,57m). The structure's height is $\pm 83\text{cm}$ above natural ground level (NGL) and $\pm 70\text{cm}$ above stoep level – total height of $\pm 1,53\text{m}$ above NGL. The total extent of the braai is $\pm 1,5\text{m}^2$ (2,18m x 0,68m). The braai's height is $\pm 83\text{cm}$ above NGL and $\pm 2,535\text{m}$ above the stoep level – total height

of $\pm 3,4\text{m}$. The braai preparation area and braai encroach both the street and north-eastern lateral building lines – refer to the subdivision plan and the photographs below showing the as-built braai preparation area and braai:



Images of the as-built braai preparation and braai on the stoep in front of the dwelling

The position and height of the boundary walls are indicated on the subdivision plan. The boundary walls encroach the maximum permissible height as described in the sections below and the necessary deviation was not applied for prior to the construction of the boundary walls. It should be noted that the boundary walls step and the property slopes in the direction of the vacant section (proposed Portion A) of the subject property.

The position and nature of the As Built structures are unobtrusive in nature and do not impact negatively on the surrounding properties, as no complaint from surrounding property owners has been received up to date. A departure application to accommodate the As Built structures is included in this application.

- **The conduct of the person involved in the contravention**

The current owner has never contravened the land use planning By-law in the past. He addressed the matter related to the unlawful structures as soon as he was made aware of the fact and appointed our firm to assist him to obtain the necessary approvals.

- **Whether the unlawful conduct was stopped**

The as-built structures were constructed by the previous property owners. However, the current owner would like to retain the as-built structures. The current owner wants to subdivide the subject property and therefore this application proposes to rectify the contravention by the previous owners by submitting the administration penalty application and subsequent departure application in order to legalise the as-built structures on the subject property.

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

If the Overstrand Municipality finds it necessary that an administrative penalty fee needs to be enforced for the unauthorised building work, we will submit a report from a quantity surveyor / building contractor with reference to the unauthorised building work construction fees. The reason being that if there is a chance that no penalty fee is imposed the report from a quantity surveyor will be unnecessary at this stage.

The current landowner did not construct the unlawful as-built boundary walls, braai preparation area and braai.

- **Whether a person involved in the contravention has previously contravened this By-Law or a previous planning law**

To the best knowledge of the applicant and as confirmed by the landowner, he has had never previously contravened this By-Law or any other previous planning law.

- **Summary**

We appeal to the Overstrand Municipality to take into consideration the low impact the as-built structures and respective uses thereof have and will continue to have on the surrounding area (as further motivated in the building line relaxation application below). The as-built structures have a minimal impact on the neighbouring properties since the footprint of the structures will remain unchanged and since these structures are not habitable area.

It should also be considered that no complaints from surrounding property owners were submitted to date.

The owner never hesitated to immediately give instruction to the consultants to assist in the matter to rectify the contravention by submitting a complete (and fully motivated) departure application and submitting a determination of an administrative penalty application. We therefore respectfully request that no penalty fee be imposed on the property owner for the reasons given above.

3.4.2 Subdivision

The potential of the subject property is discussed in detail in *Section 3.4 Potential of the property*.

When the proposed subdivision layout of erf 7190 Hermanus was considered, cognisance was taken of the following criteria:

- Physical characteristics of the subject property;
- Surrounding and minimum erf sizes;



- Accessibility to the subject properties;
- Impact on the character of the area;
- Erf shapes;
- Applicable spatial planning policies and densification guidelines.

Erf 7190 Hermanus is currently a larger portion of land in this residential block. The subject property initially consisted of two (2) erven (erven 108 and 109 Hermanus – refer to SG-diagram no. 5400/1996 and General Plan no. TP14LD for Hermanus Extension no. 2). The owner intends to subdivide the subject property into two (2) erven to sell the new vacant portion to a prospective buyer in future. It is proposed to subdivide erf 7190 Hermanus as follows:

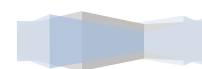
TOTAL AREA	1349m ²
AREAS FOR SUBDIVISION	Portion A: ±655m ² Remainder: ±694m ²
OWNER	M.H.R. Glas
TITLE DEED	T19338/2021

Refer to the subdivision plan attached.

