

4.3

ERF 108, 6 PRIESTLEYA ROAD, ROOI ELS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION, DEPARTURE & A DETERMINATION OF AN ADMINISTRATIVE PENALTY: FVS TOWN AND REGIONAL PLANNERS ON BEHALF OF J & I ORD

108 KRE (4210/2022)

H van der Stoep

7 September 2023

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 29 July 2022 from FVS Town and Regional Planners on behalf of J & I Ord for the following:

- ❖ **Removal of Restrictive Title Deed Conditions** in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Planning, 2020 for the removal of restrictive title deed condition E.(4)(e) as contained in Title Deed No. T28335/2021 of the property to accommodate the proposed outdoor living area and braai on the first floor as well as a proposed bathroom on the ground floor.

The restrictive title deed condition reads as follows:

*“E. **SUBJECT FURTHER** to the following conditions contained in Deed of Transfer No. T21905/1967 imposed by the Administrator of the Province of the Cape of Good Hope, when approving of the General Plan of the said Rooi Els Township under the provisions of Ordinance 33 of 1934, reading as follows:*

4. *This erf shall be subject to the following further conditions, provided especially that where, in the opinion of the administrator after consultation with the Township Board and the local authority, it is expedient that the restriction in any such conditions should at any time be suspended or relaxed, he may authorize the necessary suspension or relaxation subject to compliance with such conditions as he may impose:*

- (e) *No buildings or structure except the boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf, nor within 3,15 metres of the lateral boundary common to any adjoining erf provided that with the consent of the local authority an outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation may be erected within the above prescribed rear space, and provided further that a garage may be erected up to such street line if the opinion of the local authority of the erf is such to make that necessary.”*

- ❖ **Departure** in terms of Section 16(2)(b) of the Overstrand Municipal By-Law on Municipal Planning, 2020 in order to:

- Relax the northern lateral building line from 2m to 1.57m to accommodate the new 1.6m high wall and new outdoor bathroom on the ground floor.
- Relax the eastern street building line from 4m to 2.472m to accommodate the new ensuite on the ground floor as well as the new braai and new outdoor living area on the first floor.

- ❖ **Determination of an Administrative Penalty** in terms of Section 16(2)(q) of the Overstrand Municipal By-Law on Municipal Planning, 2020 for the unauthorized building line encroachments as stipulated above.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the proposed Site Development Plan is attached as Annexure C. The Title Deed is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The property measures 943m² in extent and located in Rooi Els Township. The property is zoned Residential Zone 1: Single Residential and is surrounded by residential erven.

THE HISTORY OF BUILDING WORK WITH REGARD TO THE EXISTING DWELLING ON THE PROPERTY IS AS FOLLOWS:

The first building plan on was submitted in 1969 and approved in 1970. There is no building plan on record at the Municipality of the approved building plan dated 27 February 1970, however all subsequent building plans make reference to the addition, extension or alteration of the approved dwelling.

1971

Extension of dwelling approved.

Building lines on approved building plan:

Lateral building line on plan 5'00" (Cape Feet) e.g., 1,57m.

1980

Extension of the dwelling.

Building lines on approved building plan:

Street building line: 5m

Lateral building line: 1,7m

1984

Dwelling indicates that stoep area over street building line and application for a garage:

Building lines on plan:

Street building line: 4.5m

Lateral building line: 1,5m

4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation can be summarized as follows:

CONTEXTUAL INFORMATION:

Development Proposal

The application for the relaxation of the street building line from 4m to 2,472 to allow for additions and alterations to the existing dwelling, which is as follows:

- Demolish the external balcony with a roof and external staircase.
- Demolish of an existing staff quarter and roof.
- Demolish the existing Wendy house.
- Construction of a new garage.
- Internal changes as per Site Development Plan.

Access

Access will be obtained from Priestleya Road.

Services

No additional services will be required.

Environmental

Not applicable.

MOTIVATION:

Background

The owners bought the property in 2021 and with the proposed changes; it was found that the dwelling was not built according to plan. In a discussion with the applicant the following was agreed upon, that certain sections be demolished without compromising the integrity of the building and to lodge an application to rectify the existing situation.

Need and Desirability

- The proposal is not deemed to have a negative impact on the abutting owners.
- The proposal is in line with any residential neighbourhood.
- It should be noted that the dwelling was approved in the current position and can be proven by previously approved building plans dated to 1969.
- The building line relaxations are not a result of construction work being undertaken by the current owner.
- The proposal will add value to the existing dwelling.
- The proposal will have no negative impact in the character of the surrounding area.
- It is not deemed to have a negative cumulative impact on the surrounding area.
- The application is in an already developed residential area and will thus not impact negatively on the environment.

REMOVAL OF RESTRICTIVE CONDITIONS IS MOTIVATED AS FOLLOWS:

The aforementioned restrictive conditions do not allow any structure or building on the property over the building lines, except with the approval of the Administrator and needs to be removed.

The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the personas of the owner of a dominant tenement.

The subject restrictive conditions do not have any significant value to a person and entity, nor is it deemed that the removal of this condition will alter the character of the surrounding area as the proposal will remain residential in nature.

The personal benefits which accrue to the holder of rights in terms of the restrictive condition.

The building was constructed by previous owners and was done without approval from the Council. The application is to rectify and obtain approval for the contravention made by the previous owners.

The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if removed.

The property will possibly enjoy the benefit of an increase in property value which will then be in line with retail prices of properties in the surrounding area.

The social benefit of the restrictive condition remaining in place.

There is no social benefit to be enjoyed should the restrictive condition remain in place. The restrictive condition serves no purpose in terms of the health, safety and wellbeing of the surrounding community. In essence, the removal of the restrictive condition only limits the property owner in terms of development of an existing dwelling house.

The social benefit of the removal of the restrictive condition.

The social restrictive condition holds no social benefit besides from the property owner being able to obtain approved plans for an existing dwelling house.

Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

The application entails the removal of a restrictive condition and will not attempt to alter the additional conditions as pertained in the subject Title Deed and not conditions will be removed.

DETERMINATION OF AN ADMINISTRATIVE PENALTY:

In terms of the By-law the applicant must provide the following in terms of Section 90(3) of the By-Law, namely:

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

The illegal building work was done by the previous owners.

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

In realising the transgressions, the current owner took immediate action to rectify the situation.

(c) whether the unlawful conduct was stopped

The new owners immediately stopped all construction.

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

A report at this stage is not warranted, due to the application for a waiver of the administrative penalty.

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

To our knowledge, the current owners have not been in contravention of this By-Law.

CONSISTENCY WITH SPLUMA AND LUPA PRINCIPLES:

Spatial Justice

The proposed application will not contribute to the perpetuation of past apartheid spatial development imbalances.

Spatial Sustainability

The proposed development will continue to protect any environmentally sensitive areas and cultural landscapes as it is in an already developed residential area.

Spatial Efficiency

Development will optimally harness the potential that sustainably exists on the subject property as it utilises the existing footprint and will not require additional service capacity.

Spatial Resilience

The development is well aligned with the spatial documents.

Good Administration

The application will follow due procedure as determined by the Overstrand Municipality.

POLICY DOCUMENTS:**Overstrand Municipality Spatial Development Framework, 2020**

The proposal is not in contravention of the SDF as it is located within the urban edge of the Township, Rooi Els.

Overstrand Municipal Growth Management Strategy, 2010

The proposal does not entail densification and is thus not in contradiction with the Strategy.

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

The proposal is not seen as a deviation from the General Criteria in evaluating land use applications. The proposal remains residential of nature.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	10 March 2023	14 April 2023
Government Gazette	Yes	10 March 2023	14 April 2023
Registered notices	Yes	10 March 2023	14 April 2023
Internal departments	Yes	10 March 2023	14 April 2023
Ward Councillor	Yes	10 March 2023	14 April 2023
Total comments	ONE (1)		
Total letters of support	NONE		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
Building Control	10/03/2023	No objection. All buildings to comply with NBR and all other applicable law.
Fire Department	16/03/2023	No objection subject to compliance with provisions of SANS 10400-A: 2016, SANS 10400-T: 2020 and the By-Law relating to fire safety.
Engineering Services	03/05/2023	See Annexure G.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION, THE APPLICANT'S RESPONSE AND THE MUNICIPAL TOWN PLANNER'S RESPONSE THEREON

The application was duly advertised in the local newspaper and Government Gazette. Registered letters were also sent out to all owners of Rooi Els and the Rooi Els Ratepayers Association. A notice board were also placed on-site by the applicant's consultant.

One (1) letter of objection was received from the Rooiels Ratepayers Association, and the applicant was provided with an opportunity to respond to the objections. See Annexures E and F respectively.

The objections, the applicant's reply and the Municipal Town Planners response thereon can be summarized as follows:

The objections are depicted in a summarized version under headings of similar nature.

OBJECTION

1. Achievement of secondary objective

APPLICANT'S RESPONSE

The application is to legalise an existing structure built approximately 40 years ago and do not seek permission to erect a new structure across the street boundary.

TOWN PLANNER'S RESPONSE

Noted, however that objector did not clarify the secondary objective and is duly noted.

2. New outdoor bathroom and shower

The applicant does not provide any explanation why these cannot be fitted in on the existing available space.

APPLICANT'S RESPONSE

The application serves to regularise an already approved structure which was incorrectly placed. The new outside shower is a minor departure that will have no impact whatsoever on the surrounding properties.

TOWN PLANNER'S RESPONSE

In terms of the building plan submitted with the application, a lateral building line of 1,57m is indicated, however in terms of the Title Deed it should be 3,15m. The removal of this condition is to allow a 1,6m screen wall on the 1,57m (5 cape feet) as depicted on the building plan dated 1971. It should also be noted that it is not the shower, but the screen wall and outdoor bath that is applicable.

 **OBJECTION**

3. Demolishing of structures

The applicant indicating demolishing substantial parts of the building without explain why the new additions cannot subsequently be built within the allowable building lines.

APPLICANT'S RESPONSE

The objector is incorrect to indicate substantial demolition. The demolition pertains to a single room attached to the building at the rear of the property.

TOWN PLANNER'S RESPONSE

The demolishing of structures relates to an illegal wendy house at the northwestern corner, which is not on a building plan. The corner of the roof on the northern boundary, adjacent to erf 107 is to be demolished to be in line with building plans 1980 and 1984. The demolishing of the balcony and roof, approved in 1980 is for architectural reasons and will not compromise the integrity of the building. The demolishing of the existing stair and landing, approved in 1980, relates to the aforementioned and also will not compromise the integrity of the building. The demolition of the braai/ staff quarters on the 1,57m as approved in 1971 is the prerogative of the owner.

The only request is the proposed screen wall and outdoor bath on the 1,57m building line.

 **OBJECTION**

4. Administrative penalty

They furthermore seem to attempt to legalize existing infringements which they also wish to have remitted.

APPLICANT'S RESPONSE

None

TOWN PLANNER'S RESPONSE

This aspect will be dealt with under Point 12 under the heading Determination of Administrative Penalty.

+ OBJECTION

- 5. *The application for removal of the lateral building line restriction is for an outdoor bathroom which could be fitted in within the building lines without having to apply for a removal of a title deed restriction.***

APPLICANT'S RESPONSE

The outdoor shower is minor, and the application is to legalize what was built by the previous owner. (More than 40 years ago.)

TOWN PLANNER'S RESPONSE

The outdoor shower is located within a braai room approved in 1971. The proposed screen wall of 1,6m and the actual bath transgresses the lateral title deed building line of 3,15m to 1,57m. However, the braai room is being demolished, which was approved in 1971 and the screen wall and bath will have less impact than the approved braai room on 1, 7m.

+ OBJECTION**6. *Spatial character of Rooi Els***

Compliance with the street building line is essential for maintaining the spatial character of Rooiels.

APPLICANT'S RESPONSE

The status quo will remain in place and the alterations to an existing structure, which was built 40 years ago and clearly does not have an impact on the spatial character of Rooiels.

TOWN PLANNER'S RESPONSE

The building has first been erected in 1969 and subsequent changes have taken place over the years. Until this application, nobody, not a resident and or the Ratepayers have lodged a complaint on the locality of the building. Secondly, Rooi Els does not have a built character or spatial character unique to the town, just by visual inspection; dwellings are all shapes, sizes and colours. Various buildings have been built either over the street building line and or the lateral or rear building lines. In Prestley Street there is approximately five (5) erven who have structures transgressing the street building line, and the present application will thus have no impact on the built character of the street.

In this case the effect of the present dwelling over the street building line is not detrimental to the character of Prestley Street, since the road reserve is 15m and the dwelling has been in existence for over 40 years and what can be establish is that in terms of Google 1984, the house was already positioned as per the application and is part of the spatial character for the area.

+ **OBJECTION****7. Demolishing of structures**

It would appear as if the transgressing sections of the building can be demolished, as part of the proposal of the application, to fit in within the most restrictive building lines of the title deed or the Overstrand Municipality Zoning Scheme.

APPLICANT'S RESPONSE

The demolition pertains to a single room attached to the rear of the property which crosses a setback line.

TOWN PLANNER'S RESPONSE

This aspect was dealt with under objections 3 and 5.

+ **OBJECTION****8. Removal of Restrictive conditions**

It appears that the removal of restrictive conditions is not necessary.

APPLICANT'S RESPONSE

This is factually not correct, if the application is not granted, part of the double storey building needs to be demolished, a substantial re-design of the existing structure and material building works.

TOWN PLANNER'S RESPONSE

The Removal of Restrictive condition is necessary to address the title deed restriction on a lateral building line for the screen wall and the bath. The transgression over the street building line is the original dwelling as approved in 1969 and subsequent extensions up until 1980 indicates that the dwelling complies with the street building line of 5m. However, it is clear on the 1984 approved building plan that the original house was not built in the correct location. This plan clearly indicated that the dwelling transgresses the street building line of 4,5m.

It is clear that the original building is not located as per approved building plan. Over a span of 40 years the positioning of the building has never been an issue.

