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**ERF 848, 173 MAIN ROAD, NORTHCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA:
PROPOSED DEPARTURES: PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON
BEHALF OF KEE PROPERTY INV (PTY) LTD**

848 HNC (5063/2025)

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Hermanus Administration

4 September 2026

1. EXECUTIVE SUMMARY

An application has been received on 14 August 2025 from Plan Active Town and Regional Planners on behalf of Kee Prop Inv (Pty) Ltd on Erf 848, Hermanus in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following departures:

- ❖ To exceed the prescribed height restriction from 14m to 16,67m to accommodate one (1) penthouse apartment on top of the existing Carriages Building.
- ❖ To exceed the permissible number of floors from four (4) storeys to five (5) storeys to accommodate one (1) penthouse apartment on top of the existing Carriages Building.

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The property is located in High Street and Main Road and measure 1175m² in extent. The property, known as Carriages, was developed to provide parking shortfall of Erf 10695, known as Village Square. In 2015 the owner of the property received an approval to buy out three (3) parking bays due to the establishment of a car wash.

The building consists of shops at ground floor level and floors 1, 2 and 3 consist of parking e.g. parking garage. The carwash is located on the 3rd floor of the building. In 2019, a similar application to the proposed application was submitted for two (2) apartments located on the top floor which was subsequently refused.

4. SUMMARY OF APPLICANT'S MOTIVATION

THE MOTIVATION FOR THE APPLICATION IS AS FOLLOWS:

The revised application is for one (1) penthouse apartment atop the Carriages Building

Application is made for a departure from the prescribed height restriction from 14m to 16,67m and an application for a departure from four (4) storeys to five (5) storeys.

Position and Setback

The penthouse will be situated at the centre of the existing roof slab and set back approximately 6 meters from all rooftop edges. This substantial setback all around ensures the addition is not readily apparent from the street below or from adjacent properties, thereby reducing its visual prominence. The rooftop edges will remain as open perimeter terrace or roof space, effectively creating a buffer that visually recesses the penthouse structure.

Height

The maximum height of the penthouse structure is $\pm 16.67\text{m}$, measured to the top of the lift shaft (the highest point). The main flat roof of the penthouse is approximately 0.5m lower, at around 16.17m. By comparison, the existing approved height departure for the building was 16.2m, and as noted, neighbouring buildings reach higher (e.g. Woolworths at 19.457m). Thus, the proposed penthouse's height remains within the envelope of the evolved built environment.

Floor Area

The penthouse has a total floor area of approximately 251.6m^2 (including a private balcony and service yard). This is a single-story addition occupying only part of the roof plate (given the 6m perimeter setback). Not only is this a fraction of the combined floor area that two penthouses would have entailed, but it also means a lighter structural load and less intensive use of rooftop space than previously considered.

Internal Layout

The penthouse is designed as a spacious 3-bedroom residential unit, complementing the mixed-use nature of the building (commercial below, residential above). It will include: a small lift lobby and entrance area for vertical circulation from lower levels, an open-plan living, dining, and kitchen area capitalizing on views and light, a laundry/scullery ancillary to the kitchen, three bedrooms each with en-suite bathrooms for privacy and comfort, a private service yard, and a balcony for outdoor living space.

Visibility

Critically, due to the central siting and generous setbacks, the new penthouse will not be visible from High Street at pedestrian eye-level or from directly across the street. As one approaches the building along High Street, the penthouse will be virtually imperceptible behind the building's parapet and due to the angle of view. This was confirmed in studies for the earlier design, which concluded that a rooftop addition set back in this manner is effectively invisible from street vantage points. Even from further distances or higher viewpoints, the penthouse will be visually subordinate. For instance, from elevated lookouts (such as Hoy's Koppie), the Carriages Building with the penthouse would sit against a backdrop of other structures and thus not stand out aggressively – especially since its height is lower than the Woolworths building and far below the tallest structure in town measured from sea level (the Checkers development). In essence, the penthouse is designed to be discreet.

Replacement of Former Mast

The rooftop previously featured a telecommunications mast that extended above the building. That mast has been removed, and the penthouse will effectively replace it as the primary rooftop element.

Parking and Access

The Carriages Building was originally constructed with surplus parking capacity in anticipation of additional development. There are currently ten (10) parking bays effectively credited or allocated on-site. The single penthouse will utilize only two (2)

of these bays, comfortably satisfying its parking requirement. Thus, no new parking shortfall is created and no parking departure or cash “parking bay buy out” is necessary. The remaining unused credited bays will continue to serve general parking needs or future allocations.

Access to the penthouse will be via the existing elevator (which will be extended to the new top floor) and stairwell, both of which were designed to accommodate an extra level.

Services

All municipal services (water, sewer, electricity) are readily available, and the addition of one dwelling unit is a negligible load increase in an already serviced urban area.

It is submitted to the Overstrand Municipality in support of the proposed development and addresses the concerns raised in the previous application. The earlier proposal (which sought two penthouse units atop the same building) was declined by the Municipal Planning Tribunal, citing issues such as exceeding permissible height, adverse visual impact (including a potential “canyon effect”), insensitivity to the heritage context, and the perception that the site’s development potential had been reached. This revised application has been carefully formulated to directly respond to and mitigate each of those concerns in a respectful and context-sensitive manner. In summary, the new proposal is limited to one penthouse unit, substantially reducing the bulk and massing compared to the two-unit scheme. The penthouse is centrally positioned and set well back from the roof edges, with a top-of-structure height modestly above the existing roofline yet below other precedent structures in the vicinity. The design is discreet and visually unobtrusive – not visible from High Street at pedestrian level – and aligns with the strategic planning policies encouraging mixed-use intensification in the Hermanus Central Business District (CBD). The intent is to demonstrate that this single penthouse will be a context appropriate, policy-supported addition that merits approval, having addressed all previous reasons for refusal.

The application represents a careful balance between enabling beneficial urban development and respecting the existing character and constraints of the site.

The proposal directly addresses all previously stated concerns: it significantly reduces height and bulk compared to the refused scheme (one unit instead of two), virtually eliminates street-level visual impact through large setbacks (no canyon effect or overpowering presence), and remains respectful of heritage context (hidden from view and subordinate to other buildings). What remains is a gentle, unobtrusive addition that is hard to fault on townscape grounds.

The penthouse will be integrated harmoniously into the building’s architecture and the wider skyline. It will not be visible from High Street and thus preserves the status quo experience of the streetscape. Its height is lower than or in line with the established building heights in the area (e.g., Woolworths and other multi-storey structures), ensuring it does not stand out as an anomaly or set an unwelcome new precedent.

The development aligns with urban design best practices: using setbacks to reduce visual massing, maintaining human-scale frontages, and adding density in a way that supports street vitality without harming it. The street width and building arrangement guarantee no canyon-like enclosure, preserving sunlight and open sky for pedestrians. The design shows thoughtful integration into the existing urban fabric, as was highlighted in the earlier independent assessment.

It is strongly supported by Overstrand's strategic planning policies: The Spatial Growth Management Strategy, SDF, and CBD Regeneration Framework all encourage exactly this type of mixed-use vertical densification in the town centre. Approving the penthouse would be a logical step in implementing these policies, reinforcing Hermanus CBD as a place of investment, liveability, and sustainable growth.

The proposal poses no material negatives: no heritage resources are damaged, no public views are blocked, no parking or infrastructure issues are introduced, and no significant objections on factual grounds can be sustained given the mitigations in place. By contrast, the positives include a new high-quality dwelling, increased residential presence in the CBD, optimized use of existing space, and a modest boost to the local economy (during construction and via future residents).

The application is framed to be respectful and responsive to municipal authority and community concerns. The revisions made reflect a genuine effort to compromise and find a win-win solution – retaining development benefits while reducing impacts. Such an approach should be rewarded as it sets an example of how developers and planners can work together to achieve outcomes that align with the public interest and planning directives.

It is therefore respectfully recommended that the Overstrand Municipality approve the application for the departure and related permissions required to construct the single rooftop penthouse on Erf 848, Hermanus (Carriages Building), as per the submitted plans. This approval would be subject to standard conditions (ensuring the penthouse is built in accordance with the described parameters and aesthetic controls, etc.). We are confident that this development will be a positive addition to Hermanus, demonstrating how contemporary growth can be accommodated without compromising the town's charm or character.

The revised penthouse proposal is a carefully considered, well-justified plan that aligns with both the letter and spirit of Hermanus's development framework. We trust that the motivation provided illustrates its merits convincingly. The proponent is committed to delivering a project that Hermanus can be proud of, and we urge the Municipality to grant its support to this worthwhile initiative.

Planning Principles

The planning principles will be discussed at point 10.2 of this report.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	25 September 2025	31 October 2025
Notices	Yes	25 September 2025	31 October 2025
Internal Departments	Yes	25 September 2025	31 October 2025
Ward councillor	Yes	25 September 2025	31 October 2025
Total comments	FOUR (4)		

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
Engineering Services	19/11/2019	See Annexure F.
Fire Department	07/11/2019	No objection provided that the structure complies to the National Fire Protection Regulations SANS-T:2011 and Community Fire Safety By-Law. (Comprehensive Fire Protection Plan to be submitted.)
Building Control	12/11/2019	No objection. Building plan application to comply with all applicable law.
Local Heritage Committee	14/11/2019 & 12/12/2019	Departure request for additional height to this tall free standing not supported as this would create an unwanted precedent.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Notices were e-mailed to surrounding residents in the area and the Hermanus Ratepayers Association. A notice board was also placed on-site by the applicant's consultant.

Four (4) objections (which translates into 9 discussion points) were received during the public participation process. A list of the objections is attached as Annexure D.

Letters of objection were received from the following four (4) parties:

- ✚ **DHM Inc on behalf of the Body Corporate of Hermanus Station Square**
- ✚ **Hermanus Property Management (Edelweiss Monaghan) on behalf of the Trustees of the Marine Square Body Corporate**
- ✚ **Brian Wridgeway**
- ✚ **Wilhelm van Rensburg**

The applicant was provided with an opportunity to respond to the objection received. The objection and support letter are attached as Annexure D and the applicant's response is attached as Annexure E respectively.

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

OBJECTION 1**• STATUTORY AND POLICY FRAMEWORK****APPLICANT'S RESPONSE**

This statutory context is reinforced by the Heritage and Aesthetics Committee minutes (16 October 2025), which record explicit support for both the height departure and the contextual suitability of the proposed penthouse design. This endorsement by the Committee, tasked with safeguarding heritage and urban character, provides authoritative confirmation that the proposal aligns with municipal objectives and aesthetic standards.

The Overstrand Municipality has an established precedent for approving height departures in the immediate context. Notably, the Station Square (Woolworths Building) building, directly adjacent to Erf 848 Hermanus, was granted a formal departure to exceed the 14m height restriction, allowing a maximum height of 16.2m specifically to accommodate two penthouses (see Overstrand Decision Letter, 21 September 2017). This approval was granted despite objections, with the municipality confirming that the process followed due legal procedure, that the building would be of similar height to surrounding structures, and that view corridors and urban design principles were respected. The same 14m height restriction remains applicable today, and the precedent demonstrates that departures are permissible where urban design, spatial policy, and contextual integration are satisfied.

All objections must be assessed strictly within the statutory context. SPLUMA Section 42 requires the decision-maker to rely on factual, evidence-based grounds.

The Overstrand By-law (2020) empowers approval where a departure is consistent with spatial policy, does not create material adverse impact, and promotes efficient land-use. None of the objections submitted provide the measurable or evidentiary basis that SPLUMA requires.

TOWN PLANNER'S RESPONSE

It is noted that the Local Heritage and Aesthetics Committee support the application. However, note must be taken with regards to the height and storey (floor) departure exacerbating the vertical massing of the building which is not in line with the relevant provisions of the HPOZ regulations.

The applicant makes reference to a precedent being set by the Overstrand Municipality when approving the height departure for the building opposite the subject property (Station Square otherwise known as the Woolworths building). The applicant later takes a different stance on presence being set, by stipulating that each application must be evaluated on their own merit. Therefore, the applicant makes contradictory statements in their response to objections as it suites them.

However, if one draws a comparison between the current application and the application for the Woolworths building, the Woolworths building complied with the relevant number of storeys and only requested a departure in relation to the height of the building. The current application is to depart from both the number of storeys / floors as well as the height permitted. The application to depart from both parameters is therefore not considered desirable.

OBJECTION 2**• ALIGNMENT WITH THE BUILT FORM AND FLOOR-TO-FLOOR FUNCTIONALITY IN HERMANUS CBD****APPLICANT'S RESPONSE**

A key consideration in evaluating the proposed height departure for Erf 848 Hermanus is the functional and contextual distinction between this development and other multi-storey buildings within the Hermanus CBD. While it is correct that no buildings in the Hermanus CBD consist of five traditional storeys of habitable or commercial floor space, the proposal for Erf 848 Hermanus differs fundamentally in the nature and proportion of its lower floors.

The development comprises ground-floor shops, with Floors 1 to 3 dedicated entirely to public parking. These parking levels are significantly lower in vertical profile than standard commercial or residential floors, as they do not require the ceiling heights, service voids, or internal structural volumes associated with habitable spaces. The result is that although the structure is technically four storeys at present, its overall height is already lower than several existing four-storey buildings in the immediate vicinity, including mixed-use and commercial blocks along the same precinct.

This is an important planning distinction. Measured against the surrounding built environment—not by number of floors but by actual building height—Erf 848 Hermanus remains visually and volumetrically compatible. The proposed addition of a single penthouse level, reaching approximately 16.670 m to the top of the lift shaft (with the penthouse roof being roughly 0.5 m lower), does not introduce a dominant or intrusive mass. Instead, it results in a total building height that is comparable to, and in some instances still below, other established structures in the CBD.

A meaningful example is Station Square (Woolworths Building), where penthouses on the 4th floor create an effective fifth storey in functional terms, even though they may not be classified as such under strict floor-count definitions. These penthouses form part of the accepted visual character of the area and already establish a precedent for upper-level residential elements above commercial bases.