The Overstrand Municipality's densification policy establishes the principle of incremental densification in an established residential area if it does not have a detrimental impact on its character. It is important to enhance and protect the character of the existing low-density residential area, while still sensitively densifying where appropriate. This ensures that a wide range of erf sizes and types of development is available, not only within this precinct, but also within the entire greater Overstrand area.

The subdivision line follows the previous common boundary of erven 108 and 109 Hermanus before consolidation. The subdivision line was determined to create an additional portion that allows for ample developable area after subdivision. Feasible residential portions can be created without having a detrimental impact on the environment.

The As Built carport positioned on Portion A will be demolished in future and it is proposed to retain the second carport positioned on Remainder erf 7190 Hermanus.



There are no title deed conditions that prohibit the subdivision of the subject property. The subdivision line was determined to create erven of 655m² and 694m² in extent that do not deviate with more than 10% from the surrounding erf sizes to ensure that the proposal is compatible with the area.

The minimum common and street boundary building lines of 2m and 4m respectively will apply to all the newly created portions. As indicated on the proposed subdivision plan, ample development areas exist on both portions after subdivision.

It was attempted to keep the subdivision lines as simple and practical as possible to avoid creating asymmetrical erf shapes that would have an impact on the future development of the subject properties as well as the character of the area. The proposal is to create grid shaped erven after subdivision and the aforementioned is compatible with the area.

3.4.3 Departure

Firstly, it is proposed to retain the as-built boundary walls on Rocklands Street side. The as-built boundary wall exceeds the maximum permissible height for the consideration of boundary walls on the 0m street building line. It is proposed to deviate from the maximum permissible height requirement and applicable building line for the consideration of a boundary wall on the 0m street building line as follows:

- from 2,1m to 2,28m (lowest point) and 2,48m (highest point) on Remainder erf 7190 Hermanus;
- from 2,1m to 2,27m (lowest point) and 2,45m (highest point) on Portion A, a portion of erf 7190 Hermanus.

Refer to the subdivision plan attached.

The owner would like to retain the boundary wall and therefore an application for departure is submitted. No alterations or additions to the boundary wall are proposed. It should be noted that the boundary wall is stepped and the property slopes in the direction of the vacant section (proposed Portion A) of the subject property.



Secondly, the as-built braai and braai preparation area of higher than 1m encroaches the 4m street and 2m north-eastern lateral building lines. The owner would like to retain the braai structures and an application for departure is submitted to deviate from the building lines as follows:

- relax the street building line from 4m to 0,18m to accommodate the As Built braai preparation area with total height of $\pm 1,53\text{m}$;
- relax the street building line from 4m to 3,18m to accommodate the As Built braai with total height of $\pm 3,4\text{m}$;
- north-eastern lateral building lines from 2m to 1,2m to accommodate the As Built braai preparation area and 1,13m to accommodate the As Built braai;

The braai area is positioned on the stoep and forms part of the entertainment area. The total extent of the braai preparation area is $\pm 1,4\text{m}^2$ (2,36m x 0,57m). The structure's height is $\pm 83\text{cm}$ above natural ground level (NGL) and $\pm 70\text{cm}$ above stoep level – total height of $\pm 1,53\text{m}$ above NGL. The total extent of the braai is $\pm 1,5\text{m}^2$ (2,18m x 0,68m). The braai's height is $\pm 83\text{cm}$ above NGL and $\pm 2,535\text{m}$ above the stoep level – total height of $\pm 3,4\text{m}$.