It should be noted that a relaxation of the building lines is only applicable in cases where the title deed clearly stipulates "with consent of the administrator" and this case it stipulates "in the opinion of the Administrator". The other reason is the fact that although the 1984 plan indicates that the building is over the street building line, there is no indication on the extent of the transgression. Therefore, a removal of the restrictive conditions was required.

 **OBJECTION**

9. Precedent

In a precious appeal decision, a precedent was set that “Restrictive conditions on a title deed are placed for a specific reason and the removal of these conditions should not be considered lightly”.

APPLICANT’S RESPONSE

The application is to legalize an existing building and no new building work is proposed over the building lines.

TOWN PLANNER’S RESPONSE

The objector is correct in indicating that the removal of restrictive conditions should not be taken lightly, however in this case the building has been erected in 1969 and during the years has seen changes. Thus, a building that has been erected over 40 years ago with no objections over the years on any aspect of the structure, there is substantial reason to accommodate the dwelling as proposed.

The aspect of precedent, there is no application that can be held ransom on the proposed notion that a precedent has been created. Each application must be evaluated on merit and each case will differ as was indicated in the comments from the Rate Payers applicable on erf 317, clearly addressing the question of precedent in as far as that each application be dealt with on merit.

8. SUMMARY OF APPLICANT’S REPLY TO COMMENTS

See Paragraph 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner’s comment on objections/and response thereon)

See Paragraph 7 above.

Internal and External Departments

The application was supported by all internal municipal departments.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

10.1 Background

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

N/A

Spatial Sustainability

The structures have been erected more than 40 years ago, thus any impact on environmental aspects is null and void.

Efficiency

Municipal services will not be required.

Spatial Resilience

The structures have approved building plans and are compliant with the National Building Regulations. The changes are within the existing footprint and will contribute to the sustainability of the erf.

Good Administration

Administrative procedure was followed as prescribed by the Municipality.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as Point 10.2 above.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

The application is in line with the SDF 2020.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal Engineering Services

Existing services will be used.

10.7 Outcomes of investigations/applications i.t.o other legislation

N/A

10.8 Existing and proposed zoning comparisons and considerations

The application of restrictive conditions and departure can be accommodated in terms of the Overstrand Land Use Scheme.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the personas of the owner of a dominant tenement.

The other value is the rectification of an existing situation to the benefit of the owner.

The personal benefits which accrue to the holder of rights in terms of the restrictive condition.

The holder of the rights does not accrue any personal benefits.

The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if removed.

The applicant will be able to legalize the existing structures on the property.

The social benefit of the restrictive condition remaining in place.

The benefit should the conditions remain in place is that the status quo remains.

The social benefit of the removal of the restrictive condition.

The social benefit is that should all the conditions be removed; the built structure will be more architectural pleasing.

Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

The removal of the conditions will not remove any rights enjoyed by the beneficiaries.

12. THE DESIRABILITY OF THE PROPOSAL

The objections have been addressed extensively under Paragraph 7; however, a few aspects need to be addressed in more detail.

Rooi Els Township Establishment Conditions applicable to Erf 108 as approved in 1948 reads as follows:

“Street building line of 15 feet, rear building line of 10 feet and lateral building line of 5 feet.”

In the Western Cape these dimensions are converted from Cape Feet to metres and thus will be as follows:

- Street building line: 4,72m
- Rear building line: 3,15m
- Lateral Building line: 1,57

The Title Deed of Erf 108 has depicted the building lines as follows:

- Street building line: 4,72m
- Lateral building line: 3,15m
- No rear building line.

From the abovementioned it is clear that certain errors have occurred: The Title Deed makes no mention of a rear building line, but incorrectly allocated the rear building line of 10 feet dimension to the lateral building line.

In terms of the building plan over the years, the following occurred:

- **1971:** 5 feet (1,57m) were used for the lateral building line.
- **1980:** 5m street building line and 1,7m lateral building line
- **1984:** 4,5m street building line and 1,5m lateral building line.

Firstly, the erf was subject to various set of building lines, none of which was correctly interpreted as per the Township Establishment Conditions.

Secondly, the dwelling depicted on the 1984 approved building plan, shows the dwelling over the 4,5m street building line.

Thirdly, the application is to legalise an existing structure over the street building line with no extension of the current footprint.

The applicant is renovating the existing dwelling located on the 2,472m street building line and it would be unreasonable to expect the current owner to demolish a double storey building in existence since the 1970's, which has no impact on the area. The application for an outdoor bath and screen wall of 1,6m will have no impact on the neighbour or surrounding area. The latter is lower than the allowable 2,1m boundary wall.

Instead, the alterations will clean up the additions over years to ensure a more aesthetically pleasing building.

Noteworthy is that Google Earth, 1984 does indicate the buildings as per the 1984 approved building plan and it is clear no added footprint is applicable. The image also provides proof of a transgression due to incorrect placement of the building, which could have happened in 1969 already. The actual structure (main dwelling) was built according to plan and it's the positioning thereof that needs to be rectified. It will be unreasonable to expect the owner to demolish the double storey based on the character of the town, since this position of the house has been part of this character for more than 40 years.

Noteworthy is that the application was circulated to all erf owners, and none had an objection against the application.

DETERMINATION OF AN ADMINISTRATIVE PENALTY:

In terms of the By-law the applicant must provide the following in terms of Section 90(3) of the By-Law, namely:

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

The illegal building work was done by the previous owners. It is correct, the building has been built in 1969 and throughout the years, the building lines have varied. Thus, the building has also been built according to the varying building lines.

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

In realising the transgressions, the current owner took immediately action to rectify the situation. The owner has not been previously involved in any contravention.

(c) whether the unlawful conduct was stopped

The new owners immediately stopped all construction. It is correct.

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

A report at this stage is not warranted, due to the application for a waiver of the administrative penalty.

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

The current owners have not been in contravention of this By-Law.

ILLEGAL BUILDING WORK

In the calculation of the penalty fee, the actual portion of the building transgressing the Title Deed Street building line of 4,72m to 2,472m amounts to a 2,248m transgression. The owner bought the erf and was registered at the Deeds Office on 21 June 2021 and took immediate action to rectify the situation. An application was submitted in July 2022. A penalty 1% be applicable since the applicant only took transfer of the property on 18 June 2021 and immediately took action and submitted an application in July 2022.

ILLEGAL BUILDING WORK	
The applicable administrative penalty for the building work contravention is in accordance with the Overstrand Municipality Tariff List 2023/2024 at R18 025.00 per square metre (for formal structures on erven larger than 150m ²).	
<ul style="list-style-type: none"> • Price per m² = R18 025.00 (VAT Inclusive). • Contravention = price per m² (R18 025.00) x contravention area (2.248m²) = R 40 520.20 	
It is recommended that an administrative penalty of 1% of the building work in contravention be payable, which amounts to R405.20 (R40 520.20 x 1%) VAT inclusive.	
PENALTY FEE PAYABLE:	R405.20

CONCLUSION

The application is recommended for approval.

13. RECOMMENDATION

1. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 108, Rooiels for the removal of restrictive title deed condition E.(4)(e) as contained in Title Deed No. T28335/2021 of the property to accommodate the proposed outdoor living area and braai on the first floor as well as a proposed bathroom on the ground floor, a screen wall of 1,6m and outdoor bath, **be approved**, in terms of the provisions of Section 61 of the By-Law.
2. that the application in terms of Section 16(2)(b) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2020 on Erf 108, Rooiels for the following departures:
 - to relax the northern lateral building line from 2m to 1.57m to accommodate the new 1.6m high wall and new outdoor bathroom on the ground floor.
 - to relax the eastern street building line from 4m to 2.472m to accommodate the new ensuite on the ground floor as well as the new braai and new outdoor living area on the first floor; on the existing footprint of the building.

be approved, in terms of the provisions of Section 61 of the By-Law, subject to the following conditions

- (a) that this approval is only for the removal of restriction and building line departures and is not an approval in terms of any other legislation;
- (b) that the approval be limited to the building/structures as per Plan numbers 101 & 102 Rev 3 dated 7 July 2022;
- (c) that building plans be submitted to the Building Control Department for approval with correct building lines depicted and that all conditions of the Building Control – and the Fire Department be complied with at that stage;
- (d) that the amended title deed be submitted for record purposes to the Municipality;
- (e) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;
- (f) that this approval does not absolve the applicant from compliance with any other relevant legislation;
- (g) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with, and
- (h) that all the conditions in the Services Report (attached as Annexure G), be complied with.

3. that the determination of an administration penalty in terms of Section 90.(4) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Erf 108, Rooiels for the unauthorized building line encroachments as stipulated above, was considered and that an administrative penalty of R405,20 including VAT (being 1% of the built cost as per budget requirements), **be applicable** in terms of Section 90.(4) of the By-Law which penalty must be paid within thirty (30) days from the final date of the decision of the application.
4. that the applicant and objector be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

14. REASONS FOR RECOMMENDATION

- ❖ The building has been erected in 1969, with various changes in the 1970's and 1980's with no objection against the dwelling over the years.
- ❖ The structure was built according to plan, but the locality of the structures is not correctly placed.
- ❖ The illegal structures will be demolished.
- ❖ The application is to bring the plan approvals in line with scheme and title deed thus has to remove the restrictive conditions.
- ❖ The proposed building work is on an existing footprint, which transgresses the street building line and will have no impact on the area or character of the area, since the structure is more than 40 years old.
- ❖ The administrative penalty be applicable for the square metres transgressing the Title Deed Building line since the registration of the property in June 2021 and thus the owner took responsibility of the transgression.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plans
Annexure D:	Title Deed T28335/2021
Annexure E:	Objection received
Annexure F:	Applicant's response to the objection received
Annexure G:	Services Report
Annexure H:	Rooi Els Township Establishment Conditions
Annexure I:	Copies of approved building plans dated 1971, 1980 and 1984
Annexure J:	Surveyor's diagram

SIGNATURE

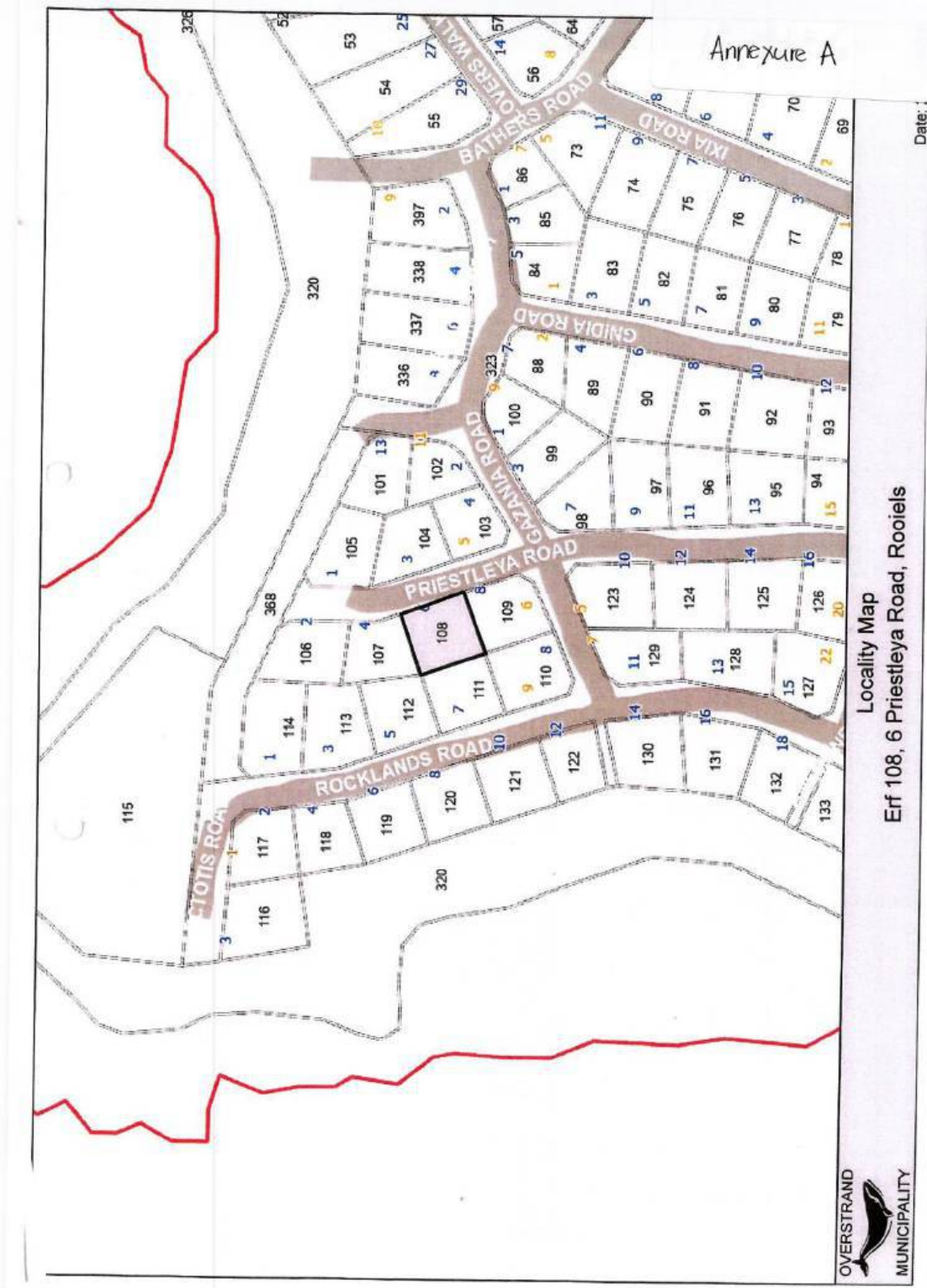
REGISTERED PLANNER

Name: **H VAN DER STOEP**

SACPLAN registration number: **A/1708/2013**

Signature: _____

Date: _____



Annexure B 1/18



Town and Regional Planners

October 2022

~~July 2022~~

Town Planning
Overstrand Municipality
16 Paterson Street / PO Box 20
Hermanus
7200

Attention: Municipal Manager

APPLICATION FOR BUILDING LINE RELAXATION, REMOVAL OF RESTRICTIVE TITLE DEED CONDITION AND DETERMINATION OF AN ADMINISTRATIVE PENALTY IN TERMS OF SECTION 16 OF THE OVERSTRAND MUNICIPALITY LAND USE PLANNING BY-LAW, ON ERF 108, ROOI ELS.