Accordingly, the proposed penthouse on Erf 848:

- *Respects the established height profile of its surroundings despite the additional storey.*
- *Achieves a similar perceived height to existing developments because its lower parking levels are materially lower.*
- *Introduces no visual or urban design impacts beyond what is already present in the CBD.*
- *Aligns with local precedents, including upper-floor residential units already accepted at nearby developments such as Station Square (Woolworths Building).*

In summary, although the proposal introduces a 5th storey in regulatory terms, the actual physical height remains harmonious with—and in some cases lower than—other four-storey buildings in the vicinity. This demonstrates that the requested height departure is both reasonable and consistent with the evolving character and scale of the Hermanus CBD.

TOWN PLANNER'S RESPONSE

The proposed development as it currently stands, is developed to its maximum in terms of the development parameters applicable to it, with specific reference to the number of floors and height of the development.

To consider an additional floor (fifth / 5th floor) and a height of 16.17m (as motivated by the applicant) would create the perception that such developments may be considered in the public viewpoint.

Drawing comparison in the measured heights of the surrounding buildings provides a skewed perception for the following reasons:

- The proposed height of the building on the subject property will be 16.67m high with the highest habitable structure being 0.5m less (16.17m high) as stipulated by the applicant.
- The height of the Checkers building cannot be compared due to the scheme regulations applicable at that time only restricted the zoning of the building to 4 storeys with no height restriction.
- Similar to the Checkers building, the Woolworths building was approved under the previous scheme regulations that limited the development in terms of the number of floors and not the height measurement. In 2017, a departure for the height restriction of the Woolworths building was approved which was submitted under the Overstrand Land Use Scheme, 2013 which included the height restriction of 14m. Note must be taken that the development remained compliant with the number of storeys (being 4 storeys).
- In both cases mentioned above, the developments remain compliant with the number of floors / storeys.

The applicant therefore manipulates the Woolworths building and the Checkers building scenario to obtain additional rights of the subject property which has reached its capacity as far as use rights and development parameters are concerned.

OBJECTION 3

- **RESPONSE TO OBJECTION: HERMANUS STATION SQUARE BODY CORPORATE (DHM ATTORNEYS)**

APPLICANT'S RESPONSE

The objector's claim that the penthouse will exceed acceptable height is factually incorrect when considered in context. The Station Square (Woolworths Building) building, which forms the dominant built form in the block, was approved at 16.2m for its penthouses and in reality, reaches 19.457m at its highest point. The proposed penthouse on Erf 848 Hermanus, at 16.67m, is therefore both subordinate to and consistent with the established built environment.

The municipality has already determined, in the Station Square (Woolworths Building) case, that such departures do not create unacceptable visual or urban impacts, provided design and setback conditions are met. The objector's concern about precedent is misplaced. The Station Square (Woolworths Building) approval demonstrates that the municipality evaluates each application on its merits, considering site-specific context, design, and compliance with policy. The Station

Square (Woolworths Building) decision explicitly noted that objections were considered, and that approval was justified by contextual parity and urban design compliance.

The objector raises concerns regarding height, visual impact, character conflict, and cumulative precedent risk. Each claim is examined below in detail.

- *Height Allegation:*
 - *The objector asserts that the penthouse will exceed acceptable height and dominate the skyline.*
 - *However, according to the approved architectural sections (Figure 2), the penthouse reaches approximately 16.67 metres, which is materially lower than the height of Station Square (Woolworths Building) at 19.457 metres. The proposed addition is therefore subordinate in height to the dominant built form. SPLUMA requires contextual parity, which is demonstrably met.*
- *Canyon Effect Claim:*
 - *The objector fails to provide any modelling, section overlays, or photogrammetry to substantiate the claim.*
 - *The penthouse is centrally recessed from all edges of the existing roof slab (Figures 2 and 3).*
 - *Canyon effects occur when two vertical façades align to create enclosure at street level; the penthouse introduces no vertical mass at street interface. The allegation is unsupported and contrary to the architectural evidence.*
- *Character Impact Assertion:*
 - *The objector provides no visual analysis or character-study evidence. Conversely, the provided renderings (Figures 4–5) demonstrate a harmonious addition with consistent roof pitch, materials, and structural recess. The proposal strengthens, rather than weakens, CBD architectural coherence.*
- *Precedent:*
 - *South African administrative law (PAJA) prohibits decisions based on speculative future conduct. The municipality must evaluate this application on its merits. The objection is legally invalid.*

TOWN PLANNER'S RESPONSE

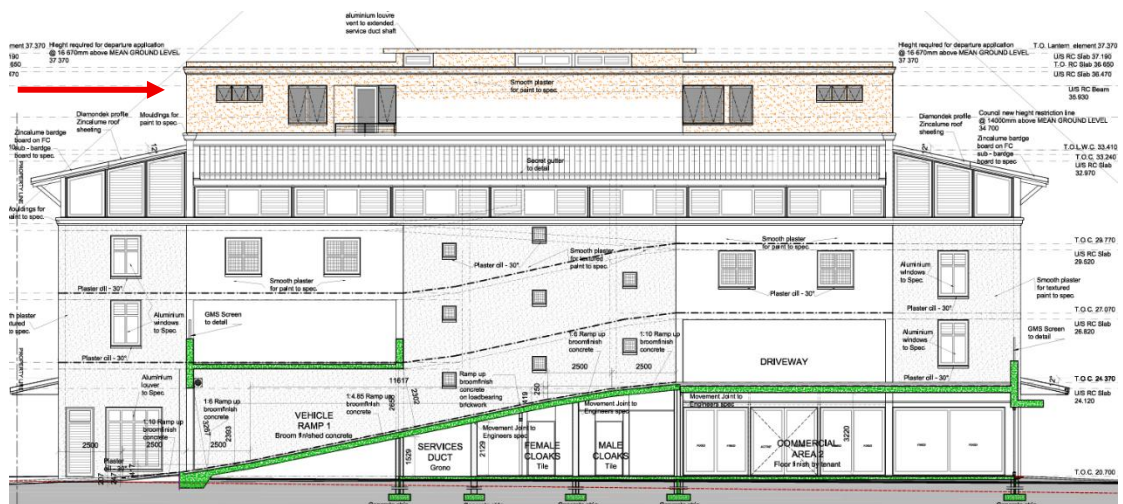
Height Allegation:

- The objector is correct when stipulating that the penthouse will exceed the acceptable height of the CBD area.
- The height of the subject property and the height of the Woolworths building cannot be compared due the previous scheme regulations being applicable to the Woolworths building that only limited the development by 4 storeys rather than include a measured height restriction. The land use schemes implemented after the section 7 scheme regulations included the 14m height restriction since the developers in the area abused the “no height restriction” to try and maximise their mountain and sea views.

Canyon Effect Claim:

- The applicant is correct when stating that the objector does not provide any substantiative evidence of creating a canyon effect.

- Although the proposed penthouse apartment is centrally located and complies with the setbacks applicable to the zoning, the zoning does not permit a fifth floor / storey.
- If one views High Street looking towards the Woolworths building: the parapet wall indicated below, will be used as the outside wall of the apartment as seen on the plan extract submitted with the application (see red arrows). It is therefore clear that the proposed interface will introduce a clear vertical mass at street interface level.



Character Impact Assertion:

- The renders provided by the applicant provides a skewed view of the actual impact on High Street. Furthermore, the development parameters restrict the proposed development which was included in the current scheme regulations of 2020 and the previous scheme regulations of 2013 to reduce the overdevelopment of properties.

Precedent:

- As mentioned previously, the applicant only utilises the notion of a precedent being set when it suits their argument. This point will be disregarded.

OBJECTION 4

- **RESPONSE TO OBJECTION: BRIAN WRIDGWAY**

APPLICANT'S RESPONSE

Mr. Wridgway raises concerns regarding misrepresentation, character impact, overdevelopment, and tourism harm. None of these claims are supported by evidence.

- Misrepresentation Allegation:
 - *The objection provides no contradictory plans, no expert testimony, and no certified assessment. The submitted drawings are professionally prepared and SANS-compliant. Allegations without proof cannot satisfy the evidentiary threshold required under SPLUMA.*
- Character Harm Claim:
 - *No heritage study, no policy reference, and no character assessment is provided. Planning objections must rely on measurable and policy-based evidence; the objection relies solely on opinion.*
- Overdevelopment Assertion:
 - *The spatial framework explicitly supports intensification in the Hermanus CBD. A penthouse addition on an already approved floor does not constitute overdevelopment. The footprint remains unchanged.*
- Tourism Impact Speculation:
 - *No tourism study or market research is provided. Decisions cannot lawfully rely on untested speculation.*

TOWN PLANNER'S RESPONSEMisrepresentation Allegation:

- The applicant with the visual renders does provide a skewed view of the proposed development. However, this point will be disregarded.

Character Harm Allegation:

- It is noted that the objector does not provide any factual evidence to support their claim. However, the relevant four (4) storey restriction and the 14m height restriction is to create a certain character and impact on the CBD which will blend in with the natural, historical and built environment.

Overdevelopment Assertion:

- The SDF does support the intensification of the Hermanus CBD; however, this must remain within the development parameters applicable to the current zoning. Although the penthouse does not change the floor, the penthouse is an additional use right which will deviate from the applicable development parameters. The statement the footprint remains the same cannot be utilised to motivate the additional floor since the zoning scheme explicitly restricts developments to four (4) floors / storeys.

Tourism Impact Speculation:

- The tourism speculation will not be considered and is agreed with the applicant.

OBJECTION 5

- **RESPONSE TO OBJECTION: MARINE SQUARE BODY CORPORATE**

APPLICANT'S RESPONSE

The Station Square (Woolworths Building) approval confirms that increased height, when centrally recessed and designed to avoid additional bulk at street level, does not result in adverse urban design outcomes. The penthouses on Station Square (Woolworths Building) were approved, with a principle mirrored in the current proposal for Erf 848. The proposed penthouse is similarly recessed and does not increase the building's footprint, ensuring that massing and overshadowing concerns are addressed in line with established municipal practice.

The Marine Square objection asserts loss of views, reduced daylight, overshadowing, and massing concerns. None of these claims are supported by technical studies.

- Loss of Views:

- *South African case law consistently holds that there is no inherent legal right to a view unless established by servitude or heritage designation. No such rights exist in this case. Renderings (Figures 4–5) confirm minimal change in visible massing.*

- Daylight/Shading Allegations:

- *No shadow diagrams or solar modelling accompany the objection. The sectional drawings (Figure 2) demonstrate that the penthouse is located well behind the existing parapet line, introducing no measurable new shading impact.*

- Massing Concerns:

- *The footprint of the building remains unchanged; only a lightweight, recessed volume is introduced. This reduces any perceived bulk compared to traditional full-floor additions.*

TOWN PLANNER'S RESPONSELoss of Views:

- It is the applicant's responsibility to adequately address the reasons why the additional floor and height restriction will impact the change in massing. The renders provided by the applicant does not provide conceptual impact of massing since the renders since these renders are taken from street level.

Daylight / Shading Allegations:

- This point will be disregarded since neither the objector, nor the applicant adequately addresses the impact of daylight and shading allegations with specific reference to shadow diagrams or solar modelling.

Massing Concerns:

- The massing of the development remains an issue, although the development is setback, the proposed penthouse is proposed to be built the parapet walls in

length. Furthermore, the building has already been developed up to the set character of the area being four (4) storeys. The addition of a 5th storey and exceeding the height restriction will only exacerbate the notion of massing.

OBJECTION 6

• RESPONSE TO OBJECTION: WILHELM VAN RENSBURG

APPLICANT'S RESPONSE

The objection consists primarily of aesthetic preferences and generalised concerns about development pressure.

These are not valid planning grounds.

• Aesthetic Concerns:

- *Aesthetic objections are only relevant when accompanied by character studies or heritage assessments. None are provided. The proposal maintains consistent roof pitch and materiality.*

• Overdevelopment Claim:

- *The SDF encourages CBD densification and rooftop utilisation. The penthouse aligns with these policies.*

To strengthen the reasoning contained within the response above, this expanded section integrates both detailed legal authority and rigorous planning and architectural analysis. The purpose is to demonstrate clearly that the objections lodged lack the evidentiary foundation required under South African land-use law and municipal statutory processes. The expansion further illustrates how the proposed penthouse aligns with the applicable spatial, architectural, and urban design frameworks.

TOWN PLANNER'S RESPONSE

Aesthetic Concerns:

- The aesthetics / design and materials utilised for the building has been accepted by the Local Heritage and Aesthetics Committee. However, the development of a 5th floor will alter character of the area as set by the development parameters in terms of the current scheme regulations.

Overdevelopment Claim:

- The SDF does encourage densification, however within the relevant parameters applicable to it in terms of the land use scheme regulations. Rooftop utilisation may be accommodated; however, this must be done in accordance with the relevant scheme regulations. Furthermore, the building has already been developed up to the set character of the area being four (4) storeys. The addition of a 5th storey and exceeding the height restriction will only exacerbate the notion of massing.

OBJECTION 7

• LEGAL ANALYSIS

APPLICANT'S RESPONSE

The Station Square (Woolworths Building) approval is a clear demonstration of the municipality's application of SPLUMA and the Overstrand By-law: departures are permissible where supported by evidence, policy alignment, and contextual fit. The municipality's decision letter for the development of 2 penthouses on Station Square (Woolworths Building) explicitly states that objections were noted but did not outweigh the merits of the application, as the proposal adhered to view corridors, urban design principles, and the established character of the area. This directly supports the current application, which is even more modest in height and impact.

SPLUMA Section 7 establishes the normative principles for land development, including spatial justice, sustainability, efficiency, and good administration. Importantly, Section 42(1) requires that decisions be made on the basis of factual evidence and municipal policies. Objections relying purely on speculation or preference are therefore not legally cognisable. In this matter, none of the objectors submitted expert analysis, measurable impact evidence, or policy-based argumentation capable of meeting this standard.

Furthermore, the Promotion of Administrative Justice Act requires that municipal decisions be rational and procedurally fair. A refusal based on unproven fears—such as speculative tourism harm or unsupported aesthetic concerns—would be irrational and open to legal challenge. Courts consistently hold that planning decisions must be grounded in demonstrable harm, not perception.

The legal analysis is further strengthened by the Heritage and Aesthetics Committee's formal support for the application, as recorded in the minutes of their meeting on 16 October 2025. This municipal endorsement demonstrates that the proposal meets not only statutory requirements but also the highest standards of heritage and aesthetic review.