It should be noted that the northern section of the subject property abuts an unbuilt road. Therefore, the position of the braai preparation area on the 0,18m and the braai on the 3,18m street building line respectively will have no impact on the street scape or passers-by. In addition, the dwelling on erf 112 Hermanus (adjacent property that shares a common boundary with erf 7190 Hermanus) is positioned on the southern section of the property and not adjacent to the stoep with braai area. Refer to aerial image below.





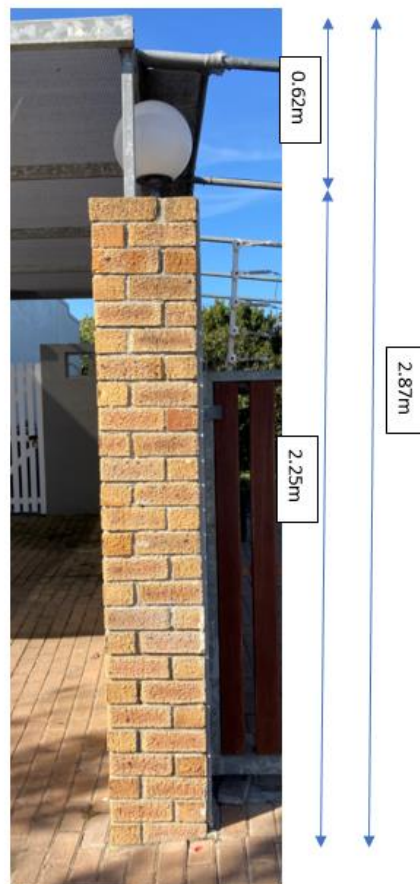
Image 4: Aerial photograph of erven 7190 and 112 Hermanus

Thirdly, the one carport to be retained on Remainder erf 7190 Hermanus will be positioned on the 0m south-western lateral building line following the subdivision. An application is submitted for a departure to:

- Deviate from the south-western lateral building line from 2m to 0m. The relaxation of the street building line from 4m to 0m to accommodate the as-built carport was approved in 2016 (copy of final decision letter attached).

The length and width of the carport does not exceed one third of the lateral boundary concerned. The carport is not higher than 3m above the existing ground level on the common and street boundaries. The carport can be accommodated on the 0m common boundary building line since the two portions after subdivision will have the same property owner (before selling off the portion in future) and since the dividing wall between the two carports is lower than 3m (the wall is 2,25m high and the carport is 2,87m high to top of roof). Refer to the image below showing the as-built carport in front of the garage to be retained and the as-built dividing wall:

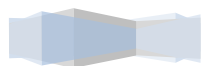




Images 5, 6, 7 and 8: As-built carport to be retained and dividing wall on the common boundary between proposed Portion A and Remainder erf 7190 Hermanus.

The following should be noted when considering the As Built structures:

- No new additions are proposed.
- No habitable structures / areas encroach the street or lateral building lines.
- The visual impact is considered minimal. All structures already exist.
- The materials used are aesthetically pleasing and merges well with the



approved structures.

- The as-built structures and the respective uses thereof are an integral part of the property thus to demolish the structures to make it compliant to the respective building lines and height requirement, will diminish the aesthetic value and property value.

3.4.4 **General**

The proposed application is designed to integrate seamlessly into the existing neighbourhood without negatively impacting the character or property values of surrounding properties. The positioning of the existing structures on the subject property appears to be such that they don't encroach upon or disrupt passing traffic or public activity.

Moreover, the low impact use of these structures further minimizes any potential disturbances to the surrounding environment. Overall, the development was thoughtfully planned to ensure minimal disruption to the neighbourhood while still meeting the needs of the property owner. It is submitted that the massing and height of the existing structures are compatible with the character of the area, regardless of the departure being applied for.

The impact of the proposed subdivision is considered a low impact land use application. The zoning of the respective portions after subdivision will remain unchanged (SR1).

The coverage for the respective portions after subdivision will be as follows:

- Remainder: $\pm 40\%$ (dwelling $\pm 185\text{m}^2$, carport $\pm 38\text{m}^2$ and stoep $\pm 55\text{m}^2$);
- Portion A: 0% (vacant – carport to be demolished).