Dear Municipal Manager,

Please find attached hereto, with the motivation report, the following for your department:

- Application Form
- Power of Attorney
- Title Deed
- Locality Plan
- Site Development Plan
- Surveyor General Diagram

Client: James & Lindsey Ord

Consultants: FVS Town and Regional Town Planners

Author:

Jaco van Schalkwyk (C/8702/2018)

Principal Planner:

Jan A Visagie (A/1080/1999)

Kind Regards,

Jaco van Schalkwyk

Director of FVS Town and Regional Planners

Revision 1: 10 October 2022



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- Annexure D: Locality Plan
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1. SECTION 1: INTRODUCTION

FVS Town and Regional Planners is a professional town planning consultancy based in the Western Cape of South Africa, with project experience throughout the country. We strive to deliver town planning services to individuals, companies, and communities to create sustainable environments.

We have a combined experience of 10 years in both public sector and private sector. We can assist with all varieties of land - use related issues. With a dynamic and efficient team, we can assist with the management of both large and small-town planning projects and will be able to provide our consultation services where necessary.

1.1. BACKGROUND INFORMATION

The property owners, James and Lindsey recently bought the subject property in Rooi Els. The property owners bought the subject erf voetstoots. During consultation with the architects (Ampersand Architects) for additions and alterations to the existing dwelling, it was noticed that the existing dwelling is over the 4m street boundary building line and a new proposed screening wall that is over the lateral boundary building line, as defined in the Overstrand Municipality Land Use Scheme of 2020.

It was further advised that the property owners obtain the professional services of a Town and Regional Planner to assist with the application for submission to the Overstrand Municipality.

1.2. PLANNING BRIEF

Taking the aforesaid into consideration, application is hereby made in terms of Section 16 of the Overstrand Municipality By-law on Municipal Land Use Planning for the following:

1.2.1. *"Section 16 (2) (b) – Permanent departure from the provisions of the zoning scheme"*

1.2.2. *"Section 16 (2) (f) – Amendment, suspension or deletion of restrictive conditions in respect of a land unit"*

1.2.3. *"Section 90 (5) – Determination of an administrative penalty"*

Please refer to the following annexures for the Application Form and Power of Attorney:

Annexure A – Application Form

Annexure B – Power of Attorney

Section 3 of this motivation report will provide the reader with a full description of the proposed additions and alterations.



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2. SECTION 2: PROPERTY DETAILS

Section 2 of this report consists of the details pertaining to the subject property, such as its locality and ownership details and the property.

2.1. OWNERSHIP DETAILS

A perusal of the title deed revealed that there are restrictive conditions registered that could prohibit the approval of this land-use planning application.

Below are the details of the title deeds of the Properties.

Property Description	Erf 108, Rooi Els, in the Overstrand Municipality, Division of Caledon, Western Cape Province
Deed Number	T28335/2021
Ownership	James Ord & Lindsey Ord
Extent	943m ²

Please refer to **Annexure C** for a complete copy of the Title Deed.

As mentioned, the subject title deed contains restrictive conditions that will have to be removed to obtain approval.

The restrictive condition reads as follow:

Condition 4. (e): No buildings or structure except boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf, nor within 3, 15 metres of the lateral boundary common to any adjoining erf provided that with the consent of the local authority an outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation may be erected within the above prescribed rear space, and provided further that a garage may be erected up to such street line if the opinion of the local authority of the erf is such to make that necessary.

The existing dwelling is over the above stated street boundary building line and will thus have to be removed. The removal of the restrictive condition will be discussed in detail under Section 3 of this motivation report.

2.2. LOCALITY

The application site is situated on Priestleya Road in the coastal town of Rooi Els, in the Overberg District of the Western Cape Province. Rooi Els is approximately 62km west of Hermanus on the southern coast of the Western Cape. Rooi Els was previously a farming entity was the town (as we know it today) was named after the river and the farm.

Please refer to **Annexure D** for the Locality Plan.

2.3. CHARACTER OF THE SURROUNDING AREA

Rooi Els is a popular holiday destination, as is with numerous towns located on the R44 (Clarence Drive). The town has very limited economic activities in the form of businesses. Most of the economic activities either take place in Somerset West or Kleinmond and Hermanus, which adds to the tranquillity of the town. Taking the aforesaid into consideration, most part of the town is zoned for Single Residential 1 purposes with a small Business zoned area (Central Business District (CBD)), which offers a few restaurants and shops.

Please refer to Figure 1 and 2 on the following pages.



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2.4. ZONING

Erf 108, Rooi Els is currently zoned as Single Residential Zone 1 in terms of the Overstrand Municipality Land Use Scheme 2020.

2.5. IMPACT ON MUNICIPAL SERVICES

All services already exist, and the proposal will not require any additional services for the approval of this application. The subject erf was previously used and operated as a guest house facility without any negative impact on the existing services network.

2.6. ACCESS AND PARKING

Access to the application site will not be altered and is to remain the same, i.e., from Priestleya Road.

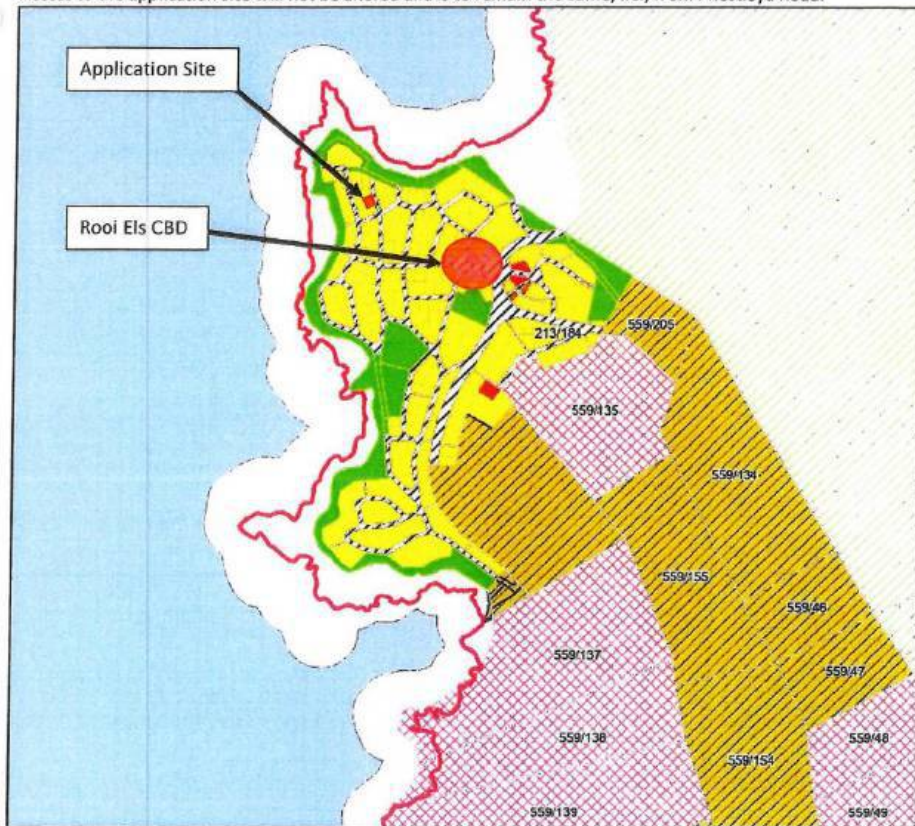


Figure 1: Surrounding Zonings (Overstrand Public Viewer, April 2022)

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The figure above should provide the reader with a relative understanding of the surrounding area. Figure 1 provides the reader with a simple zoning extract, while Figure 2 provides the reader with an aerial photograph of the application site and surrounding properties.



Figure 2: Aerial Photograph of application site and surrounding area (Cape Farm Mapper, April 2022)



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3. SECTION 3: MOTIVATION

Section 3 of the motivation report deals specifically with the type of application and what will be applied for, as well as the development particulars.

3.1. THE APPLICATION

Application is hereby made in terms Section 16 of the Overstrand Municipal Land Use Planning By-Law for the following:

- *“Section 16 (2) (b) – Permanent departure from the provisions of the zoning scheme”*
Application is hereby made for the relaxation of the street boundary building line from 4m to 2.472m and the relaxation of the lateral building line from 2m to 1.570m to accommodate the existing dwelling, new bedroom and a new 1.6m high screen wall.
- *“Section 16 (2) (f) – Amendment, suspension or deletion of restrictive conditions in respect of a land unit”*
Application entails the removal of restrictive Condition 4. (e) as will be discussed under Section 3.4.
- *“Section 90 (5) – Determination of an administrative penalty”*
Lastly, application is made for the determination of an administrative penalty as will be discussed under Section 3.5.

The property owners bought Erf 108, Rooi Els in early 2021 as it is (voetstoets). Upon compilation of the plans by the architects (internal and external alterations) it was noticed that the existing building is over the 4m street boundary building line and 2m lateral boundary building line as prescribed in the Overstrand Municipal Land Use Scheme. For the plans to be updated and approved the property owners will have to apply for the relaxation of the street boundary building line.

3.2. THE PROPOSAL

To reiterate, application is made for the relaxation of the street boundary building line from 4m to 2.472m to allow for additions and alterations to the existing dwelling. The alterations include the following:

- Demolishing of external balcony with roof and demolishing of external stairs and landing.
- Demolishing of an existing domestic quarters and roof.
- Demolishing of an existing Wendy house.
- Construction of a new garage.
- Internal changes as per the attached Site Development Plan.

The proposed building line relaxation consists of the following:

- Relaxation of the street boundary building line from 4m to 2.472m.
- Relaxation of the lateral boundary building line from 2m to 1.570m.

Please refer to the figures below for extracts from the proposed Site Development Plan (SDP), attached hereto as Annexure E.

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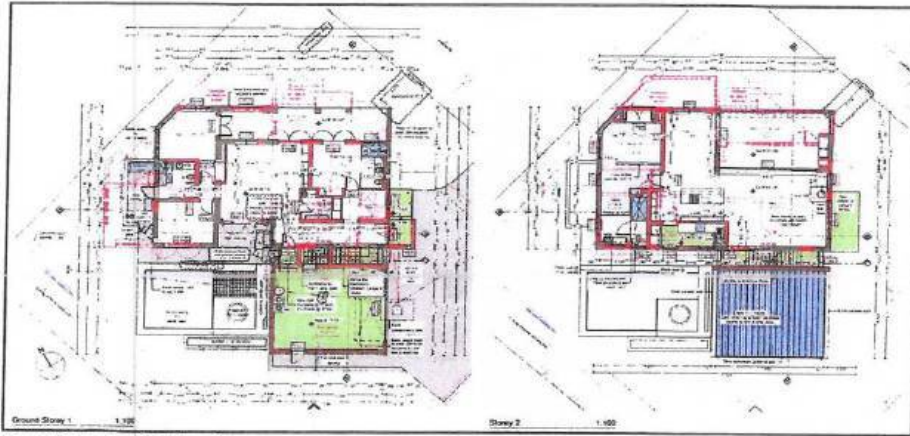


Figure 3: Ground and First Floor Plans

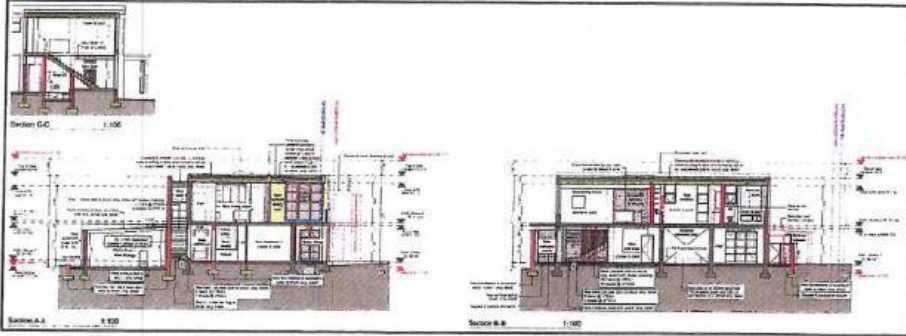


Figure 4: Sections

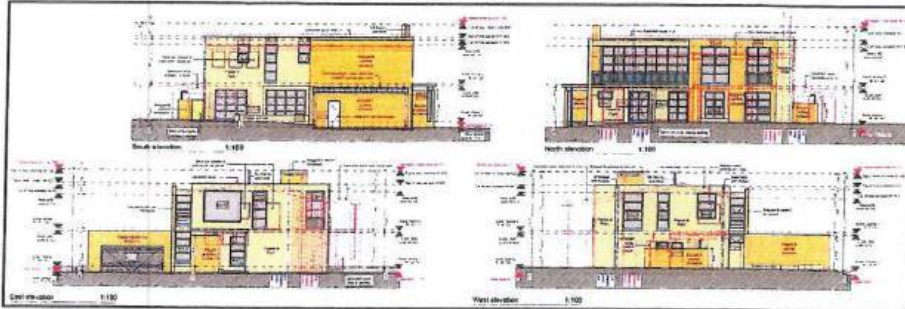


Figure 5: Elevations

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3.3. PHOTOS OF THE SITE

This office took photos during a site visit at the application site. The photos are for information purposes to assist the reader and to provide a feel for the proposed application. Please see the photos below:



Photos 1 & 2: Northern View



Photo 3: Eastern View (from Priestley Road)

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Photos 4 & 5: Southern View



Photo 6: Western View

3.4. REMOVAL OF RESTRICTIVE TITLE DEED CONDITION

To reiterate Section 3.1 of this motivation report, application is made for the removal of a restrictive title deed condition, contained in the subject title deed.