TOWN PLANNER'S RESPONSE

The Woolworths building cannot be compared to this application since it was approved under the previous land use scheme regulations and the height departure approved under the amended land use scheme of 2013. It must also be noted that the Woolworths building remains compliant with the number of floors / storeys being 4. The amended scheme regulations of 2013 and 2020 included the height restriction of 14m to limit the scale of developments within the Hermanus area and maintain the relevant character of the area to minimise overdevelopment of the area. The proposed height departure is not a modest departure as stipulated by the applicant since the departure of the height restriction extends the building up to 15.95m to the roof of the habitable structure and 16.67m for the lift shaft.

The response relating to speculations is noted.

OBJECTION 8

- **TECHNICAL AND PLANNING ANALYSIS**

APPLICANT'S RESPONSE

From a planning and urban design perspective, the Hermanus CBD is characterised by mixed-use buildings of variable height. The Station Square/Woolworths building, directly adjacent, reaches 19.457m and forms the tallest element in the block. The proposed penthouse on Erf 848 Hermanus reaches only 16.67m and is therefore subordinate. The roof plan diagrams illustrate a substantial recess from all edges, meaning the penthouse is not visible from many public viewpoints.

Carriages (Erf 848 Hermanus) maintains a traditional roof typology, and the proposed penthouse is designed with symmetry, proportion, and material continuity in mind. By recessing the mass inward, the architecture reduces visual presence and creates a rooftop form that blends with surrounding structures.

CBD policy within the Overstrand SDF encourages vertical intensification to support economic vitality. Rooftop utilisation is a recognized form of sustainable densification. This proposal aligns fully with these objectives.

TOWN PLANNER'S RESPONSE

This objection point has been adequately addressed in the previous response to objections 3, 4 and 5 which relates to the massing, extensive height restriction, policy alignment, design and development comparison.

OBJECTION 9**• ADDITIONAL VISUAL EVIDENCE AND SPATIAL IMPACT ANALYSIS**APPLICANT'S RESPONSE

This section incorporates newly submitted aerial imagery and street-level photographs to strengthen the evidence-based assessment of the spatial relationship between the Carriages (Erf 848 Hermanus), Marine Square (Erf 10327), and Station Square (Woolworths Building) (Erf 11057).

The following visuals illustrate the physical separation, urban layering, and absence of direct visual impact arising from the proposed penthouse addition. The photographic material further substantiates that the proposal will have no detrimental effect on surrounding properties, which forms the basis of several objection claims.

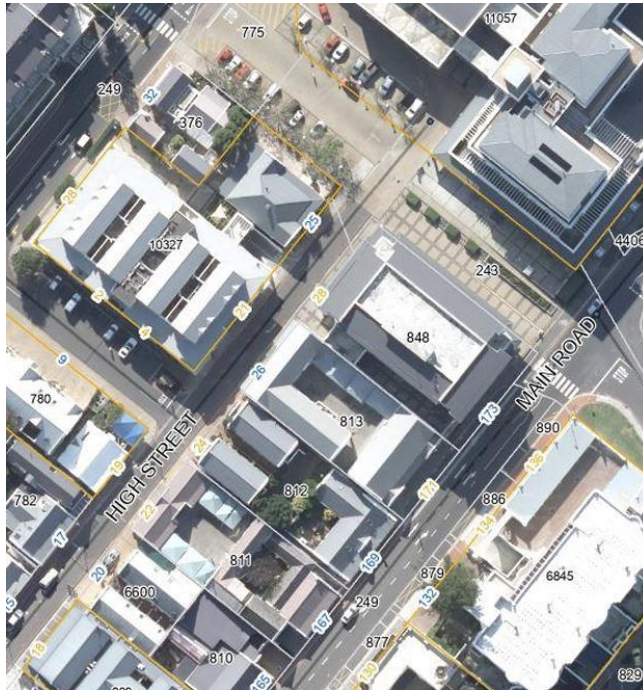


Figure A1: Aerial photograph showing the spatial relationship between Erf 848 Hermanus (Carriages), Erf 10327 Hermanus (Marine Square), and Erf 11057 (Station Square).



Figure A2: High Street view – Carriages on Erf 848 Hermanus (left) and Marine Square (right, background), illustrating clear spatial separation.



Figure A3: Street-level view confirming the offset positioning of Marine Square relative to the Carriages in the background.



Figure A4: Marine Square's southwestern façade – demonstrating 3 storey, courtyard design facing an internal street.



Figure A5: High Street pedestrian corridor, showing the Carriages (Erf 848 Hermanus) to the left and Marine Square set back to the right.



Figure A6: Street view showing the Carriages (Erf 848 Hermanus) on the left (excluding proposed penthouse) and Station Square (Woolworths Building) on the right.

The aerial photograph (Figure A1) clearly demonstrates that Marine Square is situated to the south-west of Erf 848 Hermanus, with no direct alignment or façade-to-façade interface that could give rise to overshadowing, privacy loss, or view obstruction. The physical layout reveals several layers of built form between the two sites, including the recessed pedestrian walkway and vegetation buffers.

Figures A2 through A6 illustrate the spatial reality from a pedestrian vantage point. Marine Square is both visually and physically separated from the Carriages (Erf 848

Hermanus), with its residential units oriented outward toward High Street, Mitchell Street, College Road, and the adjoining Erf 376 to the north-east, as well as toward the Station Square (Woolworths Building). Importantly, the existing four-storey structure on Erf 848 already forms the visual edge along this interface and, as a result, obscures any potential outlook from units within Marine Square. The proposed penthouse—positioned as a recessed fifth storey—will therefore not introduce any additional visual impact in relation to the objectors. Its setback position ensures that the new level remains visually imperceptible from pedestrian areas and from the Marine Square development itself.

The Carriages (Erf 848 Hermanus) fronts directly onto Main Road and High Street as part of the primary commercial frontage, whereas Marine Square is situated within a secondary, internalised node.

This spatial hierarchy and separation conclusively preclude the possibility that a centrally recessed penthouse, which does not exceed the existing parapet line when viewed from the public realm, could generate any measurable visual, amenity, or character-related impacts on Marine Square.

The photographic evidence therefore wholly refutes the suggestion that Marine Square will experience overshadowing, loss of light, or diminished character. These claims were made without supporting technical studies or visual simulations. The empirical imagery included here confirms that the objections lack an evidentiary foundation and do not meet SPLUMA's requirement for demonstrable, measurable impact.

Additionally, the Overstrand Municipality Heritage and Aesthetics Committee's endorsement (16 October 2025) of both the height departure and the penthouse design provide compelling municipal validation. This support confirms that the proposal is not only legally compliant but also contextually and aesthetically appropriate within the Hermanus CBD.

TOWN PLANNER'S RESPONSE

Figure A1 only indicates the position of the site in relation to the surrounding properties that are being compared. There is no visual impact, overshadowing models, privacy loss investigations that is provided to motivate the applicant's stance.

As stipulated in the response to objection point 3, although the proposed penthouse is setback, there remains a visual impact along high street since the penthouse will be stretched from the one parapet wall to the other parapet wall. This increases the massing of the subject site. A better illustration would be to include the render of the property along all elevations of the property.

The applicant refers to spatial hierarchy and how the proposed development will impact on the public realm. This viewpoint is skewed since the applicant does not consider the fact that the Woolworths building is four (4) storeys which is compliant with the scheme and that the highest habitable point of that building is 15.67m high. Furthermore, the surrounding buildings in the area do not exceed the 4-storey development restriction. One of the main reasons for the 14m height restriction that was included in the amalgamated scheme was that developers abused the 4-storey restriction. Therefore, to maintain the spatial character and so-called spatial hierarchy, the 14m height restriction as well as the number of storeys / floors development restriction must be maintained.

APPLICANT'S CONCLUSION ON OBJECTION

Having carefully assessed the four objections submitted against the proposed height departure and penthouse addition on Erf 848, Hermanus, it is evident that none of the concerns raised meet the evidentiary, statutory, or policy-based thresholds required under SPLUMA and the Overstrand Municipal Land Use Planning By-law (2020).

All objections rely on unsubstantiated assertions, aesthetic preferences, speculative harm, and generalised assumptions—none of which constitute material planning grounds capable of withstanding scrutiny in a lawful administrative process.

By contrast, the application for Erf 848 is supported by verified survey-based height measurements, professionally prepared architectural drawings, section diagrams, roof-plan setbacks, photographic and spatial-impact evidence, and clear policy alignment with the Overstrand Spatial Development Framework and applicable CBD intensification guidelines.

The proposed penthouse achieves a total height of 16.670 m to the lift shaft (and approximately 0.5 m lower to the proposed penthouse roof)—a height confirmed in the record already stored in municipal correspondence and significantly lower than the adjacent Station Square (Woolworths Building), which reaches 19.457 m at its highest point. The proposal therefore remains contextually subordinate within the immediate urban block.

The central recession of the penthouse—set well back from every edge of the existing roof slab—ensures that no additional massing is experienced at street or pedestrian level. Shadow diagrams, section lines, comparative elevations, and photographic street-level analysis all confirm that no measurable overshadowing, privacy loss, or daylight reduction will result from the proposed addition. The physical relationship between the Carriages (Erf 848 Hermanus) and Marine Square (Erf 10327), as demonstrated by aerial imagery and street-level photographs, further confirms that the developments occupy separate visual planes, with no façade-to-façade connection and no spatial alignment capable of amplifying visual impact. Claims of view obstruction are neither supported by evidence nor legally cognisable, given that no servitude or statutory view protection exists.

The municipality has already established, through the Station Square (Woolworths Building) approval (21 September 2017), that height departures above 14 m are permissible where contextual integration, urban-design response, and policy compliance are substantively demonstrated. This application achieves all of these requirements. The proposed penthouse is architecturally harmonious, visually recessive, and maintains the symmetry, proportion, and materiality of the existing structure. It constitutes efficient use of urban land, supports CBD economic vitality, and aligns with SPLUMA's normative principles of spatial efficiency, sustainability, and good administration.

Furthermore, the objections fail under the Promotion of Administrative Justice Act. Municipal decisions must be based on factual evidence, measurable impact, and proper application of policy—not on untested fears, conjecture, or subjective personal preferences. No objector submitted expert evidence, technical analysis, visual simulations, solar modelling, or any factual substantiation capable of contradicting the submitted plans, renders, or policy alignment.

In light of the detailed legal, spatial, architectural, and technical analysis contained in this document—together with the verified height record and acknowledged municipal precedents—it is clear that:

- *The penthouse addition will not generate material nuisance or adverse impact.*
- *The proposal is consistent with surrounding built form and remains subordinate in height to neighbouring structures.*
- *The objections lack evidentiary foundation and cannot be sustained in law.*
- *The proposal complies with SPLUMA, the Overstrand By-law, the SDF, and accepted CBD design principles.*
- *The departure enables efficient land-use without expanding the building footprint or introducing additional bulk at street level.*

For these reasons and based on the full body of factual and legal evidence available, approval of the proposed height departure and penthouse addition on Erf 848 is fully justified, policy-compliant, and recommended.

TOWN PLANNER'S RESPONSE

The applicant's conclusion on the response to objections is noted. However, the response to the previous land use planning application for 2 penthouses is maintained with regards to the following:

"Every application is dealt with on merit. The Woolworths building was dealt on merit as it came from a previous Zoning Scheme and transitions into the Overstrand Integrated Scheme. The Woolworths building is a standalone development surrounded by streets and forms a nodal point emphasizing the eastern boundary of the CBD. It therefore cannot be used as a precedent to allow all the buildings in the CBD to relax development parameters. If the argument of the applicant to use Woolworths building to motivate his proposal to depart from the storeys and height restriction, the same argument will then stand if any future applicant uses Erf 848 to warrant further departures. The Zoning Scheme Regulations parameter aim is to create a certain character and impact in the CBD which blend with the natural-, built- and historical ambiance."

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

See Paragraph 7 above.

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 development does not impact on environmental or agricultural potential of the property since it is a developed erf. The subject site has already been optimally developed in terms of the Overstrand Land Use Scheme, 2020. Therefore, the overdevelopment of the site does not fall within the realm of sustainable development in terms of the land use scheme.

Efficiency

All municipal services are available. However, the recommendation to limit the development on the site by refusing the fifth storey apartment will maintain operational efficiency within the surrounding area (within the Hermanus CBD).

Spatial Resilience

The application to diversify the land uses on the property is considered to be in line with the SDF and the principle of spatial resilience. However, this would be recommended for approval in the instance that the proposed complied with both 4 storey and 14m height restriction. The fact that the property as it currently stands is already developed optimally, the addition of a 5th storey will not be in line with the relevant character of built form of the area.

Good administration

The application followed the prescribed procedure in terms of public participation.

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

N/A

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

N/A

10.6 Impact on Municipal engineering services

The existing services are available and have been viewed positively by the Engineering Department, although it indicates that certain infrastructure needs to be upgraded to accommodate the development, the costs of which will stem from the bulk infrastructures levies payable by the landowners.

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The application complies with the existing zoning but deviates from the development parameters relating to 4 storeys and the 14m height restriction by introducing a 5th storey and a height of approximately 16.76m.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

The current application motivation is for departures relating to the height and number of storeys which are based on the Woolworths building located on Erf 11057, Hermanus. This application differs slightly from the previous application that was submitted in 2019 (application refused) by complying with the parking parameters and proposing only one penthouse apartment instead of two penthouse apartments.

The proposal consists of the following departures:

- To relax the height restriction from the 14m to 15.95m to accommodate the penthouse apartment and 16.67m to accommodate the lift shaft and staircase.
- To relax the number of storeys from 4 to 5 to accommodate the penthouse.

The applicant's motivation as well as the applicant's response attempts to justify the current applications for abovementioned departures with that of Village Square (Woolworths building) on Erf 11057. The application submitted in 2019 for similar flats was refused on appeal in 2020 also compared the height of the subject property and the Woolworths building. The Woolworths building was built in 2012 which complied with the relevant Hermanus Zoning Scheme that restricted the vertical development by means of the number of floors. In the interim, the Overstrand Integrated Zoning Scheme was approved by Council in 2013 which included the 14m height restriction applicable to the relevant zoning. A height departure for the Woolworths building was then approved in terms of the integrated scheme since the original plan permitted penthouses to be built which was supported by the Local Heritage and Aesthetics Committee. The building however, remains compliant with the 4-storey development parameter. The surrounding developments in the Hermanus CBD maintained the 4-storey development restriction and for that reason the application was refused.