The total coverage of $\pm 40\%$ for Remainder erf 7190 Hermanus does not exceed the maximum permissible coverage of 50% for SR1 zoned properties.

Since the newly created portion will be transferred to a prospective buyer in future, any future development of the new portion of erf 7190 Hermanus will be done in accordance with the land use restrictions applicable to the relevant zoning.

Refer to Section 3.15 of this report for further motivation in terms of the relevant spatial planning policies.

The proposed subdivision and departure will not have a negative impact on the surrounding erven as the zoning of the subject properties will remain Residential Zone I: Single Residential (SR1), the proposed portion sizes are compatible with similar surrounding property sizes and the proposed deviations from the applicable zoning parameters are to accommodate As Built structures only.

The proposed subdivision and departure are not in contrast to the existing land use tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

It is submitted that the existing structures are compatible with the character of the area, do not impact negatively on the rights of anyone else and that no good reason exists for not approving this application. When considering the proposed building line and height deviations, the point of departure is the need to discourage the phenomenon of urban sprawl and to encourage densification and more compact towns and cities, all of which relate to more responsible resource use or sustainable development.

The proposed departure of erf 7190 Hermanus is not in contrast to the existing land use tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

3.5 THE POTENTIAL OF THE PROPERTY

Erf 7190 Hermanus is currently a larger portion of land zoned for single residential purposes in the middle of an existing residential area. The subject property is situated within a residential area where the zoning and primary land use will remain the same. The allowed land uses are limited to low-impact activities such as bed-and-breakfast establishments, day cares, second dwellings and home occupations. The proposed subdivision and departure from regulations will not obstruct potential future land use applications for erf 7190 in Hermanus.

When evaluating the proposed subdivision against surrounding erf sizes, average erf sizes, minimum street frontage widths, the proposed layout, etc. it is evident that the subject property has the potential to be subdivided into two (2) portions with similar erf sizes than most of the erven in the immediate vicinity (residential block). The proposed portions will be at least $\pm 655\text{m}^2$ and larger in extent. It is therefore submitted that the proposed erf sizes for the newly created portions after subdivision are compatible with the erf sizes in the immediate vicinity.

The proposed subdivision follows the existing grid layout pattern for the area. The subdivision plan indicates ample developable areas for both the portions after subdivision – this further emphasizes the potential of the site for subdivision. It is therefore submitted that the proposed erf sizes and erf shapes for the newly created portions after subdivision are compatible with the character of the area and therefore has the potential to be subdivided.

The subject property has existing structures that deviate from the current regulations. However, since there haven't been any complaints from neighbours regarding these structures, it suggests they are likely in harmony with the surrounding environment.

These points are crucial in assessing the potential of the site:

- Visual Impact: Since the structures are already built and no new additions are proposed, the visual impact will be minimal. The existing structures blend well with the surroundings.
- Massing and Scale: The massing and scale of the existing structures are in harmony with the area - they do not stand out or disrupt the neighbourhood aesthetic.
- Compliance with land use parameters: Apart from the deviations being applied for, all other land use parameters are met.
- The existing structures are an integral part of the property. Demolishing them to comply with building line and height regulations could diminish the value of the property, indicating that maintaining the structures is preferable for the property's value and integrity.

Considering these factors, it appears that the existing structures are well-suited to the site and contribute positively to its value and character.

3.6 ECONOMIC IMPACT

The proposed subdivision will have a positive impact on the economy of the area. By allowing the subdivision the subject property, it creates one additional residential portion from which the municipality can attain bulk service levies as well as monthly rates and taxes. Furthermore, the newly created portion (Portion A) after subdivision will be a vacant portion of land and this implies that the future construction of a dwelling with outbuilding on the property will create temporary employment opportunities. The new portion will be occupied by a new family who will invest and spend in the immediate local business area. The proposed subdivision will allow for the provision of increased residential accommodation in a well-located area.