In terms of Section 35 of the Amendment By-Law on Municipal Land Use Planning, 2020, the Municipality must take into consideration a few aspects upon approving or refusing the removal, suspension, or amendment of a restrictive condition. The subject title deed contains a restrictive condition that will have to be removed. The condition reads as follow:

Condition 4. (e): No buildings or structure except boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf, nor within 3, 15 metres of the lateral boundary common to any adjoining erf provided that with the consent of the local authority an outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation may be erected within the above prescribed rear space, and provided further that a garage may be erected up to such street line if the opinion of the local authority of the erf is such to make that necessary.



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The owners bought the subject property very recently and upon starting with renovations it was pointed out that the existing dwelling has been altered somewhere between 1984 and present, without prior approval from the Local Authority. This was unknown to the new buyers but has nonetheless agreed to proceed with the removal of restrictive condition as per Council's instruction.

The Municipality must have regard to the following for the application to be considered:

- *The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement.*
The subject restrictive conditions do not have any significant value to a person or entity, nor is it deemed that the removal of this condition will alter the character of the surrounding area as the proposal will remain residential in nature.
- *The personal benefits which accrue to the holder of rights in terms of the restrictive condition.*
The building was constructed by previous owners and was done without approval from Council. The application is to rectify and obtain approval for the contravention made by previous owners, The new owners will only enjoy the benefit of approved plans and a dwelling that is compliant in terms of the proposal.
- *The personal benefits which will accrue to the person seeking the removal of the restrictive condition if it is removed.*
The property owner will possibly enjoy the benefit of an increase in property value which will then be in line with the retail prices of properties in the surrounding area.
- *The social benefit of the restrictive condition remaining in place in its existing form.*
There is no social benefit to be enjoyed should the restrictive conditions remain in place. The restrictive condition serves no purpose in terms of the health, safety, and wellbeing of the surrounding community. The restrictive condition does not deter a change in land use, or similar deterrence that could have a detrimental impact on the surrounding community. In essence, the removal of the restrictive condition only limits the property owner in terms of development on their property.
- *The social benefit of the removal or amendment of the restrictive condition.*
The subject restrictive condition holds no social benefit besides from the property owner being able to obtain approved plans for an existing dwelling house.
- *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.*
This application entails the removal of a restrictive conditions and will not attempt to alter the additional conditions as pertained in the subject Title Deed. Therefore, not all restrictive conditions will be removed.

As per the above, the removal of Condition 4. (e) of the subject Title Deed is not deemed to impact negatively on the surrounding community or the abutting properties. This office requests the favourable consideration of this application.



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3.5. DETERMINATION OF AN ADMINISTRATIVE PENALTY

Application is hereby made in terms of Section 90 of the Overstrand Municipality Amended By-Law on Municipal Land Use Planning, 2020 for the determination of an administrative penalty. An administrative penalty is a direct contravention of the Overstrand Municipal Planning By-Law on Land Use Planning. The following measures must be addressed to the satisfaction of the Municipality to determine whether the imposition of an administrative penalty is applicable. The information required is stipulated as follow:

- *The nature, duration, gravity, and extent of the contravention.*
The administrative penalty application pertains to the illegal structure being built the specified boundary building lines and per the attached Site Development Plan. His office scrutinised previously approved building plans on the subject erf to which it became evident that the previous owners have undertaken construction work to the existing dwelling without submitted plans to Council for consideration. This must have taken place anytime between 1984 and 2021. The new owners took occupancy in 2021.
- *The conduct of the person (allegedly) involved in the contravention.*
The new owners took immediate action by allowing this office to apply for the determination of an administrative penalty. It should be noted that the property owners have no knowledge of the processes involved and was not aware of the fact that the subject dwelling does not have updated/approved plans. This was only brought forward once they made use of an architect for the proposed additions and alterations.
- *A report by a quantity surveyor in matters of unauthorised building/construction.*
This office is of the opinion that a report by a quantity surveyor is not required at this stage. Should the Local Authorities, MPT, or any other governing body require a report by the quantity surveyor it will be requested and made available upon request, should a penalty be requested.
- *Whether the unlawful conduct was stopped.*
The new owners have stopped all construction work (internal alterations) and have indicated that they will only resume upon approval of this land use application and subsequent building plan approval.
- *Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.*
To our knowledge, the current owners have not been in contravention of this By-Law or any other previous planning law.

This office respectfully requests that a penalty be not imposed on the owners of Erf 108, due to the following reasons:

- The property owner was not duly informed on the required processes to follow.
- No complaints have been received from the abutting neighbours, or surrounding community.
- To the best of our knowledge, no previous contravention has been done by the property owners.

We respectfully request your favourable consideration with this matter.



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3.6. NEED AND DESIRABILITY

The desirability of the application can be determined in the following aspects:

- The proposal is not deemed to impact negatively on the abutting neighbours in terms of privacy or loss of sunlight.
- Proposal is in line with any residential neighbourhood and residential property.
- It should be noted that the subject dwelling was approved in the current position and can be proven by the previously approved plans that should be in the archives of Council. Earliest plan date back to 1969.
- The proposal is not deemed to impact negatively on the health and safety of the surrounding community.
- The building line relaxations are not a result of construction work being undertaken by the new property owners and were done so by previous owners.
- The proposal will add value to the existing dwelling and subsequently influence the property market of the surrounding properties in a positive manner.
- The proposal will not have a negative impact on the character of the surrounding area and does not entail a change in land use. Therefore, is still in accordance with the surrounding area.
- It is not deemed to have a negative cumulative impact on the surrounding area.
- The application site is in an already developed residential area and will thus not impact negatively on the environment.

From the above it is clear that the proposal is not deemed to be out of character for that of the surrounding area and the greater Rooi Els area. It is the opinion of this office that the proposal can thus be deemed desirable in terms of the aforesaid points.



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4. SECTION 4: LEGISLATION

Section 4 of this report consists of the applicable Legislation pertaining to this application.

4.1. FORWARD PLANNING

Overstrand Municipality Spatial Development Framework (May 2020)

The Municipal Spatial Development Framework is a sectoral component of the IDP that, in terms of the Municipal Systems Act, 2000 (Act No. 32 of 2000), is aimed at providing general direction to guide decision making on an ongoing basis, aiming at the creation of integrated, sustainable, and habitable regions, cities, towns and residential areas.

The key statutory requirements of the SDF are as follow:

- Give effect to the principles, norms, and standards.
- Include a written and spatial representation of a five-year spatial development plan for the Municipality.
- Include a longer spatial development vision statement.
- Identify current and future structuring elements of the Municipal spatial form (i.e., development corridors, activity spines, economic nodes, etc.).
- Include population growth estimates for the next five years.
- Include estimates for the demand of housing units and the planned location and density of future housing developments.
- Include estimates of economic activity and employment trends and locations in the Municipality for the next five years.
- Identify, quantify, and provide location requirements of engineering infrastructure and services provision for the next five years.
- Identify the designated areas where a national or provincial inclusionary housing policy may be applicable.
- Include a strategic assessment of the environmental pressures.
- Create opportunities (incl. spatial location of environmental sensitivities, high potential agricultural land, and coastal strips).
- Identify areas in which more detailed local plans must be developed and shortened land use procedures may be applicable.
- Provide spatial expression of integration of municipal sectoral policies.
- Determine a capital expenditure framework for the Municipal development programmes depicted spatially.
- Include an implementation.

The proposal is not deemed to be in contravention with the Overstrand SDF as it is not in contradiction with the abovementioned statutory requirements of the SDF. Further to the aforesaid is that the application site is in an urban development area, within the urban edge of Rooi Els. The proposal is thus not in contravention with the SDF.

Overstrand Integrated Development Plan (May 2020)

The Overstrand Municipality Integrated Development Plan (IDP) is aimed towards addressing the development needs of our communities with clearly defined strategic objectives and performance indicators. These strategic objectives are as follows:

- The provision of democratic, accountable, and ethical governance
- The provision and maintenance of municipal services



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- The encouragement of structured community participation in the matters of the municipality
- The creation and maintenance of a safe and healthy environment
- The promotion of tourism, economic and social development.

The IDP is crucial to take into consideration in any planning related application. It is the opinion of this office that the proposal promotes social development and creates a safe and healthy environment, not only for the property owner, but also for the surrounding residents of the area.

Overstrand Municipal Growth Management Strategy (2010)

The Growth Management Strategy does not refer to individual erven, however it does provide a guideline in terms of densification and additional community facilities. This proposal does not entail the densification of Erf 108 and would thus not be in contradiction with the Growth Management Strategy. The proposal adds to the character and natural landscape of Rooi Els

The application site is not within a Heritage Overlay Zone as defined in the Growth Management Strategy and will thus not constitute any heritage related aspects.

Overstrand Municipality Amended By-Law on Municipal Land Use Planning (2020)

It is important to consider Section 66 of the Overstrand Municipality Amended By-Law on Municipal Land Use Planning in terms of the "General criteria for consideration of applications":

- When the Authorised Official or Municipal Planning Tribunal considers an application, it must have regard to the following:
 - the application submitted in terms of this By-law;
 - the procedure followed in processing the application;
 - the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding proposed land uses;
 - the comments in response to the notice of the application and the comments received from organs of state and internal departments;
 - the response by the applicant to the comments referred to in paragraph (d);
 - investigations carried out in terms of other laws which are relevant to the consideration of the application;
 - a registered planner, or a planner eligible for registration, written assessment, which includes:
 - an amendment of a Spatial Development Framework or land use scheme
 - an approval of an overlay zone contemplated in the land use scheme
 - a phasing, amendment or cancellation of a subdivision plan or part thereof
 - a determination of a zoning
 - a rezoning
 - the integrated development plan and Municipal Spatial Development Framework;
 - the applicable Local Spatial Development Frameworks adopted by the Municipality;
 - the applicable policies of the Municipality that guide decision-making;
 - the Provincial Spatial Development Framework;
 - where applicable, the regional spatial development framework;



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- the policies, principles, planning and development norms and criteria set by national and provincial government;
- the matters referred to in Section 42 of the Spatial Planning and Land Use Management Act;
- the principles referred to in Chapter VI of the Land Use Planning Act; and
- the relevant provisions of the land use scheme.
- An Authorised Official or Municipal Planning Tribunal must approve a site development plan submitted to the Municipality for approval in terms of applicable development parameters or conditions of approval if the site development plan—
 - is consistent with the development parameters of the zoning;
 - is consistent with the development parameters of the overlay zone;
 - complies with the conditions of approval; and
 - complies with this By-law.
- When a site development plan is required in terms of development parameters or conditions of approval—
 - the Municipality may not approve a building plan if the site development plan has not been approved; and
 - the Municipality may not approve a building plan that is inconsistent with the approved site development plan.

The proposal is not considered to be a deviation from the aforesaid requirements, however, is substantially in accordance with any residential neighbourhood, and is not deemed to pose a significant threat to the abutting property.

4.2. PLANNING PRINCIPLES

The proposed development supports the principles of Chapter VI (Article 59) of the Land Use Planning Act (LUPA), Act 3 of 2014, and Chapter 2 (Article 7) of the Spatial Planning and Land Use Management Act (SPLUMA), Act 16 of 2013, as follows:

Spatial Justice

Refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access opportunities, facilities, services, and land.

The proposed application will not contribute to the perpetuation of past apartheid spatial development imbalances.

Spatial Sustainability

A spatially sustainable settlement will be one which has an equitable land market while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity-rich areas, as well as scenic and cultural landscape and ultimately limits urban sprawl.

The proposed development will continue to protect any environmentally sensitive areas and cultural landscapes, as it is in an already developed residential area, and will thus not alter any environmentally sensitive areas.



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Efficiency

Efficiency refers to the need to create settlements that optimise the use of space, energy, infrastructure, resources, and land.

The proposed development will optimally harness the potential that sustainably exists on the subject property as it utilises the existing footprint of a residential dwelling and will not require additional service capacity.

Spatial Resilience

Spatial resilience in the context of land use planning refers to spatial plans, policies and land use management systems that should enable the communities to be able to resist, absorb and accommodate economic and environmental shocks and to recover from these shocks in a timely and efficient manner.

The proposed development is well aligned with the spatial plans and policies and that will enable the subject property to be able to resist, absorb and accommodate environmental and economic shocks and recover from shocks in a timely and efficient manner.

Good Administration

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

The proposed development will promote consultative planning as the Municipality will advertise the proposal to the public to allow the comments of the public to be taken into consideration. FVS Town and Regional Planners will also respond to the comments of the public and take the comments into consideration in the planning of the project.

This section outlines how the proposed development is aligned with the core planning principles as outlined in SPLUMA and LUPA. The proposed can therefore be viewed as encompassing and promoting all planning principles.