Each land use planning application is evaluated on their own merit and therefore, comparisons drawn between this application and other land use planning applications

cannot be drawn since they do not have the same developable capabilities. Noting that each development must be evaluated on merit, the notion of precedence created is therefore moot.

The desirability of this application is detailed below:

Number of Floors permitted:

The current land use scheme only permits 4-storeys which is recommended to be maintained since the addition of another floor on the subject property will alter the built form of the environment and encourage similar departures.

Height Restriction:

The development is currently approved at 14,97m which includes the service duct, lift shaft (being 2.43m in height of the total height of the building) with no access to the rooftop as per the approved building plan for the site.

The application proposes a penthouse apartment to a height of 15.95m with a lift shaft and service duct to a height of 16.67m. The height restriction for the applicable zone is limited to 14m.

The current land use scheme restricted the height of developments in the Hermanus CBD specifically to limit development since this 4-storey height restriction was abused by developers in the past to maximise their development potential. It is therefore recommended that the development maintain the height restriction since the development has reached its potential for development.

Position and Setback:

The development is proposed to be setback in length and width up to the parapet walls of the existing building. The setback is noted however; the effect of massing is not negated.

Floor Area:

The penthouse is proposed to have a floor area of 251.6m² which includes a balcony and service yard. The proposed floor area of the building is in line with the applicable development parameters since the existing bulk of the property permitted in hand is approximately 817.6m². However, the developable potential of the site has reached its maximum seeing that the height restriction in length and number of floors permitted has been reached. The proposed penthouse will therefore over-develop the site.

Parking, Access and Services:

The recommendation to refuse the development of the penthouse therefore results in the discussion of parking parameters, access and services becoming moot.

Character:

The site is located within the Hermanus CBD. The character of the area is as follows:

- Buildings in the area maintain the 4-storey height restriction.
- The buildings located along High Street range from single storey to four storeys which increases towards Village Square.
- Village Square is spatially separated from the other buildings in the Hermanus CBD area with a gradual reduction in height moving from Village Square, along High Street.

It is therefore recommended that the height of the subject property be maintained since it already exceeds the permitted height restriction of 14m, which will further maintain the existing character and built form of the Hermanus CBD area.

Heritage Impact:

The site is located within the Local Strip Heritage Overlay Zone. Although the Local Heritage and Aesthetics Committee has supported the proposal, the development must be modest, restrained in scale, have limited height and recessive character. The proposed development exceeds the relevant height and number of storeys applicable to the site and therefore is not in line with the Overstrand Land Use Scheme Regulations as well as the HPOZ Overlay Zone regulations.

Spatial Planning Analysis:

The addition of a residential component on the subject property is in line with the densification promotion and diversification promotion in terms of the SDF.

However, the proposed site already reached its development potential therefore, the consideration of the application in terms of the SDF is moot since the development parameters contained in the Land Use Scheme will not be complied with.

In conclusion, the development of Erf 848 has reached its optimal development potential. The proposed departures will negatively impact the High Street development and sense of place of the CBD and will lead to the vertical sprawl of the subject property.

The Zoning Scheme and Policy documents are there to maintain and protect the views throughout the CBD which ultimately ensures the importance of heritage character and the connection between the natural environment and built form. The application is therefore not desirable from a town planning perspective and is recommended for refusal.

13. RECOMMENDATION

1. that the application for **departure** in terms of Section 16.(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Erf 848, Hermanus for the following departures:
 - ❖ To exceed the prescribed height restriction from 14m to 16,67m to accommodate one (1) penthouse apartment on top of the existing Carriages Building, and
 - ❖ To exceed the permissible number of floors from four (4) storeys to five (5) storeys to accommodate one (1) penthouse apartment on top of the existing Carriages Building;

not be approved, in terms of the provisions of Section 61 of the By-Law.
2. that the applicant and person who commented 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 NON-APPROVAL

- ❖ The erf has reached its full development potential in terms of the Overstrand Land Use Scheme, 2020.
- ❖ There are no five (5) storey buildings in the Central Business District.
- ❖ The setbacks proposed does not negate the effects of massing.
- ❖ The excessive massing in High Street is contrary to create the street as a visual and viable potential pedestrian walkway.
- ❖ The deviation of the height will lead to vertical sprawl.
- ❖ The development is not in line with the Central Business District development vision of sense of place.
- ❖ The height and the built form of the development do not meet the criteria for development in terms of the HPOZ regulations.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Site Development Plan
Annexure C:	Motivation Report
Annexure D:	Objections received
Annexure E:	Applicant's response to objections received
Annexure F:	Services Report

SIGNATURES**AUTHOR:**

Name: **B MINNAAR**

SACPLAN Reg No: **C/8630/2021**

Signature: _____

Date: _____

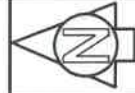
REGISTERED PLANNER

Name: **H VAN DER STOEP**

SACPLAN Reg No: **A/1708/2013**

Signature: _____

Date: _____



Scale: NTS
Drawing Nr: her848.dwg
Date: 12/2025

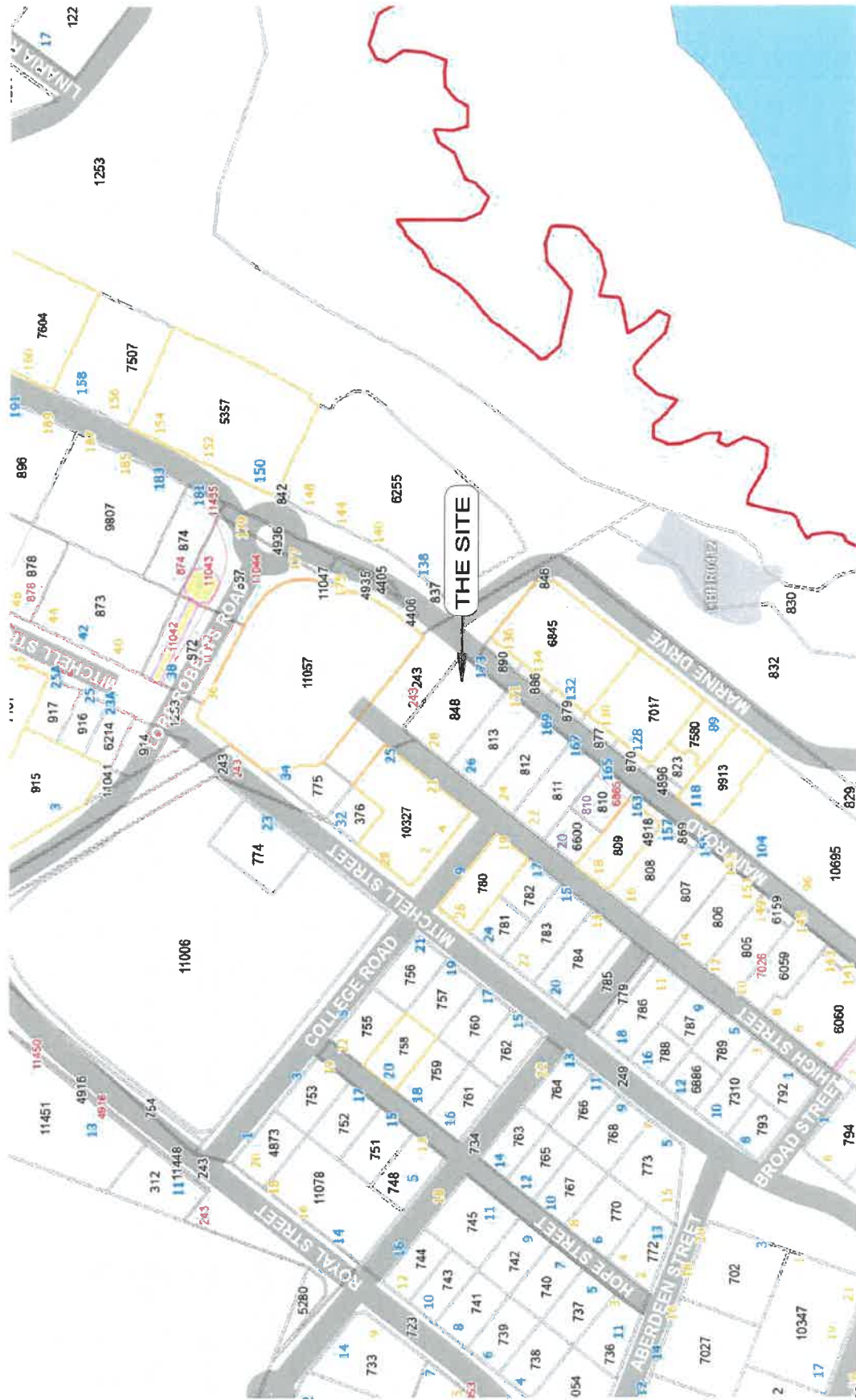
Plan Description:
LOCALITY MAP

Property Description:
**ERF 848
HERMANUS**

All distances approximate
and subject to survey.

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PlAn Stads-en Streeksbeplanners
Town & Regional Planners



PROPOSED DEPARTURES
ERF 848 HERMANUS
DIVISION: CALEDON
OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. INTRODUCTION AND BACKGROUND

Plan Active Town and Regional Planners has been appointed by the owner of Erf 848 Hermanus, Kee Property Investments (Pty)Ltd to submit a revised application to construct a single rooftop penthouse on the Carriages Building, Erf 848, High Street, Hermanus.

It is submitted to the Overstrand Municipality in support of the proposed development and addresses the concerns raised in the previous application. The earlier proposal (which sought two penthouse units atop the same building) was declined by the Municipal Planning Tribunal, citing issues such as exceeding permissible height, adverse visual impact (including a potential "canyon effect"), insensitivity to the heritage context, and the perception that the site's development potential had been reached. This revised application has been carefully formulated to directly respond to and mitigate each of those concerns in a respectful and context-sensitive manner.

In summary, the new proposal is limited to one penthouse unit, substantially reducing the bulk and massing compared to the two-unit scheme. The penthouse is centrally positioned and set well back from the roof edges, with a top-of-structure height modestly above the existing roofline yet below other precedent structures in the

vicinity. As detailed below, the design is discreet and visually unobtrusive – not visible from High Street at pedestrian level – and aligns with the strategic planning policies encouraging mixed-use intensification in the Hermanus Central Business District (CBD). The intent is to demonstrate that this single penthouse will be a context-appropriate, policy-supported addition that merits approval, having addressed all previous reasons for refusal.

- **Site and Context Background**

The Carriages Building (Erf 848) is located on High Street in the Hermanus CBD. It currently comprises ground-floor commercial uses with three levels of structured parking above. Notably, all floors above ground level are dedicated to parking (with lower floor-to-ceiling heights of approximately 2.2m per level). This existing configuration means that while the building has multiple storeys, its overall height is less than many conventional four-storey buildings with typical ceiling heights.

The rooftop of the Carriages Building (Erf 848 Hermanus) previously accommodated a telecommunications mast, which has since been removed. The surrounding built environment reflects a transitional urban character, comprising a combination of older low-rise structures and contemporary multi-storey developments. Notably, directly to the northeast of Erf 848 stands the Woolworths building, a modern commercial structure reaching a maximum height of 19.457 metres above natural ground level. In proximity, the Checkers building represents one of the tallest benchmarks in the area, with a total height of approximately 37.9 metres above sea level.

To contextualize these heights, a professional survey was undertaken by Geomatics Africa Land Surveying Consultants to determine the elevation of key buildings contributing to the local skyline. The verified results are as follows:

- Erf 848 Hermanus (Carriages Building): Top of existing lift shaft and stairwell – 36.05m above sea level
- Erf 11057 Hermanus (Woolworths): Top of stairwell – 37.36m; top of lantern feature – 41.00m
- Erf 11066 Hermanus (Checkers): Top of roof – 37.90m

These figures confirm that buildings exceeding the height of the Carriages Building are well established within the Hermanus CBD's urban profile. It is also important to note

that the proposed penthouse roof will reach an elevation of approximately 36.65 metres above sea level, marginally higher (by 0.60m) than the existing lift shaft and stairwell. The new lift shaft and stairwell associated with the penthouse will reach a height of 37.37 metres, aligning closely with the existing vertical scale of the surrounding built form.

High Street itself is of a comfortable width for a town centre street and is envisioned as a pedestrian-friendly retail corridor as per municipal plans. The presence of taller buildings and the planned pedestrianization indicate an evolving urban environment where sensitively designed vertical additions can be accommodated.

Previous Application Outcome: The prior application proposing two penthouses on the Carriages Building was not approved. In its decision, the Overstrand Municipal Planning Tribunal expressed several key concerns, which can be summarized as follows:

- **Height Exceedance:** The two-storey addition would have surpassed the 14m height restriction in place (noting that a departure to 16.2m had been previously granted in 2017 for a penthouse addition). The Tribunal was concerned about the building rising too high above the townscape.
- **Visual Impact and “Canyon Effect”:** There were fears that adding the penthouses could create a looming effect on High Street – a so-called canyon effect – diminishing sunlight, open sky views, and the human scale of the streetscape. Additionally, the general visual bulk was considered potentially obtrusive.
- **Heritage Context:** High Street and the Hermanus CBD include buildings of historical and architectural value. The introduction of modern rooftop units raised worries about detracting from the heritage character of the area or “dwarfing” the smaller heritage buildings nearby.
- **Overdevelopment:** It was argued that the site had already realized its development potential under zoning rules, implying that further vertical expansion might constitute an overdevelopment or “vertical sprawl” inconsistent with the intent of the zoning scheme.
- **Parking and Services:** Though less of a highlighted issue, any new residential units in the CBD typically raise questions regarding parking provision and infrastructure capacity, especially given Hermanus’s traffic and parking sensitivities.

Each of these points is acknowledged as a legitimate planning consideration. The revised single-penthouse proposal has been deliberately crafted to resolve these issues, as detailed in the sections to follow.

2. APPLICATION DETAILS

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020, for the departures from:-
 - the prescribed height restrictions (m),
 - permissible number of floors,applicable to Erf 848 Hermanus under the current zoning of Business Zone 1 in terms of the Overstrand Municipality Zoning Scheme.

3. DESIRABILITY

3.1 PROPERTY DESCRIPTION

The subject property is situated in High Street, also abutting Main Road, Hermanus. Please refer to the enclosed locality plan. Erf 848 Hermanus is 1175m² in extent and it is situated within the Hermanus CBD.