The proposed departure is intended to accommodate the existing structures and their current uses. By allowing these deviations, the owner can legalize the existing as-built structures. This not only brings the property into compliance but also enhances its potential resale value. Approving the existing structures saves the client the expense of demolishing them, which is beneficial from a cost-saving perspective.

Overall, these considerations suggest that approving the proposed subdivision and departure would be beneficial both for the property owner and the local economy.

3.7 SOCIAL IMPACT

The proposal will have a positive social impact as the proposed subdivision will facilitate additional ownership of property. The impact that a new family to the area will have, will be beneficial and no negative impacts are anticipated.

The proposed departure will not disrupt the social status quo of the area, indicating that it aligns with the existing character and fabric of the neighbourhood. By allowing the owner to retain the existing structures, the building line and height deviations

accommodate the property's current configuration and intended future use of approved structures.

Furthermore, it is anticipated that there will be no adverse impact on the social wellbeing of the surrounding community. The existing developed property is in harmony with the area's character and does not infringe upon the rights or well-being of others.

Overall, these points reinforce the notion that the proposed subdivision and departure are reasonable and compatible with the surrounding community, with no negative repercussions anticipated.

3.8 COMPATIBILITY WITH SURROUNDING LAND USES

The proposed application aligns well with the existing characteristics of the low-density residential area where the subject property is situated. The intention to maintain the current zoning and land use ensures compatibility with surrounding properties, which primarily consist of single and double-storey dwellings used for permanent or holiday residences.

As mentioned in Sections 3.4 and 3.5 of this report the surrounding erf sizes, the street frontage widths of existing erven of similar sizes, the proposed layout and shapes of the new residential portions that are compatible with the layout and erf shapes of the existing residential area, etc. proof that the subdivision is compatible with the existing context and character of the area. Properties of 694m² in extent exist in the immediate vicinity of erf 7190 Hermanus. The extent of the newly created portions still promotes and is compatible with the existing low-density residential area.

According to the development rules of the Overstrand Municipal Land Use Scheme Regulations (2020) the subdivision will allow for the development rules for erven >400m² to apply to the newly created portion (which specifies 50% coverage; 4m street building line; 2m common boundary building line; maximum height of 8m). The proposed subdivision will therefore maintain the existing development parameters

applicable to the subject property (except where deviations are being applied for to accommodate as-built structures).

The scale of the structures on erf 7190 Hermanus complements neighbouring dwellings, blending harmoniously with the surrounding built environment. Legalizing the existing as-built structures, even with encroachments on building lines and height requirements, is expected to enhance the property's value, thus positively impacting the area.

Several factors contribute to the compatibility of the proposal with the neighbourhood:

- The use of good quality materials in the construction of existing structures.
- The height of both the as-built and approved structures remain consistent.
- Absence of complaints from neighbours regarding the existing encroachments, coupled with the absence of proposed additions to these structures.
- Recognition that the as built structures contribute positively to the value of the property.

Considering these factors, it is evident that the proposed subdivision and departure respect the character of the area.

3.9 IMPACT ON EXTERNAL ENGINEERING SERVICES

All services on the subject property already exist. The as-built structures will have no impact on the scale and usage of the existing available services.

New services for the additional portion created will be provided in line with the Overstrand Municipality's regulations for installing services infrastructure. Since one new erf is created, bulk services contribution levies will be payable to Overstrand Municipality for the newly created portion.



3.10 IMPACT ON SAFETY, HEALTH AND WELLBEING OF SURROUNDING COMMUNITY

The proposed subdivision and departure will have no impact on the general safety and wellbeing of the surrounding community. It is anticipated that a maximum of one family per erf will continue to occupy the subject property after subdivision.

Since the proposed subdivision and departure are not associated with a noxious trade with polluting air emissions the impact on the health of the community will be kept to a minimum.