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5. SECTION 5: CONCLUSION

5.1. REASONS FOR APPROVAL

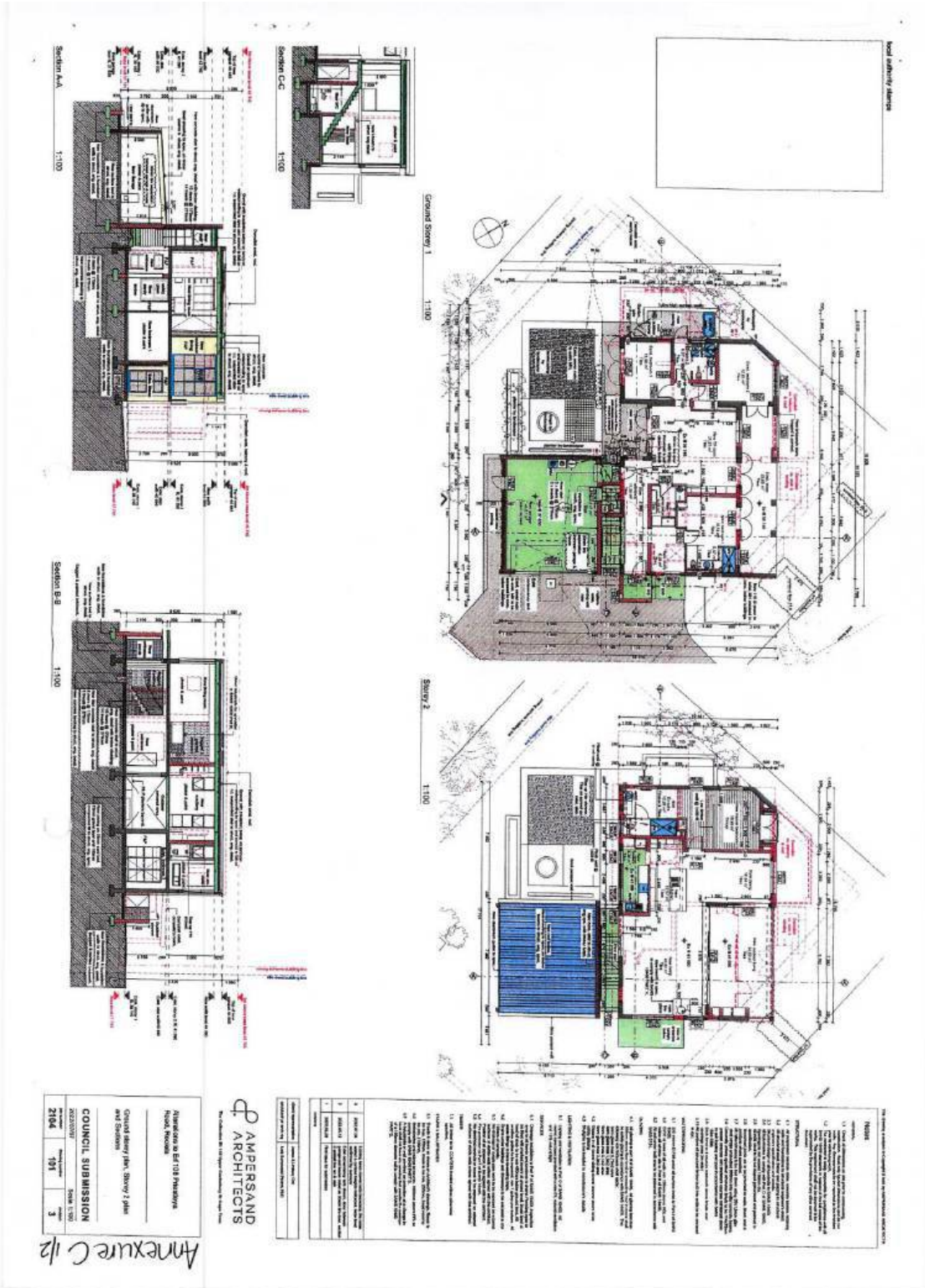
- *No additional Municipal Services will be required. The application site is already serviced and will thus not require the creation of additional services capacity.*
- *The proposal is deemed desirable in terms of the Overstrand Municipality Land Use Scheme of 2020, as set out under Section 3 of this Motivation report.*
- *No negative impact is foreseen on the abutting neighbours in terms of privacy.*
- *The proposal is in line with any residential neighbourhood, and similar instances can be found throughout the town of Rooi Els and surrounds.*
- *The proposal is further deemed to add value to the application site as it will increase the resell value, keeping it in line with the surrounding erven.*
- *The proposed building line relaxation is not deemed to impact negatively on the abutting neighbour as the proposed screening wall is more than 1.5m from the common boundary.*

Considering the above information, Council is respectfully requested to favourably consider the application for the following:

Approval for the proposed street and lateral boundary building line relaxation in terms of the Overstrand Municipality Land Use Planning By-law on Erf 108, Rooi Els.

Kind Regards,

Jaco van Schalkwyk
Director of FVS Town and Regional Planners



Annexure C 1/2

Annexure D 1/5

1052

Hayes Incorporated
Thermis Law Chambers
Unit 1
Roeland Square
Roeland Street
Cape Town

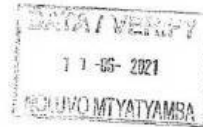
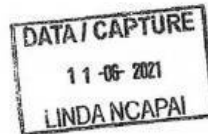
Prepared by me



CONVEYANCER

SUSANNE FREDERICKA SMIT (18815)

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 2900 000 00	R. 1778.00
Reason for exemption	Category Exemption	Exemption i t o. Sec/Reg. Act/Proc.



T 000028335 / 2021

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

RAYMOND FRANCIS SCOTT (87025)

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney granted to him/her by

CAROLYN CHRISTINE HUNTER
Identity Number 471112 0055 08 0
Unmarried

which said Power of Attorney was signed at Cape Town on 29 April 2021

+

And the appearer declared that his/her said principal had, on 16 April 2021, truly and legally sold by Private Treaty, and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

1. **JAMES ORD**
Identity Number 740916 5289 08 9
Married out of community of property
2. **LINDSEY ORD**
Identity Number 730303 0104 08 8
Married out of community of property

their Heirs, Executors, Administrators or Assigns, in full and free property

**ERF 108 ROOI-ELS, OVERSTRAND MUNICIPALITY, DIVISION CALEDON,
PROVINCE OF THE WESTERN CAPE**

IN EXTENT 943 (NINE HUNDRED AND FORTY THREE) Square metres

FIRST TRANSFERRED by Deed of Transfer Number T21907/1967 with Diagram SG Number 5950/1967 relating hereto and held by Deed of Transfer Number T4767/2014 and T8161/2018

- A. **SUBJECT** to the conditions referred to in the Deed of Transfer Number T8161/2018.
- B. **SUBJECT FURTHER AND ENTITLED** to the benefit of the conditions referred to in the servitude endorsement dated June 1940 on Certificate of Consolidated Title Number T3720/1937, which endorsement reads as follows:

"By Deed of Transfer Number 6068/1940 dated 24/6/1940 certain conditions relating to (b) prohibition of Petrol Station of land (d) Wood and iron buildings (e) slaughter poles, cattle kraals and manufacture of bricks, tiles etc, have been imposed on the property thereby conveyed for the benefit of the owner and its successors in title of the remainder of the property held hereunder as will more fully appear on reference to the said Deed of Transfer.

- C. **SUBJECT FURTHER** to the following conditions contained in certain Deed of Grant made on 30th April 1939 (Stellenbosch Quitrents Volume 12, Number 18) which conditions read as follows:

"On condition that all roads and thoroughfares running over this land, shall remain free and uninterrupted; that said land shall be liable (without compensation to its proprietor) to have any road made over it for the public good, by order of State. That the road and thoroughfare leading to the Waaygat Bay, shall also remain free and that the public shall be allowed to untear their cattle at the said Bay- and be allowed, without hindrance, to fish there, and he shall be bound (according to the existing laws of this Settlement) to have brought into such state of cultivation as it is capable of the land thus granted being further subject to all such duties and regulations as are either already, or shall in future be established in respect of land granted under similar tenure."

- D. **SUBJECT AND ENTITLED FURTHER** to the benefits of the Servitude reference where to is made in the endorsement dated 8 April 1949 on Certificate of Township Title Number T13367/1948

"Registration of servitude

By Notarial Deed Number 107/1949 dated 10th March 1949, the Administrator of the Province of the Cape of Good Hope, or his nominee, in Trust for such local authority as may hereafter be constituted for the Rooi Els Township, for the benefit of the Erf holders and such local authority has been granted certain rights relating to (a) supply of water to erfholders and local authority (b) delivery of the said water to the above-mentioned township by means of a pipeline indicated on the servitude diagram Number T8589/1948 by the letters a,b,c,d,e,f,g,h,j,k,l,m,n, annexed to the aforesaid Notarial Deed (c) storage of water and constructing the necessary impounding works (d) aqueducts (e) purification works and reservoirs (f) access to and egress from the present or future headworks, site, pipeline, reservoirs and purification works over the remainder of the farm Hangklip held under Certificate of Consolidated Title Number T3720/1937, subject to conditions as will more fully appear on reference to the said Notarial Deed a copy of which is annexed hereto."

- E. **SUBJECT FURHTER** to the following conditions contained in the Deed of Transfer Number T21905/1967 imposed by the Administrator of the Province of the Cape of Good Hope, when approving of the General Plan of the said Rooi Els Township under the provisions of Ordinance 33 of 1934, reading as follows:

1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Administration Notice Number 410 dated 17th October 1935 and in the memorandum which accompanied the said regulations.
2. The owner of this erf shall, without compensation be obliged to allow the sewage and drainage including stormwater of any other erf or even to be conveyed across this erf if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to this erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works, pertaining thereto.
3. The owner of this erf shall be obliged, without compensation, to receive the material or permit excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.
4. This erf shall be subject to the following further conditions, provided especially that where, in the opinion of the administrator after consultation with the Township Board and the local authority, it is expedient that the restriction in any such conditions should at any time be suspended or relaxed, he may authorize the necessary suspension or relaxation subject to compliance with such conditions as he may impose:

(a) It shall not be subdivided;

(b) It shall be used for residential purposes only;

Page 4

- (c) Not more than one building excluding a licensed hotel, maisonettes and semi-detached houses, together with such outbuildings as are ordinarily required to be used therewith, shall be erected thereon;
- (d) Not more than half of the area thereof shall be built upon;
- (e) No buildings or structure except boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf, nor within 3,15 metres of the lateral boundary common to any adjoining erf provided that with the consent of the local authority an outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation may be erected within the above prescribed rear space, and provided further that a garage may be erected up to such street line if the opinion of the local authority of the erf is such to make that necessary.
- (f) Pending the establishment of a local authority for this Township, the sewage of this erf shall not be disposed of otherwise than by means of a properly constructed septic tank if the nature of the soil permits, otherwise into a properly constructed vacuum tank serving one or even. If any such tank is situated on this erf, the owner shall without compensation be obliged to remove it after three months' written notice served upon him by such local authority.
- F. SUBJECT FURTHER to the following conditions imposed by HANGKLIP BEACH ESTATES LIMITED (Transferor Company) in Deed of Transfer Number T21905/1967 as being in favour of the registered owner of any erf in the Township:
- (a) No wood or iron buildings of any description shall be erected on this erf nor shall corrugated iron be used for roofing purposes;
- (b) No slaughter poles, cattle kraals, pig-sties or cowsheds shall be erected or carried on by any person whomsoever on this erf;
- (c) Save with the consent in writing of the Company and of any local authority the owner shall not have the right to make or cause to be made upon the erf for any purpose whatsoever any bricks, tiles or earthenware pipes or other articles of such nature, nor shall he have the right (save and except to prepare the erf for building purposes) to dig or quarry any earth, gravel or stone thereon.
- (d) No building (excluding outbuildings) shall be erected on this erf of a superficial area of less than 99 square metres.
- (e) No noxious trade or noxious business shall be carried on on this erf.
- (f) The Transferee shall not camp over night or light fires on this erf save with the written consent of the Company.

Page 5

- G. **NOT ENTITLED** to the benefit of the conditions referred to in Servitude Endorsement dated 1st December 1939 appearing on Certificate of Township Title Number 13367 dated 23rd June, 1948, which conditions relate to the reservation of water rights, which have been reserved to the said HANGKLIP BEACH ESTATES LIMITED as owner of the remaining extent of the said Township of Rooi Els as aforesaid.

WHEREFORE the said Appearer, renouncing all rights and title which the said

CAROLYN CHRISTINE HUNTER, Unmarried

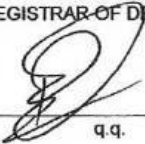
heretofore had to the premises, did in consequence also acknowledge her to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

1. **JAMES ORD, Married as aforesaid**
2. **LINDSEY ORD, Married as aforesaid**

their Heirs, Executors, Administrators or Assigns, now are and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R2 900 000,00 (TWO MILLION NINE HUNDRED THOUSAND RAND) .

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on **08 JUN 2021**



q.q.

In my presence



REGISTRAR OF DEEDS

TP n/heard
(11. ud Skoop)

Annexure E 1/2



Rooiels Ratepayers' Association / Rooiels Belastingbetalersvereniging.

Town Planning Department
Overstrand Municipality
loretta@overstrand.gov.za

rera.chair@rooiels.org.za
PO Box 89
Pringle Bay
7196
7 April 2023

ERF108, PRIESTLEYA ROAD, ROOIELS. APPLICATION FOR REMOVAL OF TITLE DEED CONDITIONS AND ADMINISTRATIVE PENALTY

1. With all respect, it appears that there is a method in the application to ensure the achievement of a secondary objective.
2. The applicants wish to build a new outdoor bathroom with screening wall and also a new ensuite bedroom. These new building additions they wish to build within the restricted areas, without explaining why these cannot be fitted in on the existing available building space – only 31% of the erf is currently built on.
3. They furthermore intend demolishing substantial parts of the existing building, including the sections that currently infringe on the restricted areas, without explaining why the new additions cannot subsequently be built within the allowable building lines.
4. They furthermore seem to attempt to legalize the existing infringements by applying for an administrative penalty, which they also wish to have remitted.
But, once the infringements have been demolished, as they intend, the infringements do not exist anymore and the consideration for a penalty falls away.
5. The application for removal of the lateral building line restriction is for a outdoor bathroom, which could be fitted in within the building lines without having to apply for a removal of a title deed restriction.
6. Compliance with the street building line is essential for maintaining the spatial character of Rooiels. The street building line should not be relaxed to fit in a new bedroom, where none existed before. The OM Planning Department is on record, thank you, for previously not allowing a relaxation of a street building line in a previous Rooiels application where there was enough space, such as the present, on the erf to fit the addition.

It should also be pointed out that the title deed condition, by specifying a strict exemption of the street building line to make it possible for a garage to be situated only in exceptional circumstances, makes it clear that a high value is placed on compliance with the street building line.

FILE NO.	EF 108
	Rooi Els
SCAN NO.	
COLLABORATOR NO.	1842350

5 APR 2023

7. It would appear as if the transgressing sections of the building can be demolished, as part of the proposal of the applicants, to fit in within the most restrictive building lines of the title deed or the OM Zoning Scheme.

8. It would also appear as if removal of the title deed conditions is not necessary.

In this regard we wish to draw the attention that for the removal of title deed conditions, notice should have been given to all erf owners in Rooiels and not only to the neighbours.

If the OM should allow the removal of any title deed condition in this application, then we will appeal the decision as being unlawful due to defective notification.