3.2 ZONING

Erf 848 Hermanus is zoned Business Zone 1: Bulk Zone 1 and is utilized as shops on the ground floor, parking facilities and car wash on first, second and third floor. Surrounding properties are also zoned for business purposes.



3.3 LAND USE

Erf 848 Hermanus is used for commercial use on ground floor, a car wash on the first floor and parking facilities from the first floor to the third floor. Land uses that surround the subject property are offices, shops, restaurants, public parking and public roads.

There are also similar developments in the area that are proposed with commercial uses on the ground floor and residential units on the top floor.



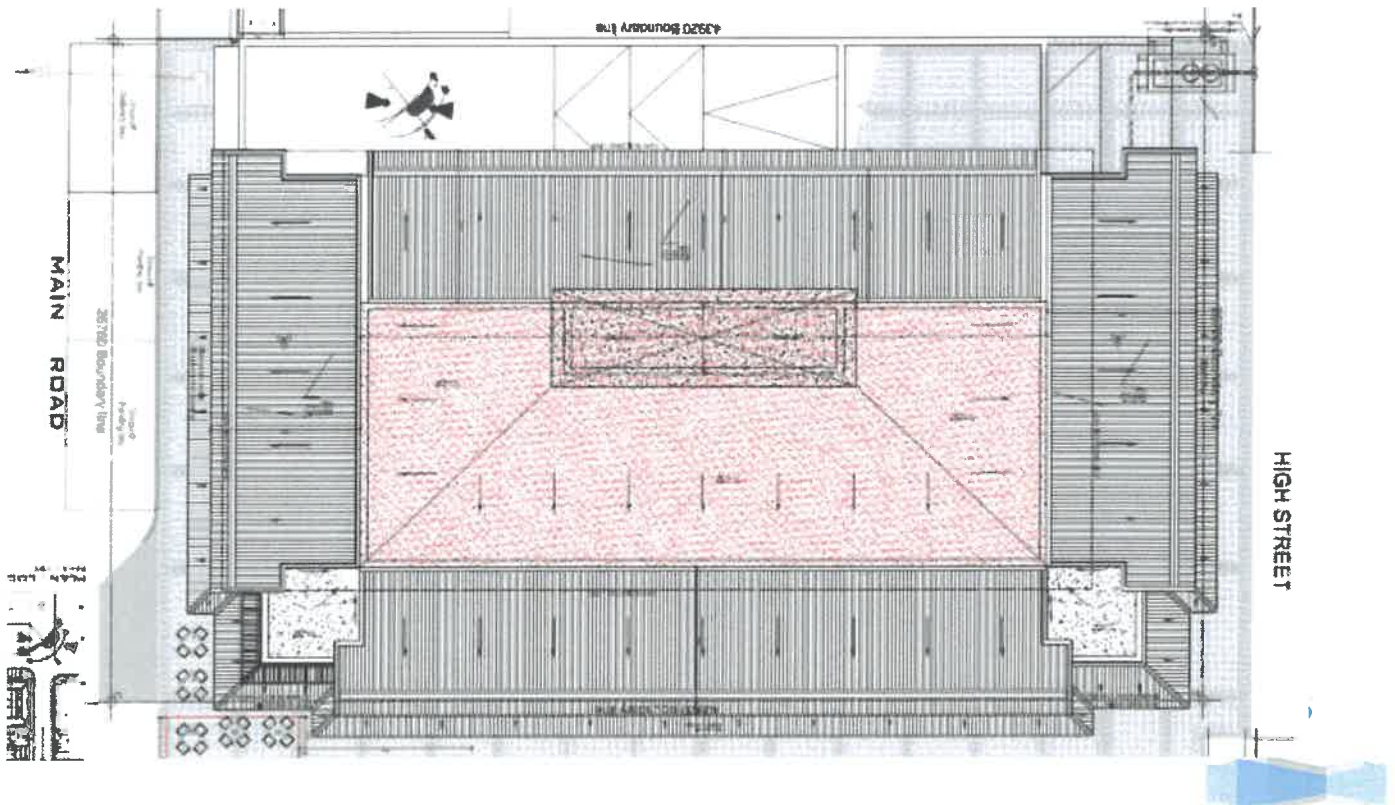
3.4 PROPOSAL

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020, for the departures from:-
 - the prescribed height restrictions (m),
 - permissible number of floors,
 applicable to Erf 848 Hermanus under the current zoning of Business Zone 1 in terms of the Overstrand Municipality Zoning Scheme.

Application is made for a departure from the prescribed height restriction from 14m to 16.67m and an application for a departure from 4 storeys to 5 storeys.

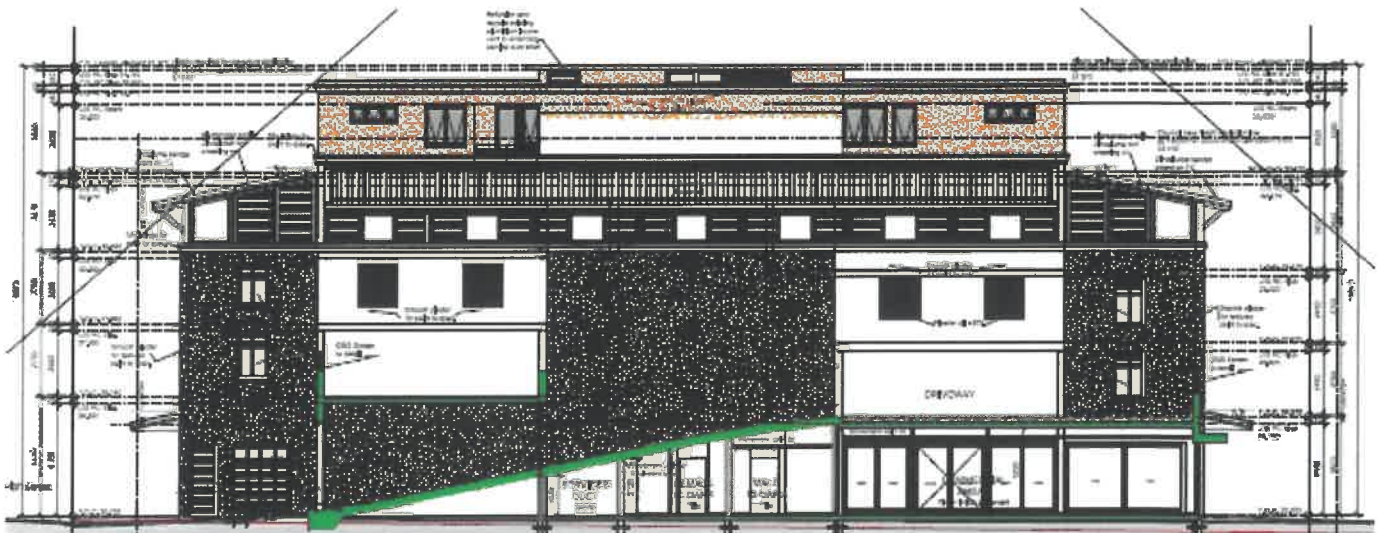
The revised application is for one (1) penthouse apartment atop the Carriages Building, with the following key parameters:

Position & Setback: The penthouse will be situated at the centre of the existing roof slab and set back approximately 6 meters from all rooftop edges as depicted on the building plan abstract below:



This substantial setback all around ensures the addition is not readily apparent from the street below or from adjacent properties, thereby reducing its visual prominence. The rooftop edges will remain as open perimeter terrace or roof space, effectively creating a buffer that visually recesses the penthouse structure. This design technique significantly diminishes the perceived bulk of the penthouse when viewed from street level or surrounding context. It is an improvement over the previous scheme (which had 5m setbacks) by further minimizing visibility.

Height: The maximum height of the penthouse structure is $\pm 16.67\text{m}$, measured to the top of the lift shaft (the highest point). The main flat roof of the penthouse is approximately 0.5m lower, at around 16.17m as depicted on the building plan abstract below:



By comparison, the existing approved height departure for the building was 16.2m , and as noted, neighbouring buildings reach higher (e.g. Woolworths at 19.457m). Thus, the proposed penthouse's height remains within the envelope of the evolved built environment.

The small projection above 16.2m is solely for the lift overrun and is a minor technical exceedance that does not meaningfully add to visual bulk. Overall, the building will present roughly the same height as a traditional four-storey building in the area because its lower parking levels are compressed in height as depicted in the photograph below:



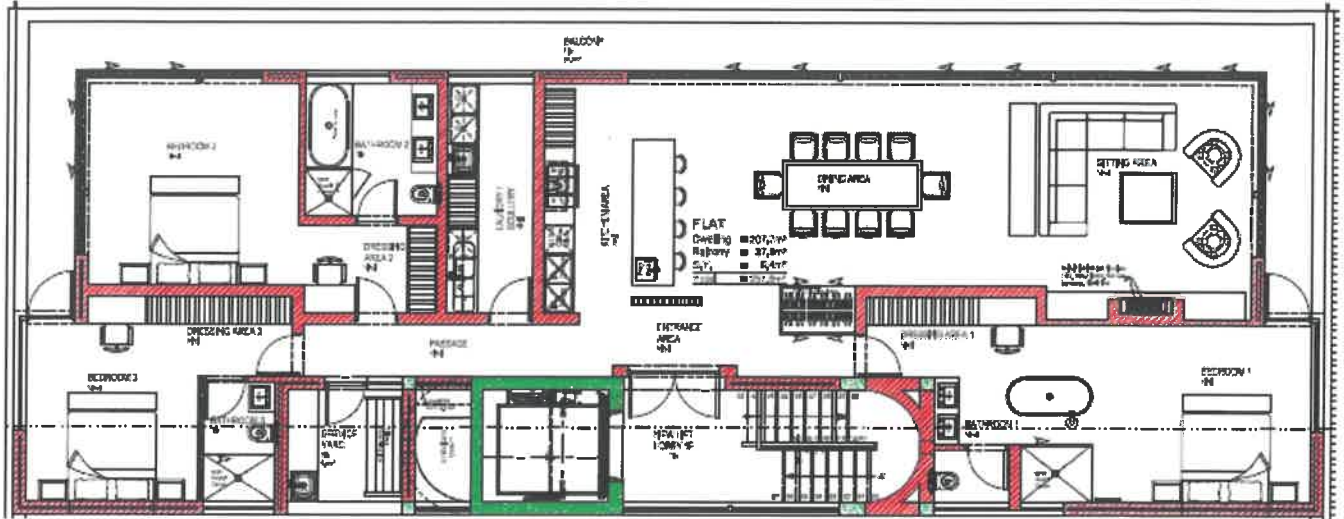


Floor Area: The penthouse has a total floor area of approximately 251.6 m² (including a private balcony and service yard).

This is a single-story addition occupying only part of the roof plate (given the 6m perimeter setback). Not only is this a fraction of the combined floor area that two penthouses would have entailed, it also means a lighter structural load and less intensive use of rooftop space than previously considered.

Internal Layout & Use: The penthouse is designed as a spacious three-bedroom residential unit, complementing the mixed-use nature of the building (commercial below, residential above). It will include: a small lift lobby and entrance area for vertical circulation from lower levels, an open-plan living, dining, and kitchen area capitalizing on views and light, a laundry/scullery ancillary to the kitchen, three bedrooms each with en-suite bathrooms for privacy and comfort, a private service yard, and a balcony for outdoor living space. Please refer to the building plan abstract below for easy reference:





These amenities will provide a high-quality living environment and introduce a permanent residential presence in the CBD, in line with revitalization goals for the area. The architectural style and materials will be chosen to be contemporary yet unobtrusive, likely employing neutral colours and a recessive design so that the penthouse blends with the skyline instead of dominating it.

Visibility: Critically, due to the central siting and generous setbacks, the new penthouse will not be visible from High Street at pedestrian eye-level or from directly across the street. As one approaches the building along High Street, the penthouse will be virtually imperceptible behind the building's parapet and due to the angle of view. This was confirmed in studies for the earlier design, which concluded that a rooftop addition set back in this manner is effectively invisible from street vantage points.

Even from further distances or higher viewpoints, the penthouse will be visually subordinate. For instance, from elevated lookouts (such as Hoy's Koppie), the Carriages Building with the penthouse would sit against a backdrop of other structures and thus not stand out aggressively – especially since its height is lower than the Woolworths building and far below the tallest structure in town measured from sea level (the Checkers development). In essence, the penthouse is designed to be discreet.

Replacement of Former Mast: The rooftop previously featured a telecommunications mast that extended above the building. That mast has been removed, and the penthouse will effectively replace it as the primary rooftop element. In doing so, the

proposal can be seen as an aesthetic improvement: the penthouse (with its screened service area and integrated design) will look far more intentional and architecturally coherent than a utilitarian mast. Importantly, the penthouse's highest point is comparable to, or even lower than, the tip of the old mast (ensuring no new visual intrusion beyond what historically existed on the roof). This point underscores that the net visual impact on the skyline is negligible – a sensitively designed room addition instead of a stark metal mast.

Parking and Access: The Carriages Building was originally constructed with surplus parking capacity in anticipation of additional development. There are currently ten (10) parking bays effectively credited or allocated on-site. The single penthouse will utilize only two (2) of these bays, comfortably satisfying its parking requirement. Thus, no new parking shortfall is created and no parking departure or cash “parking bay buy-out” is necessary. The remaining unused credited bays will continue to serve general parking needs or future allocations.

Access to the penthouse will be via the existing elevator (which will be extended to the new top floor) and stairwell, both of which were designed to accommodate an extra level. All municipal services (water, sewer, electricity) are readily available and the addition of one dwelling unit is a negligible load increase in an already serviced urban area. In summary, the logistical and infrastructural aspects of the proposal are sound and self-contained.

Having outlined the revised proposal's specifics, the following sections present a motivation for its approval, focusing on how it aligns with good planning and urban design principles, addresses the previous concerns, and contributes positively to Hermanus CBD's development goals.

3.4.1 Building Height, Massing, and “Vertical Sprawl”

One of the prior reasons for refusal was that the building had ostensibly reached its development limits and that adding further height represented an undesirable vertical extension (derogatively referred to as “vertical sprawl”). The revised single-unit proposal demonstrates a measured approach to height and massing that is both compliant in spirit with the surrounding built form and aligned with forward-planning policies that actually encourage vertical densification in the CBD.