3.11 IMPACT ON HERITAGE

The application does not involve changing the character of a site larger than 5 000m². Consequently, the proposed application for the subdivision and departure does not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

Erf 7190 Hermanus is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). The subject property is not positioned in a Heritage Management Overlay Zone (HMOZ, 2020).

This application proposes to subdivide the subject property into two portions and to legalise the existing as-built boundary walls, braai preparation area and braai. Aesthetically the overall development of erf 7190 Hermanus contributes and will continue to contribute towards the pattern of the area. The subject property is already developed and the structures to encroach the street and north-eastern lateral building lines are not considered habitable spaces.

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.



In the light of the above mentioned it is evident that the proposed subdivision and departure will not have a negative impact on the heritage value of Westcliff or Greater Hermanus area.

3.12 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

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

The subject property is not situated within the Overstrand Municipality's Zoning Scheme Environmental Management Overlay Zone (2020).

3.13 TRAFFIC IMPACT, PARKING AND ACCESS

Access to Remainder erf 7190 Hermanus will remain unchanged and will be from Rocklands Street (gravel road). Refer to the subdivision plan. One new access point is proposed for newly created Portion A. The exact position of the access point will only be available once the property is developed in future.

The Overstrand Municipality Land Use Scheme (2020) stipulates that a minimum of two parking bays are required for a dwelling house. Remainder erf 7190 Hermanus is developed with a carport and garage. Provision is therefore made for two parking bays on site. The dwelling on Remainder erf 7190 Hermanus therefore complies with the minimum parking requirements for SR1 zoned properties. Portion A, a portion of erf 7190 Hermanus, will be developed in line with the land use scheme regulations.

The portions after subdivision will still be used primarily for single residential purposes and therefore the impact on the traffic flow in the area will remain unchanged.



3.14 TITLE DEED

Title Deed no. T19330/2021 has no restrictive title deed conditions that need to be addressed with this application. A conveyancer's certificate is not included with this application since the title deed is straight forward.

There is no bond registered against the subject property.

3.15 FORWARD PLANNING AND LAND USE DOCUMENTS

The ***Overstrand Spatial Development Framework (2020)*** earmarks the area where erf 7190 Hermanus is situated, for urban development purposes. The zoning and use of the subject property will remain unchanged (Residential Zone 1: Single Residential). As a result, the impact of the proposed subdivision and departure on the spatial integrity of the area will be minimal and is therefore consistent with the Overstrand SDF (2020).

The ***Overstrand Municipal Growth Management Strategy (OMGMS, 2010)*** specifies that erf 7190 Hermanus forms part of Planning Unit no. 16. The OMGMS (2010) stipulates that the area where erf 7190 Hermanus is situated allows for an increase in density from 6,9du/ha to 8,9du/ha. It is proposed to create one additional portion and consequently the proposal will be in line with the densification policy. The impact on the overall density of the Westcliff area will be kept to a minimum since the proposed application still promotes a low-density residential area.

The proposal will promote land development in a location that is sustainable. The proposed subdivision and departure are to an improved erf situated within an established residential area and will not impact on urban sprawl or upon a sensitive environment.

From the above it is evident that the proposed development adheres and complies with the relevant municipal spatial planning policies.

3.16 PLANNING PRINCIPLES

The planning principle of spatial resilience does not apply to this application.

Spatial justice: The proposed land use application ties in with the existing character of the area and will not have a negative impact on the surrounding properties.

This principle addresses the need to address the past imbalances regarding opportunity. The proposed application will not promote spatial development imbalances. This application is for an erf as per the establishment of the existing Hermanus Township. The proposed application is in character with the existing area where similar applications have been approved in the past and therefore, the approval of the proposed application will not be spatially biased.

Spatial sustainability: The proposed subdivision and departure will have no impact on the visual elements of the subject property and surroundings since all the structures that encroach the building line and maximum permissible height requirements already exist. It is submitted that the proposed application is compatible with the character of the area (as motivated in previous sections of this report). The encroachment of the building lines has no impact on the massing of the buildings and the impact on the streetscape or passers-by. The as-built unlawful structures merge well with the approved structures. The impact on the biophysical environment will also be kept to a minimum since the structures already exist.