9. A previous precedent setting OM Appeal Decision stated. "Restrictive conditions on a title deed are placed there for a specific reason and the removal of these conditions should not be considered lightly."

The applicants would appear to be applying out of convenience for them, and are possibly circumventing the importance of building lines and maintaining the spatial character of Rooiels, with this application.

OM is kindly requested to consider this application carefully, taking the above information into consideration and consequently not allowing the application.

Yours faithfully



Piet van Rensburg

Chairman Rooiels Ratepayers' Association.

Annexure F 1/3

1

Advocate James Ord



5th floor, 56 Keerom Street
Cape Town, 8000
Tel: +27 (21) 424 - 7290
Fax: +27 (21) 422 - 2142
e-mail: jord@capebar.co.za

TP-A Theart
(Huld Stoep)

24 April 2023

Erf 108, Rooi Els

My wife and I, the owners of Erf 108, reply to the objection (ostensibly) filed on behalf of the Rooi Els Ratepayers' Association.

In doing so, I wish to highlight the following at the outset:

1. First, I have used the word "*ostensibly*" above because there is no evidence that Mr Van Rensburg has been authorised by the association to object on its behalf (no resolution of the association to that effect is attached). In the circumstances, it appears that the objection falls to be ignored in its entirety.
2. Second, no single owner has objected to what is being proposed. Put differently, none of the neighbours (or anybody else in Rooi Els) has objected to what is being proposed. This is for good reason: we are seeking to renovate a derelict old property, and this will do nothing other than enhance the area and improve local property values.
3. Third, save for the outside shower (which I deal with below), the application would serve only to regularise an already approved (existing) structure that was incorrectly located on the subject Erf. In this regard:
 - 3.1 The existing double storey structure (depicted in the street view photograph attached hereto) was erected in/about 1981 by a previous owner (in other words, the structure was erected approx. 40 years ago).
 - 3.2 We are not seeking to do anything other than obtain approval for the existing double storey structure, as built (we are not seeking to erect any new buildings over any setback lines).
 - 3.3 In other words, we seek merely to render legal that which was built approx. 40 years ago).
 - 3.4 Thus, there can be no prejudice to any party if the application is approved (as stated above, the building was erected by a previous owner decades ago, and there will be zero impact on the subject Erf and/or the surrounding erven).
4. Fourth, the new outside shower (which none of the neighbours have any objection to) is a minor departure that will have no impact whatsoever on the surrounding properties (that none of the surrounding properties objected thereto is evidence of this fact).

In all the circumstances, reasons of practicality and convenience militate very strongly in favour of approving the application.

- 3 MAY 2023

TP

FILE NO. Erf 108-KRE
SCAN NO.
COLLABORATOR NO.
185 3078

Furthermore, insofar as the points raised by the association are concerned:

1. The association appears to misunderstand the nature of the application. Whereas the association mistakenly believes that we intend to erect a "new bedroom where, none existed before", that is not factually correct. As dealt with above, we seek to legalise an existing structure built approx. 40 years ago. We do not seek permission to erect a new structure across the street boundary (or any other boundary).
2. It is also not correct that we will be demolishing "substantial parts of the existing building", as the association's objection records. The demolition pertains to a single room attached to the building at the rear of the property which crosses a setback line (i.e. the demolition is intended to assist in rendering the structure legal, and to reduce coverage).
3. Although the association alleges that the application is "not necessary", that is not factually correct. If the application is not granted, a portion of the existing double story structure will have to be demolished, necessitating a substantial re-design of the existing structure and material building works. This is not in the interests of the property owners in the area (and that none of the surrounding property owners objected to the application serves to demonstrate that to be the case).
4. As stated above, the new outside shower (which none of the neighbours have any objection to) is a minor departure that will have no impact whatsoever on the surrounding properties.
5. Also, the building plans entail replacing the existing asbestos roof. There will be no new roof area (again, I re-iterate that we are seeking to render an existing double story structure legal. We do not propose to add any new structures across setback lines).

In conclusion, the association has lodged an objection that is factually incorrect and without merit.

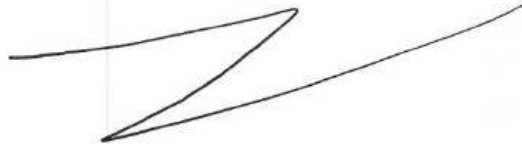
I re-iterate that all we seek to do (save for the outside shower) is to regularise an existing structure that was built approx. 40 years ago. Thus, what we propose to do is to maintain the *status quo*, which will clearly not have an adverse impact on the "spatial character" of Rooi Els.

I point out also that we have given due notice to residents, in accordance with the Municipality's directions. Save for the association's objection, none of the residents in Rooi Els take issue with what we propose to do.

We advise accordingly.

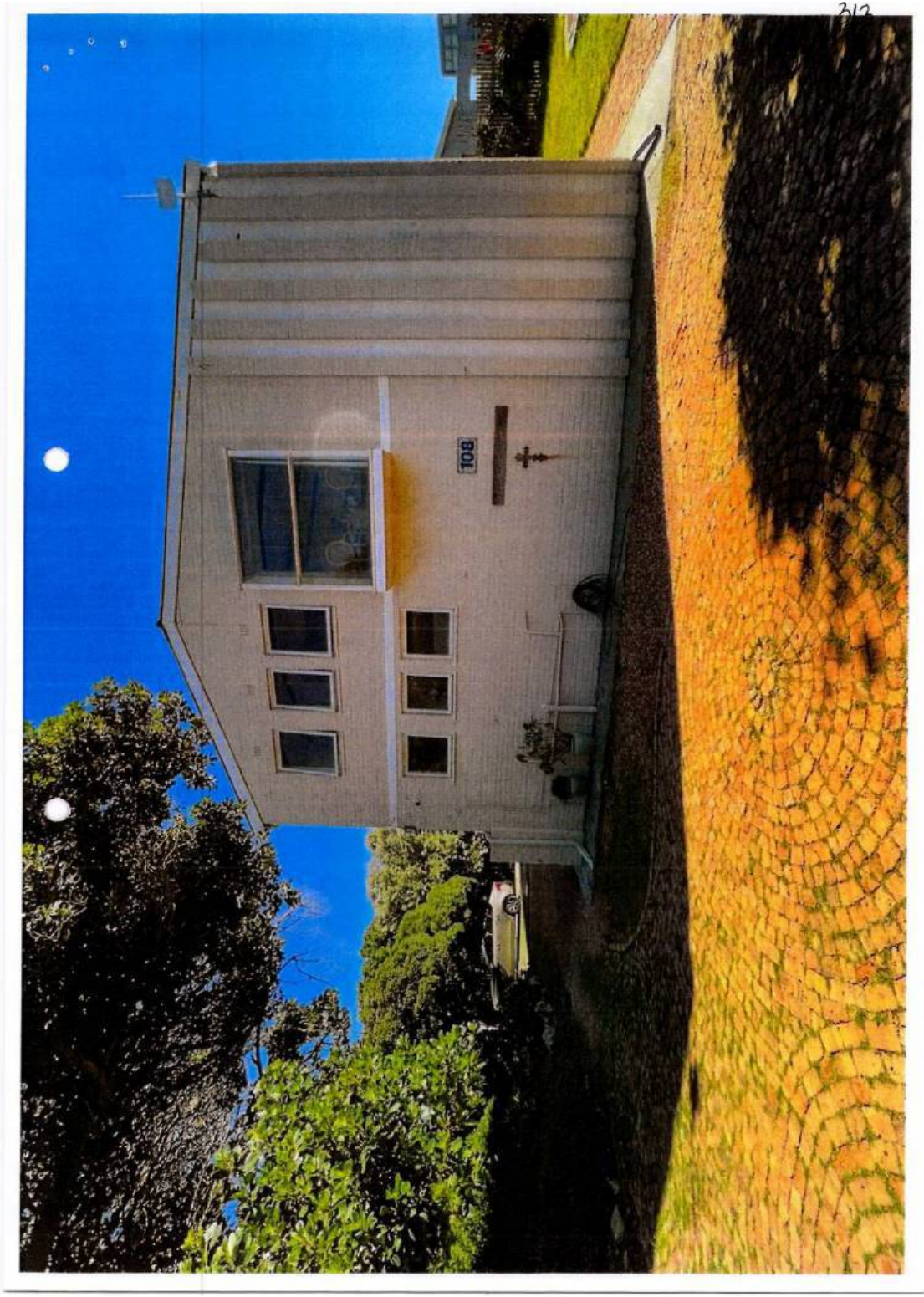
Yours faithfully

Advocate James Ord



ba llb llm (university of cape town)
advocate of the high court of south africa
member of the cape bar

(signed electronically, for and on behalf of the owners of Erf 108)



Annexure G

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION,
DEPARTURE & DETERMINATION OF AN ADMINISTRATIVE PENALTY: ERF
108, ROOI ELS (4210/2022)**

Stormwater (SW)	:	In order
Electricity	:	Eskom Area
Water	:	In order
Sewer	:	In order
Roads and traffic	:	In order

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the developer's cost;
2. that should additional services connections be required, the owner will be responsible for the payment of bulk services levies;
3. that the developer investigates and determine the limitations of the site in terms of drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage;
4. that on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Directorate: Infrastructure and Planning;
5. that any additional and / or extended vehicle entrance will be for the owner's account;
6. that, upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Senior Manager: Operational Services (Kleinmond) for written approval;
7. that stormwater be allowed to discharge through Erf 108, Rooi Els, unobstructed.

p.p. A. Hendriks
DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES

03/05/2023
DATE

2/8

transfer duty is payable. If the net amt falls below the value provided above, the percentage endorsement shall be increased so that the amount of the endorsement equals 7% of 7% of the sum on which transfer duty is payable.

4. That upon a local authority being constituted for the township, the head-works, reservoirs, pipes and other appurtenances and things in connection with the water supply for this township shall become the property of such local authority and any and all rights and interests enjoyed by the owner in regard to the water supply for this township shall cease. Provided that all water in excess of the quantity stipulated in condition 2 (ii) and (iii) above, shall belong to the owner, together with the right to lead by means of a conduit or pipe, such excess water from the present or future head-works-reservoir. The owner shall have no right to claim compensation for the works or rights relinquished as required herein.

5. That the owner shall be allowed to levy a charge on erfholders for the services of administering the water of the township, which charge shall be subject to the approval of the administrator.

6. That before any arven are transferred the owner shall enter into a suitable agreement of servitude and registration in favour of the Administrator (or his nominee) in trust for such local authority, as may hereafter be constituted for this township, reserving for the benefit of the erfholders and such local authority:-

- (a) the right to the quantity of water as set out in condition 2(ii) and (iii) above;
- (b) the right to store water and to construct the necessary impounding works;
- (c) the right of aqueduct from the intake dam to the township;
- (d) the right of access to the pipelines servitude and to the intake dam, etc., for construction and maintenance works.

7. That the depositing site reserved for the Betty's Bay, Silver Sands and Pringle Bay Townships shall also be available for the disposal of sewage, nightsoil, slopwater and rubbish from the Rooi Els Township.

8. That the following arven shall be reserved for the purposes stated:

- (a) Erf No. 25 - Government purposes.
- (b) Erf No. 11 - Local Authority purposes.
- (c) Erf No. 211 - Educational purposes.
- (d) Erf No. 199 - Public Place.
- (e) Arven Nos. 200, 221 - Public Place.
- (f) Erf No. 212 - Recreation Ground (Public Place).

145

3/8

21-11-11

D.P. 401-10-11
Erf of Erf No. 322
Erf of Erf No. 322

Created
Date

Original No. 1000
No. 1000
No. 1000

9. That erf No. 322 be transferred to the Union Government in exchange for the area shown as erf No. 322 which is to be excluded from the plan in view of the impracticability of the grant of the aforesaid erf No. 1. That unless the owner can arrange for the grant of erf No. 322 to be made direct in favour of the Divisional Council of Calcutta, the owner shall immediately on receipt of such grant in his own favour transfer it free of cost to the said Council.

10. That the conditions under the heading "Conditions of Title" below shall apply as from the date of approval of this application and each erf shall be subject to existing conditions and servitudes.

CONDITIONS OF TITLE

11. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Administration Notice No. 401 dated 17th October 1935 and in the memorandum which accompanied the said regulations.

12. The owner of this erf shall, without compensation be obliged to allow the sewage and drainage including stormwater, of other erf or even to be conveyed across this erf, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.

13. The owner of this erf shall be obliged, without compensation, to receive the material or permit excavation on the erf, as may be required, to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.

Additional conditions applying in respect of erf nos. 22 to 28, 30, 31, 34, 35, 45 to 55, 83, 89, 98, 99, 101 to 114, 116 to 122 and 130 to 137.

14. This erf shall be subject to the following further conditions, provided especially that where in the opinion of the Administrator after consultation with the Township Board and the local authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorize the necessary suspension or relaxation subject to compliance with such conditions as he may impose:

- (a) it shall not be subdivided;
- (b) it shall be used for residential purposes only;

-4-

houses) together with such outbuildings as are ordinarily required to be used therewith shall be erected thereon;

(4) not more than half the area thereof shall be built upon;

(5) no building or structure except boundary walls and fences, shall be erected nearer than 15 feet to the street line which forms the boundary of this erf, nor within 10 feet of the rear or 5 feet of the lateral boundary common to any adjoining erf. Provided that with the consent of the local authority no building not exceeding 10 feet in height, measured from the floor to the main eaves and no portion of which will be used for human habitation may be erected within the above prescribed rear space, and provided further that a garage may be erected up to such street line if in the opinion of the local authority the level of the erf is such as to make that necessary;

(6) pending the establishment of a local authority for this township, the sewage of this erf shall not be disposed of otherwise than by means of a properly constructed septic tank if the nature of the soil permits, otherwise into a properly constructed vacuum tank serving one or more erfes. If any such tank is situated on this erf the owner shall without compensation be obliged to remove it after three months' written notice served upon him by such local authority.

Additional conditions applying in respect of erfes Nos. 2 to 6, 12 to 21, 41 to 44, 56 to 64, 69 to 72, 80 to 87, 121 to 125, 146 to 174, 176 to 198, 200 to 210, 212 to 231 and 233 to 240.