Height in Context: At $\pm 16.2\text{m}$ to the roof ($\pm 16.67\text{m}$ to lift overrun), the penthouse results in a five-storey profile for the Carriages Building. However, because the lower storeys are parking levels with compressed ceiling heights, the total building height is equivalent to many conventional four-storey buildings. In fact, even with the penthouse, the Carriages Building will remain lower than the Woolworths Building's highest point ($\pm 19.457\text{m}$) directly adjacent. In terms of the CBD skyline, it will also be dwarfed by the much taller Checkers development ($\pm 37.9\text{m}$ above sea level) nearby. These comparisons make it clear that the proposed height is not excessive or abnormal – it is firmly within the range of what currently exists in Hermanus CBD's vertical profile. As the previous analysis of building heights concluded, the addition “will not be perceived as being excessively high” relative to its surroundings and “cannot be classified as too high in relation to the current height of the high rise buildings established in the CBD area”.

Reduced Bulk and Massing: By reducing the proposal from two penthouses to one, the overall bulk is significantly less. Instead of two separate penthouse structures covering a large portion of the roof, there will be a single, consolidated unit occupying a smaller footprint (with generous open margins around it). This not only lowers the structural load but also leaves a portion of the roof open, maintaining some visual breathing room above the existing building.

The mass of the penthouse is further mitigated by its 6m setback from edges, meaning the additional storey is not directly built atop the building's perimeter. This measure makes the upper volume visually recessive and harder to discern from street level, as the structure is set back from the viewer's line of sight. The result is that the penthouse reads as a light, unobtrusive volume atop the building rather than a full additional façade adding height at the street edge.

No Vertical Sprawl – Policy Perspective: It is important to reframe the notion of “vertical sprawl.” In contemporary planning vertical growth in the CBD is not viewed as sprawl but rather as smart densification. The Overstrand Spatial Growth Management Strategy explicitly promotes vertical densification over horizontal expansion, in order to curb urban sprawl beyond the town edges. By directing growth upward within the existing urban footprint, natural landscapes and outlying areas are preserved, and the CBD becomes more vibrant. In this context, adding a sensitively designed penthouse is in line with policy and cannot be deemed an uncontrolled or inappropriate expansion.

In fact, the inclusion of residential units on top of business buildings is actively encouraged by the Municipality's strategic documents.

The Spatial Growth Management Strategy and the CBD Regeneration Framework both advocate for mixed-use developments where "the inclusion of residential units on top of businesses are promoted". This strategy regards vertical mixed-use (such as apartments above shops or parking) as a desirable pattern, not as sprawl. The proposal at hand exemplifies this pattern by adding a residential component to an existing commercial/parking structure within the CBD's urban edge, which is precisely where such density is meant to go. Therefore, rather than representing "vertical sprawl," the penthouse is a planned densification that aligns with the approved spatial vision. It is a single unit – a far cry from over-development – and it remains within a reasonable height relative to its neighbours.

Development Potential and Rights: Although it was previously perceived that the building had reached its allowable development envelope (in terms of height/storesys), it's noteworthy that a departure for height (to 16.2m) had been approved in 2017 specifically to allow penthouses. This indicates that the principle of an extra floor was found acceptable by the Municipality, provided it met certain criteria. The current application essentially seeks to realize that latent potential in a scaled-back form. Additionally, with evolving policy and the clearly changed urban context (i.e., taller buildings that exist around the site), what constitutes the "appropriate" development potential for this erf can be viewed in that light.

The Municipal Spatial Development Framework (SDF) and other forward-planning instruments do not consider the CBD to be "maxed out" in growth; on the contrary, they call for further intensification and regeneration in central areas. Thus, granting this application would not contravene the scheme's intent but rather would fulfil the strategic intent of rejuvenating and intensifying the town centre in a controlled manner.

In terms of zoning compliance, the necessary departure being sought is specifically for height (and any minor related parameters). The floor area addition of $\pm 251.6 \text{ m}^2$ residential use is still in keeping with the Business Zone context and does not overwhelm infrastructure or traffic capacity (especially given the minor scale of one unit). All other development parameters (coverage, floor factor, parking, etc.) remain satisfied or within reasonable limits as previously discussed.

In summary, the height and massing of the proposal are appropriate for its location. The design cleverly minimizes bulk through setbacks and modest scale, and the resultant height is in harmony with the existing and evolving urban form. Far from being an uncontrolled vertical extension, this is a carefully studied addition that fits the vision of a denser, more liveable Hermanus CBD.

3.4.2 Streetscape Impact and Canyon Effect

The notion of a “canyon effect” was raised as a concern with the previous scheme. This term in urban design refers to a situation where a street is flanked by tall, continuous buildings on both sides, creating a tunnel-like environment with reduced sky visibility and sunlight. Such an effect can lead to a sense of overbearing vertical enclosure, negatively affecting pedestrian comfort and the historic human scale of a place. We have thoroughly evaluated this aspect for High Street with regard to the revised proposal, and we find that no canyon effect will result. The conditions simply do not approach the canyon scenario, for several reasons:

One Side Open or Low-Rise: A true canyon requires tall buildings on both sides of a narrow street. In this case, the Carriages Building (with the penthouse) occupies one side of High Street, but the opposite side of the street is not characterized by a continuous wall of equal height. Many structures on the facing side remain low-rise or are set back. There are breaks between buildings and variation in heights. Furthermore, High Street’s width relative to the Carriages Building’s height will be sufficient to avoid a canyon-like ratio. The street will continue to feel open. The sky view factor (the amount of visible sky from street level) will remain high, and the height-to-width aspect ratio of the street corridor will stay well within comfortable bounds. In short, High Street will not become an alley of tall buildings; it retains openness.

Moderate Height and Setback: Even on the Carriages Building side, the penthouse is set back and of moderate height, meaning the street wall profile is essentially unchanged at the edge. The existing building’s façade along High Street remains the defining element. The penthouse, being invisible from directly below, does not contribute to any sense of enclosure from the pedestrian’s perspective. Sunlight and air can still reach the street as before; the penthouse’s shadow will fall largely within the roof of the building or immediate adjacent roof areas, not onto the street in any meaningful way (especially given the region’s sun angles – any slight additional



shadow would be cast towards the interior of the block at certain times, not elongating down the length of High Street). The pedestrian experience – including light, scale, and views – is essentially unchanged, which was a key goal of the redesign.

High Street's Planned Pedestrianization: The Overstrand CBD Regeneration Framework envisions transforming High Street into a more pedestrian-friendly, retail-focused street. The proposed penthouse will not hinder that vision in any way; in fact, it supports it by introducing a residential component that can help animate the area outside of business hours (eyes on the street, etc.). The important point is that no part of this proposal interferes with the public realm – the building footprint remains the same, there's no projection over the sidewalk, and visually the change is negligible to pedestrians.

An analysis included in the previous appeal concluded unequivocally that the penthouse addition “will not create a canyon effect on High Street or the surrounding erven”. This conclusion was drawn from considering the street width, building heights, and setbacks, all of which still hold true or have improved with the single penthouse plan.

Maintaining Human Scale: Human scale in an urban context is maintained when buildings relate well to pedestrian sightlines and there are elements that break down perceived mass. Here, the penthouse is effectively hidden from the pedestrian's direct line of sight and thus does not contribute to any loss of human scale along the sidewalk. The lower three-storey street facade of Carriages (plus ground floor) remains the visual reference for walkers, which is comparable to other buildings along the street. The penthouse's presence might only be noticed from farther away or higher up, where it still appears small against the backdrop of larger masses. Importantly, High Street will not feel like a tunnel – ample sky is visible above the Carriages Building and others, and the street scene remains inviting and open.

In conclusion, the design and context ensure there is no canyon effect or undue vertical looming caused by the penthouse. The street's character remains pedestrian-friendly and intimate. This response directly addresses and resolves the Tribunal's concern about the canyon effect – through practical urban design analysis and conscious design choices to mitigate bulk.



3.4.3 Visual Impact and Aesthetics

Visual impact pertains to how the new development will be seen in the townscape and whether it will draw unwanted attention or ruin important views. The revised penthouse has been conceived to have a negligible visual impact on its surroundings, aside from the positive impact of adding an attractive new architectural. Key points include:

Invisible from Key Vantages: As emphasized, from High Street itself and immediate viewpoints, the penthouse will not be visible. From Main Road or other nearby streets, any glimpses will be fleeting or obscured by intervening buildings. The building's roofline as seen from the street will essentially appear as it does now (minus the old mast). This ensures that the historic roofscape as experienced at street level is preserved.

Impact on Distant Views: Hermanus is known for its scenic beauty, including views of the ocean and mountains. The Carriages Building is located inland from the seafront, and a one-story rooftop addition on an existing building will not obstruct any significant public view lines (e.g., it does not block the view of the sea from any public promenade, nor does it impede mountain vistas from main public spaces).

A visual study from Hoy's Koppie (a hill and viewpoint in Hermanus) during the previous application indicated that the then-proposed penthouses would sit amidst other building volumes and not break the skyline in a disruptive way. With only one penthouse now, the impact is even less. The skyline of the CBD remains characterized by a mix of roof heights, with the proposed penthouse simply adding a small bump that is lower than other peaks (like Woolworths, The Birkenhead, and the Checkers building). The sense of place as one looks over Hermanus will remain one of a coastal town with a gently varied roofscape, not a town suddenly dominated by a single structure.

Design Quality: The penthouse will be designed with a high standard of contemporary architecture, aiming to enhance the building's appearance. Care will be taken with material selection and detailing of the penthouse's façade (for example, setbacks might allow for planter boxes or the use of non-reflective glazing) so that it reads as a refined addition. The goal is that if and when the penthouse is noticed, it appears as a well-integrated and proportional part of the building, rather than an afterthought. The



replacement of the utilitarian cell mast with a cohesive architectural form should actually improve the aesthetic profile of the Carriages Building when seen from various angles.

Lighting and Night Appearance: With new residents, there will be some light from windows at night on the penthouse level. However, this is minimal (one unit) and comparable to any normal building occupancy. There will be no large illuminated signage or unusual lighting associated with the penthouse that could cause visual clutter. In fact, having an occupied top floor might add a gentle warmth of light in the evenings, contributing to the ambiance of a lived-in town centre, which is a positive effect.

Visual Impact on Heritage Buildings: As discussed in the heritage section, the penthouse is designed not to interfere with views of heritage buildings (it doesn't loom behind them intrusively in key sightlines) and doesn't steal focus from them. The heritage facades and streetscapes remain the focal point for observers at street level, with the penthouse essentially out of sight or benign in presence. This was a critical aspect of making the design acceptable in a conservation-worthy environment.

Overall, the visual impact is carefully controlled and found to be acceptable. The penthouse will be a discreet addition, largely unseen in everyday views, and modest in the broader skyline. It substitutes a previously cluttering element (the mast) with a thoughtful piece of architecture. Thus, from a visual and aesthetic standpoint, the proposal upholds the quality of the Hermanus townscape.

3.5 ACCESS & PARKING

As noted under the project description, practical concerns such as parking and infrastructure have been thoroughly addressed:

Parking Sufficiency: The building's design included more than enough parking to cater for added penthouse. **With 10 bays allocated and only two needed for this penthouse, there is a comfortable surplus.** This means the penthouse generates no external parking demand; its residents and visitors will park on-site in designated bays. This meets the zoning requirements and addresses any concern about

exacerbating parking pressure in the CBD. It is worth noting that the previous application likewise had parking covered, and the reduction to one unit only improves the situation further. By not requiring a parking contribution or variance, the proposal aligns with municipal efforts to manage parking logically in the CBD (i.e., placing new residential units where private parking is available, rather than straining public supply).

Traffic and Access: One residential unit will have a negligible effect on traffic flows. High Street can accommodate the very slight increase in vehicular movements (primarily one household's movements). The site is centrally located, and residents may in fact walk to many destinations, aligning with the pedestrian-friendly goals for the area. The access via the existing garage entry from High Street remains unchanged; no new driveways or curb cuts are needed.

3.6 SERVICES

All municipal services (water, sewer, electricity) are already connected to the building. The addition of a single 3-bedroom unit is well within the servicing capacity of the existing connections. There is ample infrastructure in the CBD designed for far greater intensity. The unit will be metered and pay its due levies, contributing to municipal revenue without requiring new infrastructure outlay.

Stormwater handling is unchanged as the building footprint is the same (the roof addition can drain into existing internal drainage). There are no environmental constraints on this rooftop addition – no flora/fauna affected, no storm surge or flooding issues, etc., given it's an existing structure in town.

Though not a primary concern of the planning approval stage, it's worth mentioning that adding a penthouse is a relatively minor construction job compared to ground-up development. It will be managed to minimize disturbance (e.g., materials can be lifted by crane from the street in off-peak hours, construction noise kept within permitted times, etc.). The duration will be limited. This is to assure that even during implementation, impacts on neighbours and the public will be minimal and temporary.

In sum, there are no service or infrastructure impediments to the approval of this application and the practical feasibility is sound.

TITLE DEED

The Title Deed T37356/2017 has no restrictions that need to be removed in order for this application to be approved.

3.10. FORWARD PLANNING

The revised penthouse proposal is not just benign in terms of impacts; it is affirmatively supported by the strategic planning framework for Hermanus and the Overstrand Municipality. Several policy documents and forward-planning initiatives provide a basis for encouraging exactly this kind of development in the CBD:

Overstrand Spatial Growth Management Strategy: This strategy seeks to contain urban sprawl by promoting densification within established urban areas. It explicitly notes that in economic nodes like central Hermanus, growth should be accommodated by building up rather than out. A key provision of the strategy is the support for mixed-use development, including residential units above commercial premises. In a quoted passage, the strategy even quantifies potential additional dwelling units that could be added in such a manner (indicating a proactive stance on vertical expansion).

The proposed penthouse is a textbook example of these principles: it adds a residential unit on top of a CBD business building, thereby contributing to urban intensification without consuming any new land. It aligns perfectly with the notion that Hermanus should “expand vertically” within its urban edge rather than spread horizontally. Approving this application would be a tangible implementation of the Spatial Growth Management Strategy’s objectives.

Overstrand Municipal Spatial Development Framework (MSDF): The MSDF (and associated local spatial plans) designates the Hermanus CBD as a primary node for development and regeneration. It supports infill development and the optimization of existing urban infrastructure. Adding a penthouse to an existing building is a form of urban infill/intensification that uses existing infrastructure and adds housing stock where it is needed (centrally).