Factors such as the good quality materials used, the overall layout of the structures on the subject property, the scale of the surrounding built environment, the low impact on the streetscape, the existence of the structures on the subject property, etc. allow for the consideration and approval of the proposed deviations without having an adverse impact on the spatial sustainability of the area. To accommodate the As Built structures to an improved erf within an established residential area will not impact on urban sprawl, or upon a sensitive environment.



The application is considered spatially sustainable as the existing property will be more optimally utilised without affecting natural vegetation. The property will remain compatible with the character of the area and do not impact negatively on the rights of any adjacent property owner.

The proposed subdivision is to create one additional single residential erf. As contemplated in Section 3.15 the proposed land use application is in line with the spatial planning policies for the area.

The layout of the proposed single residential erf is practical with respect to access, developable areas, connecting to bulk services and the installation of services. The visual impact will be kept to a minimum since the new portion will be developed in line with the relevant land use scheme regulations.

As a result, the proposed subdivision and departure will have no adverse impact on the spatial sustainability of the area.

Efficiency: The subject property is easily accessible and conveniently located in Hermanus and adjacent to major routes. The subdivision of erf 7190 Hermanus will have a low impact on the character and ambiance of the existing residential area as motivated in this report. It proves to be efficient to allow the subdivision since the impact will be kept to a minimum, while a new portion is created for a family to obtain and develop. As motivated in the above sections of the report the proposal is compatible with surrounding properties in the immediate area.

It proves to be resourceful to approve the as-built structures with the respective uses thereof to the subject property since it is compatible with the existing built environment and the way the additions were done is aesthetically pleasing.

It proves to be efficient to accommodate the existing structures and its proposed uses by approving the proposed departure of erf 7190 Hermanus instead of demolishing the structures and as a result negatively impact on the whole look and feel of the subject property.

The proposed subdivision and departure proof to be efficient since it discourages the phenomenon of urban sprawl, encourages densification and more compact towns and cities, all of which relates to more responsible resource and infrastructure use and sustainable development. Moreover, the proposal is efficient in that it optimizes existing resources and infrastructure and continues the existing suburban development typology.

Good administration: Our firm 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 Amendment By-law on Municipal Land Use Planning, 2020.

4. RECOMMENDATION

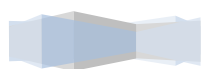
When this application is evaluated, it is important to take note of the following:

- SR1 zoned properties with similar erf sizes already exist in this area and therefore the proposal is compatible with the erf sizes of the area;
- The proposed subdivision is in line with the densification strategies for the area;
- The zoning and primary land use of the subject property will remain unchanged;
- The deviations from the applicable scheme regulations' building lines and height requirements are to accommodate as-built structures and the existing uses thereof;
- The proposal is compatible with the existing built character of the area;
- Impact on the traffic and services will be kept to a minimum;









- The proposed land use application does not trigger any listed activities in terms of NEMA (Act 107 of 1998) or the National Heritage Resources Act, 1999 (Act No. 25 of 1999);
- The proposal is compatible with the spatial planning strategies for the area;
- The application is fully compliant with the applicable planning principles described in the LUPA (2014) and SPLUMA (2013);
- We request that a penalty fee not be imposed.

The application can be supported for your favourable evaluation. The opinion is held that this application will have no negative impact on the land values, privacy, built environment and character of the area.



NOTES:

-  Erf boundary
-  Existing dwelling (partial survey)
-  Subdivision line
-  Building lines
-  Contours
-  Carport to be demolished

Zoning: SR1
Property extent: 1349m²

It is proposed to subdivide erf 7190 as follows:
- Portion A: ±655m²
- Remainder: ±694m²

Coverage:
- Portion A: vacant / 0%;
- Remainder: ±40% (dwelling ±185m²;
carport ±38m² and stoep ±55m²)