15. Same as preamble of condition No. 14:-

(a) same as 14(a);

(b) it shall be used for residential purposes only, but no building other than one dealing together with such outbuildings as are ordinarily required to be used therewith shall be erected thereon;

(c) same as 14(d);

(d) same as 14(e);

(e) same as 14(f);

Additional conditions applying in respect of erfes Nos. 35, 33, 36 to 40, 67, 68, 84, 86, 88, 100, 100 to 107 and 232 to 237.

16. Same as preamble of condition No. 14:-

(a) same as 14(a);

6/9

-b-

Additional provisions applying in respect of arven Nos. 10 and 19.

(f) Only buildings for use as a garage and a dwelling, together with such outbuildings as are ordinarily required to be used therewith shall be erected thereon.

Additional provisions applying in respect of Erf No. 17.

(e) It shall be used for the erection of a building for amusement purposes only but such use shall not exclude the erection of a restaurant or the sale of confectionery and tobaccos.

Additional conditions applying in respect of arven Nos. 20 and 21.

(19) same as preamble of condition 14:-

(a) same as 17(d);

(b) same as 14(f).

Additional condition applying in respect of Erf No. 11.

20. Same as preamble of condition 14:-

(a) same as 17(a).

Additional conditions applying in respect of Erf No. 21.

21. Same as preamble of condition 14:-

(a) same as 14(a).

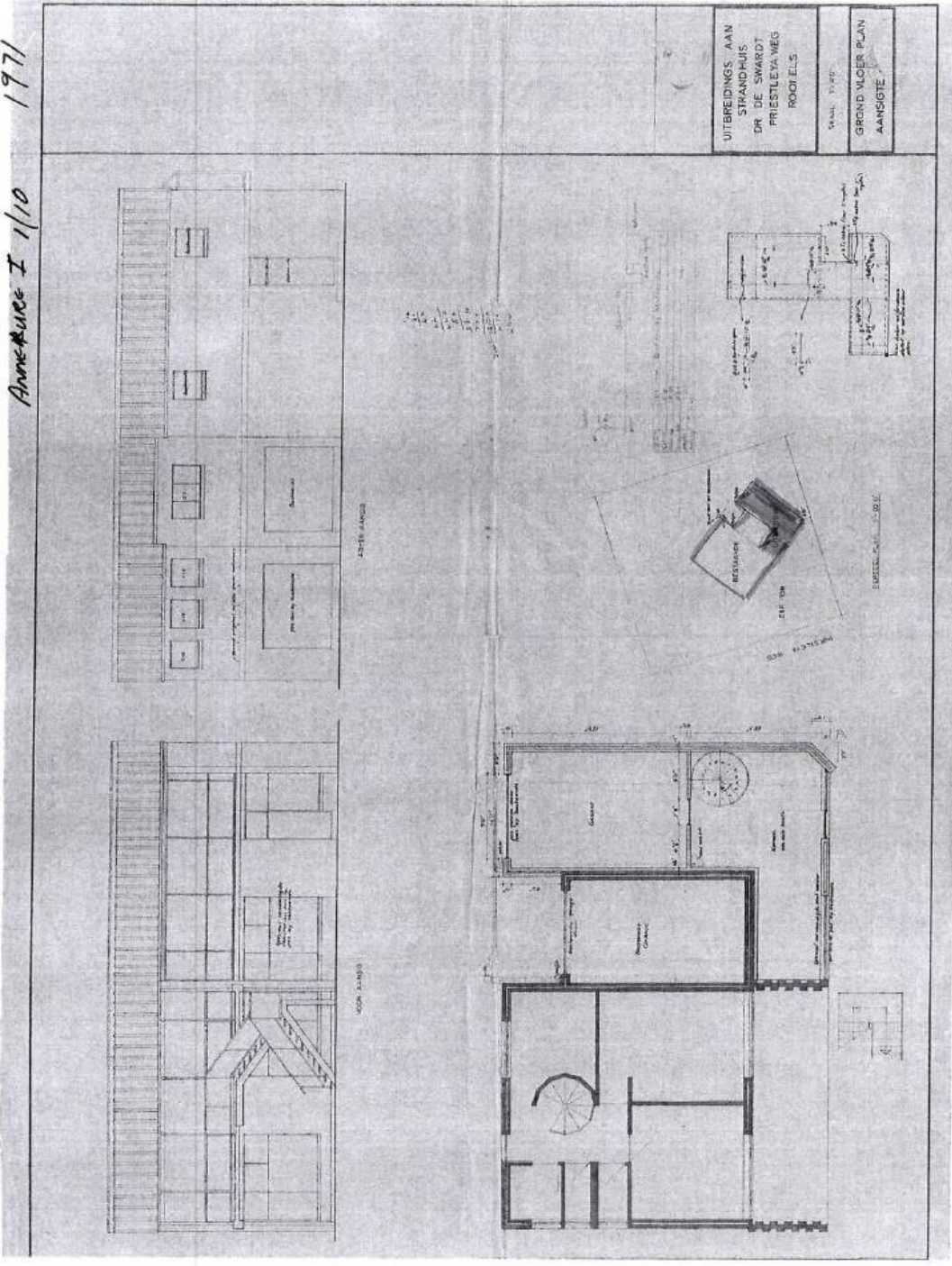
(b) only buildings for use as shops, business premises (exclusive of a licensed hotel, garage or cinema) a dwelling, residential building, place of assembly and/or a building containing two or more of such uses, together with such outbuildings as are ordinarily required to be used therewith shall be erected thereon;

(c) same as 16(a)

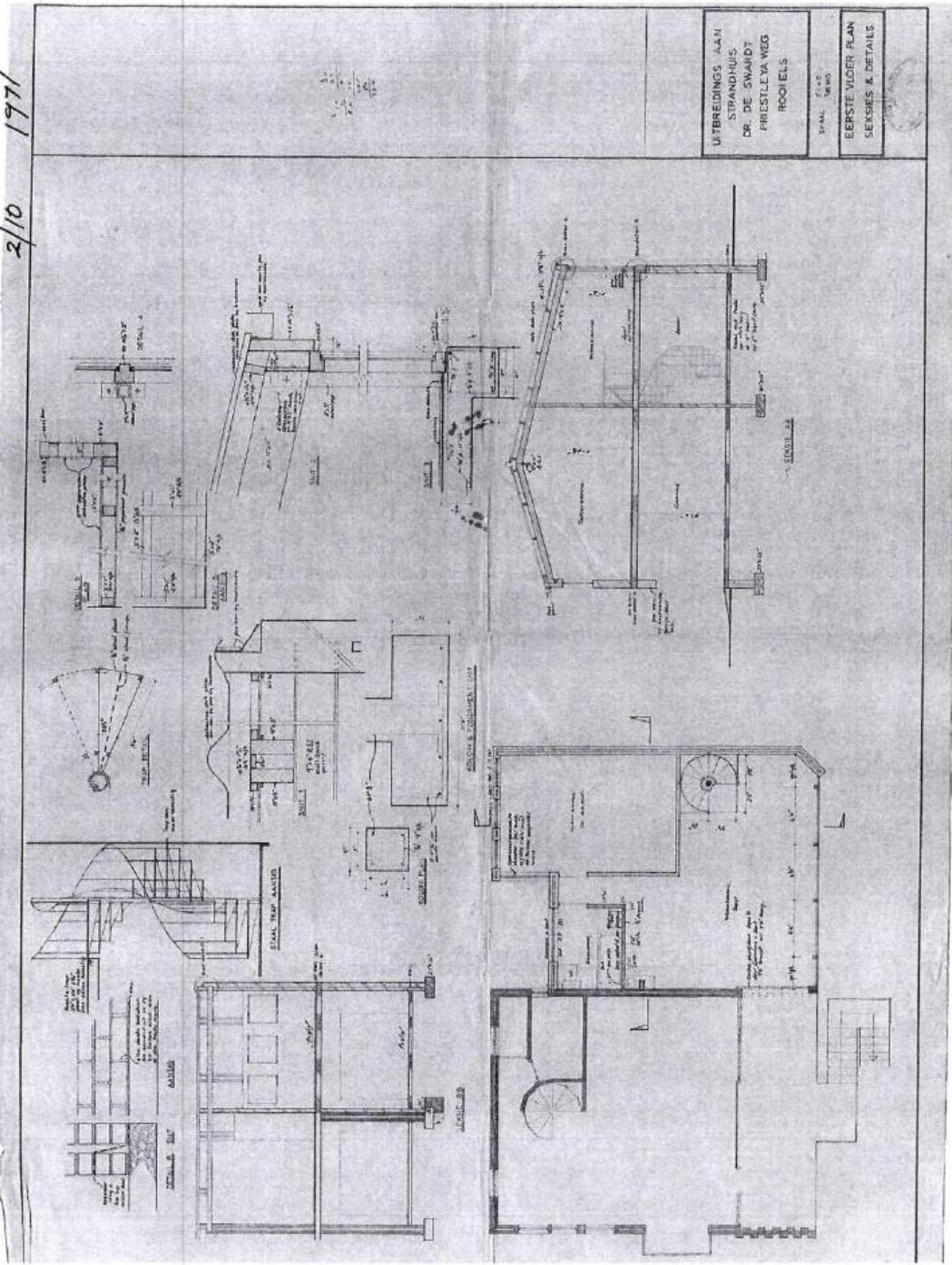
(d) same as 16(f);

(e) same as 16(c).

Annexure I 1/10 1971



2/10 1971



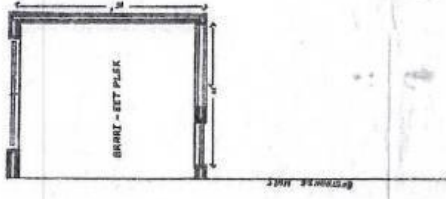
UITBREIDING AAN
 STANDAARDHUIS
 DR. DE SWANDT
 PRIESTLEVA WEG
 ROOIJELS

STAAL
 BERSTE VLOER PLAN
 SEKSIJS & DETAILS

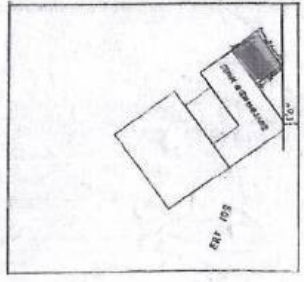
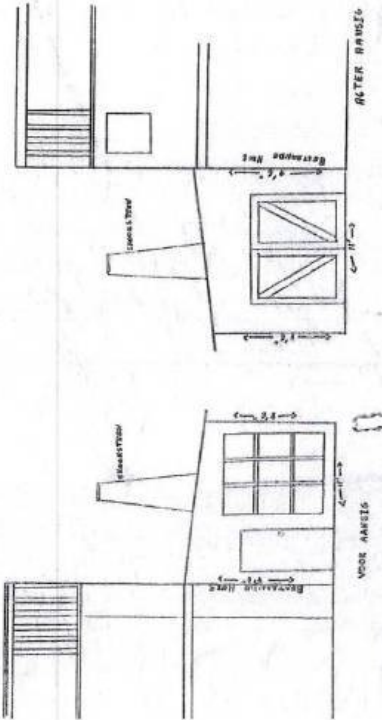
3/10

Mure: Dubbel baksteen
Vloer: Beton
Dak: Dakas

1971



UITBREIDINGS AAN
STRANDHUIS
DR. DE SWARDT
PRIESTLEY WEG
ROOI ELS
ERF 103



4/70

AFDELINGSRAAD VAN CALEDON.

Veruysingsnommer : B/3/1/4

Pes bus 5,

CALEDON.

13/10/71.....

Mr./Mev./Mej. *Dr. de laardt*
1 *Bakkestraat,*
Belgenoord
Belleville

Meneer/Mevrou/Mejuffrou,

BOUPLAN :

Na aanleiding van u bouplan vir die oprigting van *Braci eelstel*
1. v. 108 Kaaie hls
moet ek u meedeel dat dit deur die Raad goedgekeur is. U mag voortgaan met die bouwerk in ooreenstemming met die goedgekeurde plan.

Geliewe daarop te let dat hierdie goedkeuring alleenlik betrekking het op die Raad se bouregulasies (P.K.598/1957) en nie ten opsigte van enige moontlike oorskryding van die boulyn langs geproklameerde en ondergeskikte paaie, soos bepaal deur Ordonnansie 15 van 1952 en die Streepbebouingswet nie.

Hierdie goedkeuring is van geen waarde tensy met die werk, wat aldus goedgekeur is, 'n aanvang gemaak word binne 12 maande na datum.

GELIEWE AANGEBEGTE SERTIFIKATE TE VOLTOOI EN IN TE STUUR WANNEER NODIG. (Versuim om hieraan te voldoen sal u skuldig maak aan 'n misdryf).

Die uwe,

51

J. W. Lambrechts
J. W. LAMBRECHTS.
SEKRETARIS.

14/10
1971
3912

PSR/NE

13/10/71

17887

RA-1200

5/10



Bakker Straat 1,
Welgemoed,
Bellville.

22 Feb., 1970.

Die Sekretaris,
Afdelingsraad van Caledon,
Posbus 5,
CALEDON.

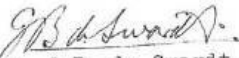
Waarde Heer,

I.e. Bou van huis op erf No. 108, Rooi-els

Ingesluit vind u bouplanne in duplikaat vir goedkeuring.

Die gedeeltes nog nie deur u goedgekeur, is in
rooi aangedui.

Die uwe,


Dr. J.B. de Swardt.

6/10

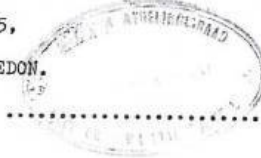
Verwysingsnommer : B/3/1/2.

Navrae : Mnr. Roux.

Afdelingsraadkantoor,

Posbus 5,

CALEDON.