The MSDF's vision for Hermanus includes a lively mixed-use core, and having residents living in the CBD contributes to that vibrancy and safety. Moreover, the MSDF does not set an immutable height limit without context – it allows for consideration of departures where merited, especially if aligned with broader spatial principles (which, as demonstrated, this is). By remaining within the character of other recent developments, the penthouse does not violate the SDF's intent for appropriate scale and character.

Hermanus CBD Regeneration Framework: The Regeneration Framework is aimed at revitalizing the town centre, improving the public realm, and stimulating investment. One of its ideas, as noted earlier, is to encourage residential uses in the CBD and to transform streets like High Street into more pedestrian-oriented spines. The introduction of a new penthouse dwelling supports regeneration by bringing a 24/7 presence to the area (residents who will patronize local shops, restaurants, and add to passive surveillance).

The framework likely recognizes that a successful CBD is one that has a balance of day and night-time uses – this proposal contributes to that goal. Furthermore, the Framework does not object to higher buildings per se; rather, it would support quality design that doesn't harm the pedestrian realm. As we have shown, the pedestrian realm is unharmed in this case (High Street remains inviting and human-scaled). Therefore, the penthouse is in harmony with regeneration initiatives and in no way impedes planned streetscape improvements or heritage conservation efforts in the CBD.

Mix of Uses and Housing Need: The Overstrand Integrated Development Plan (IDP) and housing strategies emphasize the need for a range of housing opportunities and promoting sustainable neighbourhoods. By adding an additional dwelling in the CBD, the proposal contributes a high-end housing option that could free up other housing (if, for example, the owner currently occupies a larger home elsewhere, etc.). It also adds to the municipal tax base and optimizes land use.

Mixed-use buildings (commercial + parking + residential) create more complete communities where people can live close to work and amenities, reducing travel distances and bolstering local business patronage. All of these outcomes are supported by policy directions at municipal, provincial, and even national level (the principles of SPLUMA – Spatial Planning and Land Use Management Act – encourage

efficient and optimal use of space in urban areas). The fact that residential units on top of businesses are explicitly promoted in the policy framework cannot be overstated – this proposal is not an aberration; it is a model example of policy turning into practice.

In summary, the proposed penthouse is fully aligned with and supported by the prevailing spatial and development policies. Granting approval would not be a concession or an exception to the rule, but rather a confirmation of the Municipality's commitment to its own strategic plans for sustainable urban development. The application thus has strong merit from a forward-planning point of view, in addition to its site-specific merits.

3.11. OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.11.1. HERITAGE VALUE

Heritage Context and Streetscape Character: Respect for the heritage and architectural context of Hermanus is paramount. The proposal has been formulated to ensure that it does not detract from the historical character of the area or overwhelm the scale of nearby heritage buildings. Several points support this:

Minimal Visual Presence from Street Level: Because the penthouse is set well back and kept to a single story, it will not be visible along High Street itself. The scenic and human-scale quality of the High Street streetscape – including its low-rise historic facades and pedestrian-friendly atmosphere – will remain intact. Passers-by at ground level will experience High Street much as they do today, without a modern addition looming overhead. This was a deliberate design choice to respect the existing townscape.

Subordinate to Heritage Structures: The height and massing are subordinate relative to the overall town profile, particularly when compared to the significant newer buildings. The penthouse does not create a new tallest element; it sits below the Woolworths building's lantern feature and far below the Checkers building. Thus, in the broader skyline, historic landmark structures will not be overshadowed or visually

dominated by this addition. The established heritage buildings in the area will continue to stand out as they always have. As noted in the previous assessments, “the character of the area has already changed, and the proposed penthouse will not impact negatively on the heritage buildings established in the area”. It will also “not impact on the dwarfing of the heritage buildings” – in other words, it will not exacerbate any disparity in scale between modern and old structures.

Architectural Integration: The penthouse will be contemporary in design but contextually sensitive in appearance. While final architectural details will be subject to approval, the intention is to use subdued materials and colours so that the addition recedes visually. The penthouse will read as a recessive rooftop element rather than a bold new facade. This approach follows best practices in historic areas, where rooftop additions are often accepted if they are not readily visible or are distinguishably modern yet deferential in scale. By confining new construction to above an existing modern building (the Carriages Building is itself a post-heritage-era structure), no physical heritage fabric is being altered or demolished – the historic urban fabric remains untouched.

In light of these factors, the proposal respects the heritage context. It strikes a balance between embracing necessary urban growth and preserving the unique sense of place in central Hermanus. The presence of much larger modern buildings in the vicinity has already altered the skyline, and this penthouse will be a far more modest intervention by comparison. We submit that the heritage and townscape qualities will remain uncompromised.

3.11.2. IMPACT ON THE BIOPHYSICAL ENVIRONMENT

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



3.12. PLANNING PRINCIPLES

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

Spatial Justice: The proposed penthouse fosters spatial justice by introducing residential use into the heart of the Hermanus CBD — a space historically dominated by commercial and vehicular uses. By enabling a live-work environment within the economic core, the development challenges the spatial legacy of mono-functional zoning that often segregated urban living from commercial activity.

The structure does not displace any existing uses or communities and is instead added onto a previously underutilized rooftop, ensuring that no group is adversely affected or excluded. Furthermore, the penthouse's discreet scale and setback positioning demonstrate respect for the broader urban fabric, including heritage assets and public realm users.

By adhering to principles of equitable access to central urban amenities — including proximity to jobs, services, and transport — the penthouse enhances inclusivity in a way that supports fair and integrated urban development, without reinforcing patterns of exclusion or inequality.

Spatial Sustainability: This development exemplifies spatial sustainability by using existing infrastructure, buildings, and land more efficiently. Rather than consuming greenfield land or contributing to urban sprawl, the penthouse leverages vertical space within the built-up footprint of the town.

It aligns with the Overstrand Municipality's Spatial Growth Management Strategy, which calls for densification within demarcated urban edges, especially in economic and mixed-use zones like the Hermanus CBD. The new dwelling will benefit from existing services (water, electricity, sewer, road access), eliminating the need for new municipal infrastructure investment.

Additionally, the penthouse will improve the socio-economic sustainability of the CBD by increasing residential occupancy in an area traditionally quiet after business hours, thus promoting passive surveillance, increased patronage of local businesses, and a more vibrant urban environment.

The building's height remains modest in context and does not compromise solar access, views, or visual comfort, ensuring environmental sustainability in urban form.

Efficiency: The proposal is a prime example of land-use and resource efficiency. It maximizes the utility of the existing Carriages Building — particularly its underused rooftop — without increasing the site's physical footprint or requiring any demolition or reconstruction.

The compact, centralized location of the penthouse means reduced reliance on car travel, particularly important in a CBD where walkability, proximity to services, and public transport access are high. The penthouse will use 2 of 10 existing parking bays, thus avoiding the need to purchase or construct additional parking and indicating efficient use of previously approved infrastructure capacity.

From a municipal perspective, this application represents cost-effective urban intensification: no new roads, utilities, or social facilities are required, but the development will contribute rates and service charges. It supports compact city principles, optimizing land and infrastructure investments.

Spatial Resilience: Spatial resilience refers to the ability of urban systems to adapt to changing socio-economic, environmental, and spatial demands. This proposal contributes to resilience in several ways:

By diversifying land use within the CBD, it reduces dependence on mono-functional retail or tourism-based uses. This helps the CBD absorb shocks such as economic downturns, as residential uses offer steady occupation and use throughout the year.

The penthouse is designed to be structurally and visually compatible with existing conditions, but adaptable for future needs (e.g., flexible layout, central access, private services). The elevated position of the unit and its central town location reduce exposure to coastal risks such as flooding or sea-level rise, supporting climate adaptation goals.

By aligning with policy-driven densification and regeneration goals, it ensures that the urban fabric of Hermanus is better equipped to absorb future population growth and changing demographic patterns without compromising ecological or spatial quality.

Good administration: Our Company is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's By-law on Municipal Land Use Planning, 2015.

4. RECOMMENDATION

In light of the comprehensive motivation above, we conclude that the revised single penthouse proposal for Erf 848 (Carriages Building) is discreet, appropriate, and context-sensitive, and it fully merits approval. The application represents a careful balance between enabling beneficial urban development and respecting the existing character and constraints of the site.

Key reasons to support approval can be summarized as follows:

- The proposal directly addresses all previously stated concerns: it significantly reduces height and bulk compared to the refused scheme (one unit instead of two), virtually eliminates street-level visual impact through large setbacks (no canyon effect or overpowering presence), and remains respectful of heritage

context (hidden from view and subordinate to other buildings). What remains is a gentle, unobtrusive addition that is hard to fault on townscape grounds.

- The penthouse will be integrated harmoniously into the building's architecture and the wider skyline. It will not be visible from High Street and thus preserves the status quo experience of the streetscape. Its height is lower than or in line with the established building heights in the area (e.g., Woolworths and other multi-storey structures), ensuring it does not stand out as an anomaly or set an unwelcome new precedent.
- The development aligns with urban design best practices: using setbacks to reduce visual massing, maintaining human-scale frontages, and adding density in a way that supports street vitality without harming it. The street width and building arrangement guarantee no canyon-like enclosure, preserving sunlight and open sky for pedestrians. The design shows thoughtful integration into the existing urban fabric, as was highlighted in the earlier independent assessment.
- It is strongly supported by Overstrand's strategic planning policies: The Spatial Growth Management Strategy, SDF, and CBD Regeneration Framework all encourage exactly this type of mixed-use vertical densification in the town centre. Approving the penthouse would be a logical step in implementing these policies, reinforcing Hermanus CBD as a place of investment, liveability, and sustainable growth.
- The proposal poses no material negatives: no heritage resources are damaged, no public views are blocked, no parking or infrastructure issues are introduced, and no significant objections on factual grounds can be sustained given the mitigations in place. By contrast, the positives include a new high-quality dwelling, increased residential presence in the CBD, optimized use of existing space, and a modest boost to the local economy (during construction and via future residents).
- The application is framed to be respectful and responsive to municipal authority and community concerns. The revisions made reflect a genuine effort to compromise and find a win-win solution – retaining development benefits while



reducing impacts. Such an approach should be rewarded as it sets an example of how developers and planners can work together to achieve outcomes that align with the public interest and planning directives.

Recommendation: It is therefore respectfully recommended that the Overstrand Municipality approve the application for the departure and related permissions required to construct the single rooftop penthouse on Erf 848, Hermanus (Carriages Building), as per the submitted plans. This approval would be subject to standard conditions (ensuring the penthouse is built in accordance with the described parameters and aesthetic controls, etc.). We are confident that this development will be a positive addition to Hermanus, demonstrating how contemporary growth can be accommodated without compromising the town's charm or character.

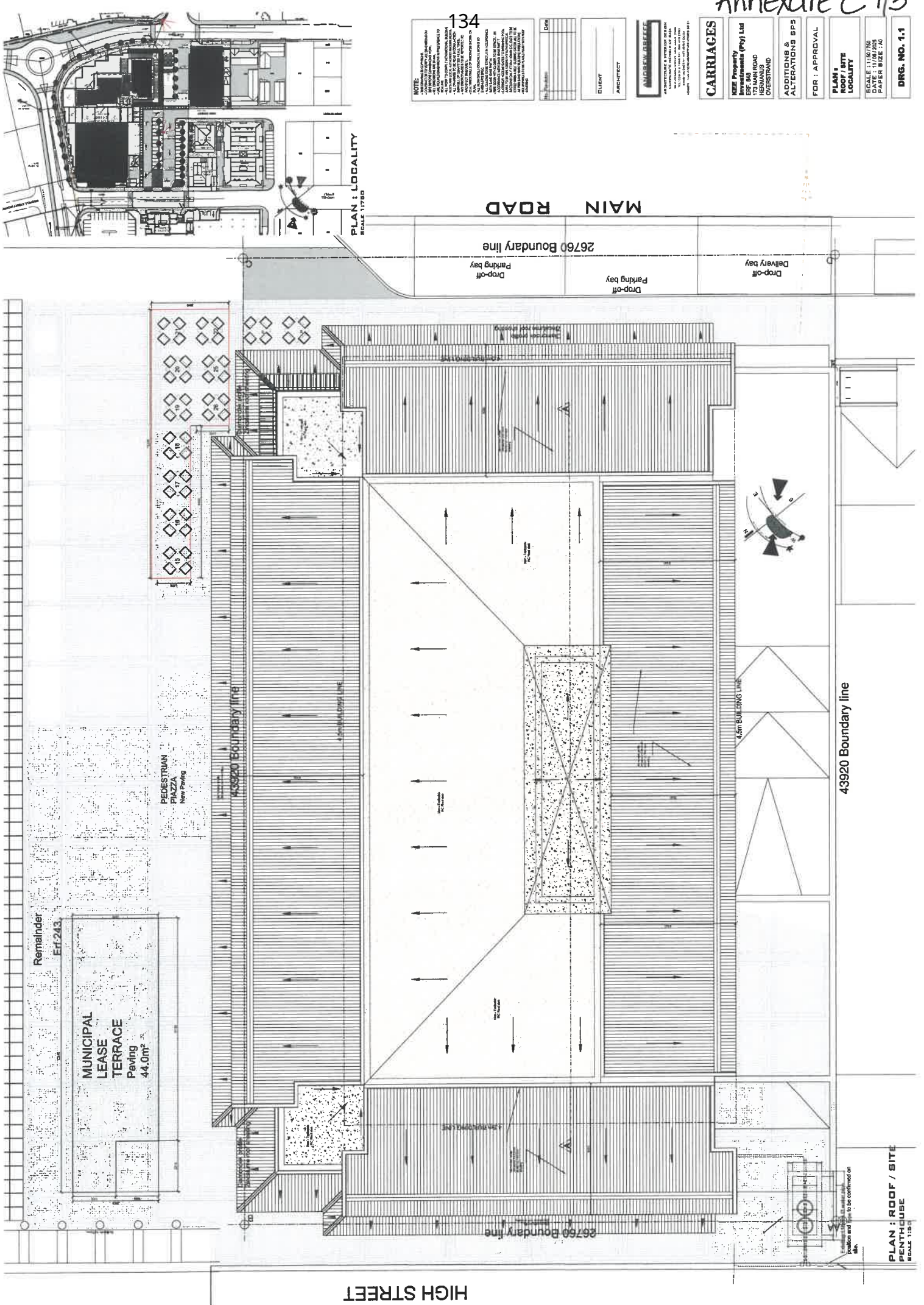
In conclusion, the revised penthouse proposal is a carefully considered, well-justified plan that aligns with both the letter and spirit of Hermanus's development framework. We trust that the motivation provided illustrates its merits convincingly. The proponent is committed to delivering a project that Hermanus can be proud of, and we urge the Municipality to grant its support to this worthwhile initiative.