Adres : *G. J. B. de Swart*
Bakkersstraat 1
Weyersdal, Kallveld

Meneer,

Met betrekking tot die sketsplan wat u onlangs ingedien het vir die oprigting van *Mitchem* op u eiendom / die eiendom van (geregistreerde eienaar) *27/108* geleë te *Koos* kan ek u meedeel dat 'n bedrag van R. *4.000,00* verskuldig is. Op ontvangs van genoemde bedrag, sal die Raad u aansoek oorweeg en u in kennis stel of die plan goedgekeur is.

Die aangehegte vraelys moet asseblief voltooi en teruggestuur word.

Die uwe,

J. W. Lambrechts
J. W. LAMBRECHTS,
SEKRETARIS.

PSR/GR.

7/10

Verwysingsnommer : B/3/1/2.

Navrae : Mnr. Roux.

Afdelingsraadkantoor,

Posbus 5,

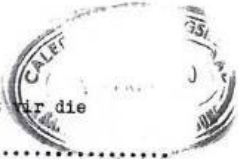
CALEDON.



Adres : *G. T. B. de Lussat*
Boulevard de la
Republique

Meneer,

Met betrekking tot die sketsplan wat u onlangs ingedien het vir die oprigting van *W. de Lussat* op u eiendom / die eiendom van (geregisteerde eienaar) *109* geleë te *Roux, Els* kan ek u meedeel dat 'n bedrag van R *2.000,00* verskuldig is. Op ontvangs van genoemde bedrag, sal die Raad u aansoek oorweeg en u in kennis stel of die plan goedgekeur is.



Die aangehegte vraelys moet asseblief voltooi en teruggestuur word.

Die uwe,

J. W. Lambrechts
J. W. LAMBRECHTS,
SEKRETARIS.

PSR/GR.

Heer Wraelys - aanheg me. Die dak van die garage is slegs in verlenging van die bontrekblaag van die plafon van die eerste verdieping. Die grootte is 20' x 15', die mure van baksteen.

G. de Lussat

8/70

AFDELINGSRAAD VAN CALEDON.

Verwysingsnommer : B/3/1/2.

Posbus 5,
CALEDON.



Mnr./Mev./Hej. *A. J. B. de Swart*
.....
Bulwerstraat 1
.....
Welgevred, Bellville
.....

Meneer/Mevrou/Mejuffrou,

BOUPLAN.

Na aanleiding van u bouplan vir die oprigting van *metothenis*
op *Lot 108 Rani Els*
moet ek u meedel dat dit deur die Raad goedgekeur is. U mag voortgaan met
die bouwerk in ooreenstemming met die goedgekeurde plan.

Geliewe daarop te let dat hierdie goedkeuring alleenlik betrekking het
op die Raad se bouregulasies (P.K. 598/1957) en nie ten opsigte van enige
moontlike oorskryding van die boulyn langs geproklameerde en ondergeskikte
paale, soos bepaal deur Ordonnansie 15 van 1952 en die Streepbebouingswet nie.

Hierdie goedkeuring is van geen waarde tensy met die werk, wat aldus goed-
gekeur is, 'n aanvang gemaak word binne 12 maande na datum.

GELIEWE AANGEHEGTE SERTIPIKATE TE VOLTOOI EN IN TE STUUR WANNEER
NODIG. (Versuim om hieraan te voldoen sal u skuldig maak aan 'n misdryf).

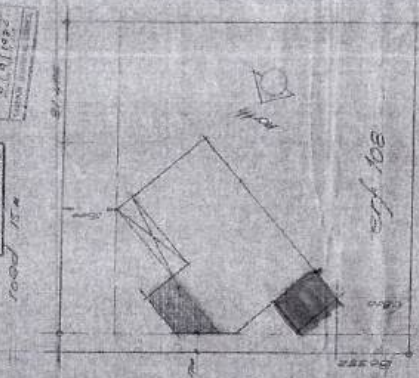
Die uwe,

J. M. Lambrechts
J. M. LAMBRECHTS,
SEKRETARIS.

PSR/GR.

Kuit. 6657 R4-00 12/3/70.

1980
7/10



Site plan
Scale 1:1200

The building must be set back at least 10 feet from the front and side boundaries.

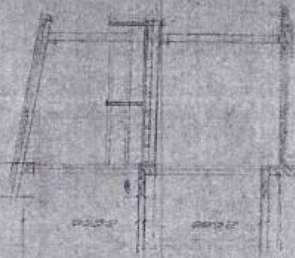
Alteration to existing house

Mr. R. COWIN
Rt. 108
Roslindale, MA

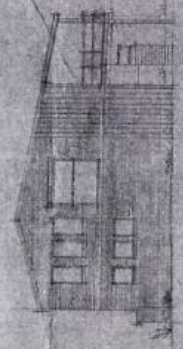
Working hours 9:00 am - 5:00 pm
Tel. 852-2227

R.C.

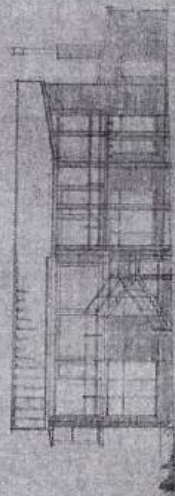
Notes:
1. All work to be done in accordance with the Massachusetts Building Code, 806 CMR, and the applicable provisions of the International Building Code, 901 CMR.
2. The contractor shall be responsible for obtaining all necessary permits from the local authorities.
3. The contractor shall be responsible for the safety of the workmen and the public.
4. The contractor shall be responsible for the protection of the existing structures and utilities.
5. The contractor shall be responsible for the disposal of all waste materials.
6. The contractor shall be responsible for the cleanup of the site.
7. The contractor shall be responsible for the final inspection and certification of the work.



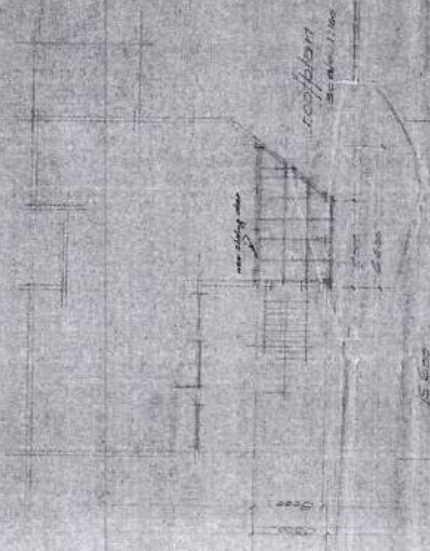
Section 2
Scale 1:1200



East elevation



North elevation



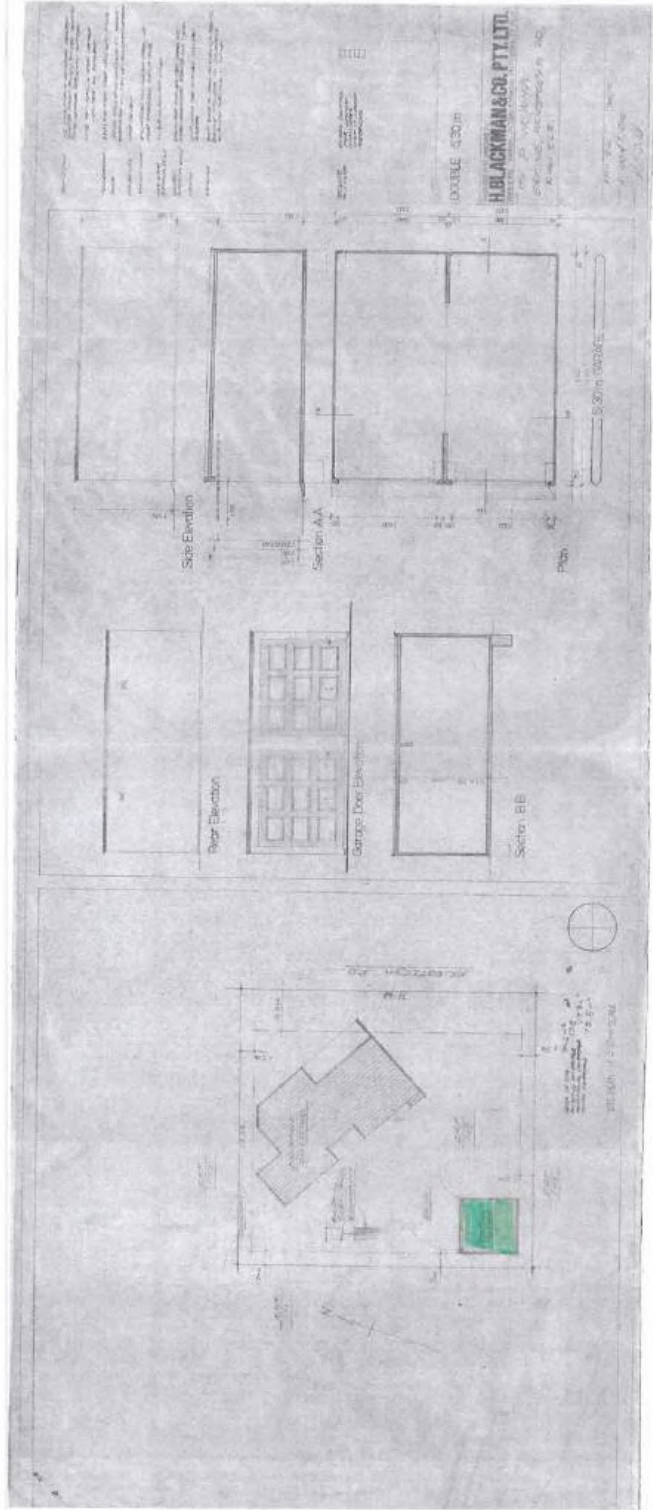
Roof plan
Scale 1:1200



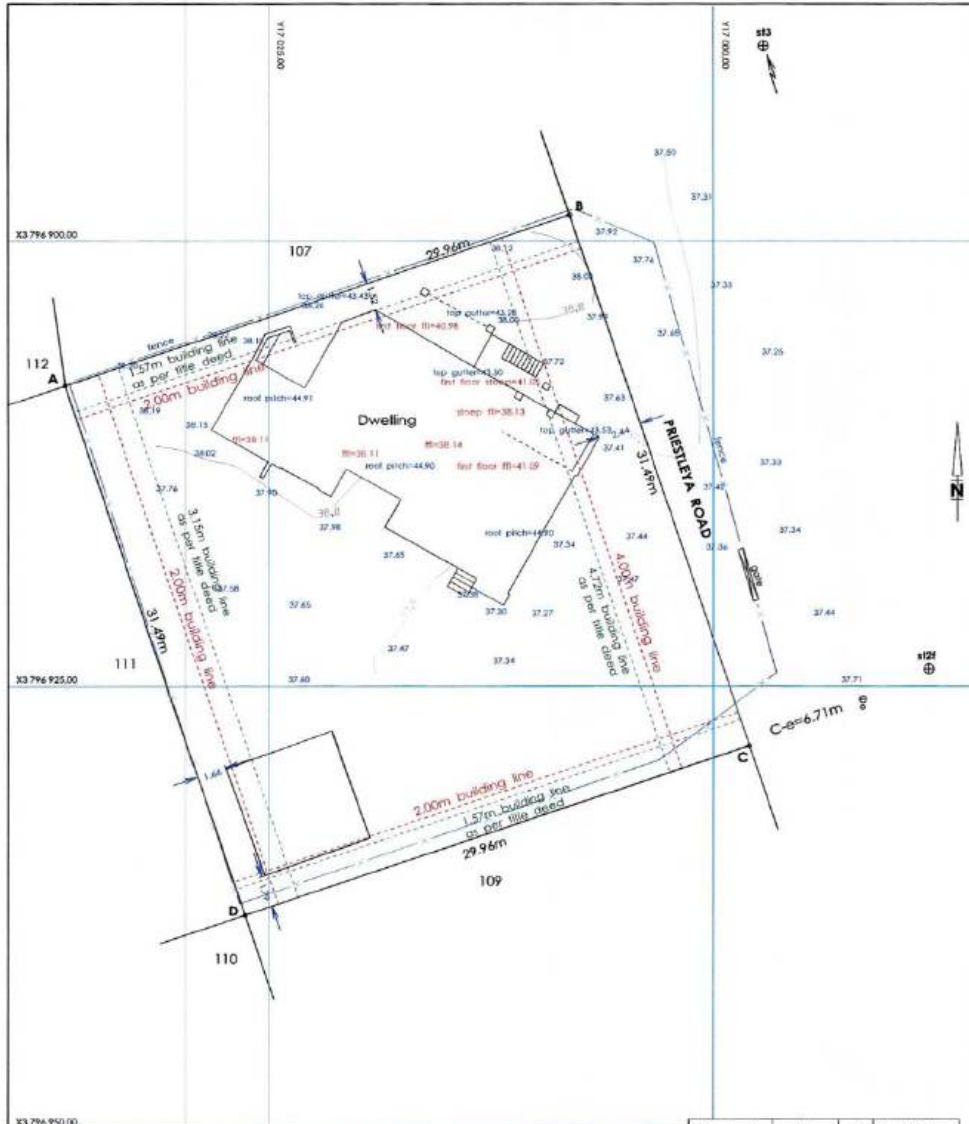
Detail
Scale 1:1200

Rt. 108

10/10 1984



ANNEXURE J 1/3



Name	Y	X	Z	Description
st2	16987.86	379624.04	37.82	12mm iron peg
st3	17002.62	379620.45	36.95	12mm iron peg

M.L.H.
 NA. CLARK (PLS 1072)
 PROFESSIONAL LAND SURVEYOR

Project
BUILDING POSITION
ERF 108
ROOF ELS

Client
JAMES ORD
 Architect
 Moisa
 e denotes line point
 Reason Descriptions
 A,C,D - not measured
 B,e - 12mm iron peg

Constants Y X
 0.00 0.00
 Height Datum System
 WGS84
 Project No Drawing No
 re108 re108
 Scale 1:200
 Date April 2021

geomatics africa
 CONSULTING ENGINEERS
 10 Rix St., Harare 2008
 P.O. Box 20, Harare 2008
 T: +263 (0)924200000
 M: +263 97313228 Fax: +263 97313227