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PLAN : ROOF / SITE
PENTHOUSE
SCALE 1:50



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- ALL DIMENSIONS ARE IN mm.
- USE FINISHED DIMENSIONS IN PREFERENCE TO UNFINISHED DIMENSIONS.
- ALL WORK TO COMPLY WITH NATIONAL BUILDING REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS.
- ALL DRAWINGS TO BE READY FOR CONSTRUCTION.
- ANY DISCREPANCIES TO BE REPORTED TO ARCHITECT IMMEDIATELY.
- ALL REINFORCED CONCRETE WORKS TO BE DONE BY A QUALIFIED CONCRETE WORKER.
- EXISTING STRUCTURE TO BE STRICTLY IN ACCORDANCE WITH SANS 10400 PART 1.
- EXISTING ACCESS GATES TO SWIMMING POOL AREA TO BE MIN. 1000MM HT WITH VERTICAL GLASS PANELS TO BE REPLACED WITH GLASS PANELS AS PER SANS 10400 BUILDING REGULATIONS.
- SWIMMING POOL TO BE PLACED FLUSH WITH ROOF COVERING.

No.	Revision	Date

CLIENT

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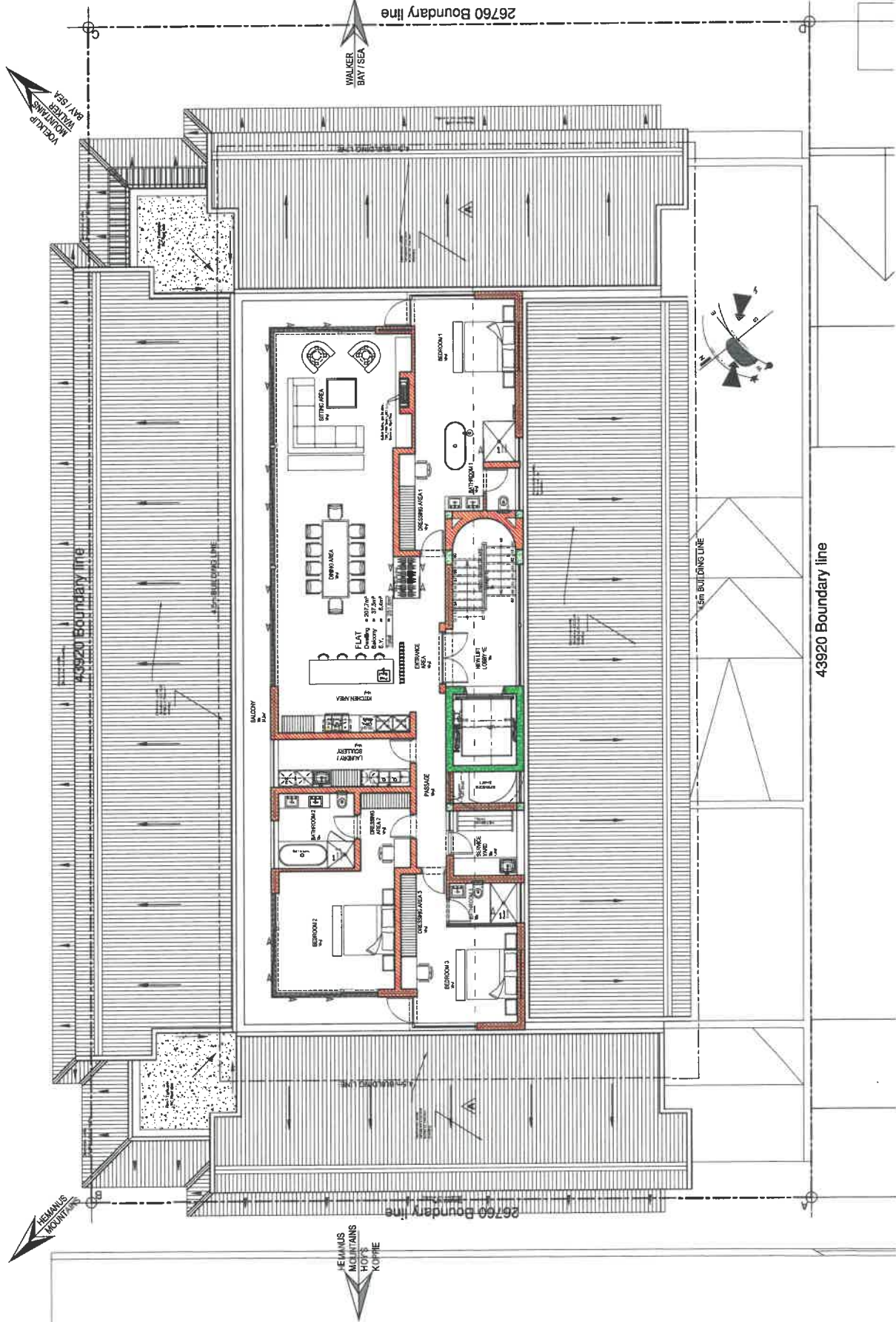
ADDITIONS &
ALTERATIONS SP6

FOR : APPROVAL

PLAN :
FORTH FLOOR
PENTHOUSE

SCALE : 1:100
DATE : 22/11/2024
PAPER SIZE : A2

DRG. NO. 1.6



PLAN : FOURTH FLOOR / LIFT / STAIR
TOWER
SCALE 1:100

DRG. NO. 2.1



ELEVATION : NORTH-WEST
SCALE 1:100

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OVERSTRAND MUNISIPALITEIT

REKORDBEHEER

31 OCT 2025

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

Annexure D 1/12

30 October 2025

The Municipal Manager
Overstrand Municipality

Email: loretta@overstrand.gov.za

FILE NO.	ERF 848 - HNC
SCAN NO.	
COLLABORATOR NO.	2893816

Good day,

OBJECTION TO PROPOSED DEPARTURES - ERF 848, 173 MAIN ROAD, NORTHCLIFF, HERMANUS

1. We refer to Municipal Notice No. 193/2025 regarding the application for departures in respect of Erf 848, 173 Main Road, Northcliff, Hermanus ("the subject property").
2. We act on behalf of the Body Corporate of Hermanus Station Square, a sectional title scheme situated in close proximity to the subject property. Our client has a direct and substantial interest in the proposed development.
3. The application, submitted by Plan Active Town and Regional Planners on behalf of Kee Prop Investments (Pty) Ltd, seeks approval in terms of Section 16(2)(b) Overstrand Land Use Scheme (the "Zoning Scheme") for the following departures:
 - 3.1. to exceed the prescribed height restriction from 14.00m to 16.67m; and
 - 3.2. to exceed the permissible number of floors from 4 storeys to 5 storeys.
4. In accordance with our instructions, we hereby lodge a formal objection to the approval of the above application.

Section 52 MPBL requirements

5. For purposes of section 52 of the Overstrand Municipal Land Use Planning By-Law (the "MPBL"), we confirm the following:
6. We shall accept notice or service of documents at angelique@dhmlaw.co.za or at 25 Lourensford Road, Somerset West.
7. Our client comprises the registered owners of all sections within the shopping centre, which is located in close proximity to the subject property. The proposed development directly affects their rights and interests.

DU PLESSIS HOFMEYR MALAN INC (Registration Number: 2011/134862/21)

ATTORNEYS • CONVEYANCERS • NOTARIES

DIRECTOR: N Malan BA Industrial Psych (US), LLB (UNISA)

CONSULTANT: JP du Plessis B Juris, LLB (UNISA), BPhil & MPhil Sustainability (US)

ASSOCIATES: M Redpath, BA Applied Value - & Policy Studies (US) LLB (US) • AB Harris LLB (UNISA) PGDip Sustainable Development (US)
25 Lourensford Road, Somerset West, 7130 • PO BOX 1044, Somerset Mall, 7137 • Tel: 021 851 0359

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31 OCT 2025

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8. The objection is based on the following grounds, which demonstrate the adverse impact the proposed departures will have on the area.

Structure of memorandum

9. The structure of this memorandum is as follows:
 - 9.1. First, we summarize the applicant's motivation, inter alia pointing out that no compelling reasons were advanced to justify exceeding the prescribed height and storey restrictions.
 - 9.2. Secondly, we outline the purpose and function of zoning schemes, emphasizing their role in promoting orderly development, protecting community interests, and ensuring environmental and spatial integrity.
 - 9.3. Thirdly we consider the relevant legislative provisions, including the Overstrand Municipal Land Use Planning By-law and the Spatial Planning and Land Use Management Act (SPLUMA), and assess the application against the applicable development principles and strategic planning instruments.
 - 9.4. Then we discuss the rationale behind restrictions in the Zoning Scheme and evaluate the potential impact of the proposed departure on the surrounding built environment and community. We also address the broader implications of approving the departure, including the risk of setting a precedent that could lead to cumulative impacts and undermine the integrity of the municipality's spatial planning framework.
 - 9.5. Finally, we conclude with a summary of our client's position and respectfully request that the application be refused on the grounds set out herein.

The Applicant's motivation

10. The applicant submits that this application is a revised application following an earlier proposal which was for two penthouses atop of the Carriages Building. The prior application was declined by the MPT due to various issues such as exceeding permissible height, adverse visual impact, insensitivity to the heritage context, and the perception that the site's development potential had been reached. According to the applicant this application has been formulated to mitigate all of those issues.
11. The present proposal is to limit the development to one penthouse, to be centrally positioned and set back from the roof edges. The design is discreet and not visible from the street.
12. The applicant submits that the height of the penthouse structure is +- 16.67m measured to the highest point, but that main flat roof of the penthouse is approximately 16.17m.

This is compared with neighbouring buildings (e.g. Woolworths which is at 19.457m) and seen to be within the evolved build environment.

13. The applicant may have addressed some of the issues highlighted by the MPT in the prior proposal adequately, such as visual impact and heritage context etc, but the exceeding permissible height remains an important outstanding matter in this application. The motivation does not provide any compelling reasons for why a departure from the height restriction parameters should be granted. The fact that a departure was previously permitted in respect of the Woolworths building is in itself not sufficient reason for permitting further departures. Each application must be considered on its own merits.

The purpose of Zoning Schemes

14. A central aspect of the municipal land use management scheme is its *purpose* within the society it serves. It is conceived in the interest of the community to which it applies.
15. It is concerned with the regulation and management of the physical environment or the use of land in social context. Its purpose is to ensure the health, safety and welfare of society as a whole and taking into account environmental factors. It strives for harmony, efficiency and quality of life.
16. The clear aims of the provisions of Zoning Schemes are to achieve some form of harmonious living in society and to ensure that there is a balance of interests within the geographical community.
17. Regulation and management are necessary due to man's lack of restraint and demand for use rights far in excess of his biological needs, placing his own short-term interests far ahead of his responsibilities and omitting *inter alia* to plan for the side-effects of his actions on neighbours and property owners in the surrounding area. This can result in unintended consequences for the neighbours and the broader community.
18. Zoning restrictions are imposed in terms of the Zoning Scheme to create a neighbourhood with a specific character. It aims to maintain or improve the quality of life of those affected by buildings and welfare of the community involved. They ensure that development occurs in a manner consistent with the community's values and expectations.
19. The Hermanus Station Square Body Corporate and other objectors have the legitimate expectation and right to require that the land use parameters that apply in terms of the Overstrand Municipality Land Use Scheme (the "Zoning Scheme"), that are aimed at preserving the character of the primarily urban built environment in the interest of the community to which it applies, are upheld. These parameters are intended to

protect the built environment, and departures should not be allowed without compelling justification.

20. We will show below why the departures, if approved, will materially and adversely affect the rights of the Objector and other objectors. Moreover, the approval may encourage similar applications, leading to a cumulative negative effect on the town's unique character and sense of place.

Legislative considerations

21. Section 42 of SPLUMA requires that any land use application be assessed against a set of development principles, norms, and standards, as well as the municipal spatial development framework (MSDF) and integrated development plan (IDP). It also mandates that decisions must promote spatial justice, sustainability, efficiency, and good governance.
22. The IDP and MSDF promote development that is context-sensitive, inclusive, and aligned with long-term spatial planning goals. Height restrictions are a key tool in achieving these goals, helping to preserve the natural landscape, manage infrastructure capacity, and maintain the character of local communities. If such restrictions are deemed outdated, the appropriate mechanism for change is through a formal review of the Zoning Scheme, not through piecemeal approvals that undermine the integrity of the IDP and its strategic intent.
23. Departures from these restrictions should be considered only through a formal review of the Zoning Scheme, not via ad hoc approvals that undermine the integrity of the IDP and MSDF. The current application does not advance the public interest and appears to be motivated solely for private financial gain.

The purpose of height restrictions

24. The subject property is zoned "Business Zone 1", which, under Section 7.1.2 of the Zoning Scheme, imposes a height restriction of 14.0m and is limited 4 storeys.
25. The proposed height of 16.67m exceeds the permissible limit and constitutes a significant departure from the established development parameters.
26. Height restrictions serve several important functions and any deviation from these restrictions must be cautiously considered and supported by compelling reasons.
27. The long-term consequences of approving such departures must be carefully evaluated. While a single application may appear minor, repeated approvals can lead to incremental vertical expansion, fundamentally altering the town's character.

28. Approving height departures on a case-by-case basis, especially when driven by private financial motives, can lead to developers viewing the municipality's planning regulations as flexible or negotiable, rather than as binding guidelines rooted in public interest. This undermines the credibility of the spatial planning framework and encourages a pattern where profit-driven proposals push the boundaries of what is acceptable, often at the expense of environmental sensitivity, community character, and infrastructure capacity.
29. Planning decisions must be made with foresight, ensuring that short-term gains do not compromise the long-term sustainability and liveability of Overstrand's unique coastal and rural environments.
30. It must also be borne in mind that the approval of this application may set a precedent for similar departures, leading to cumulative impacts that erode the planning intent and spatial integrity of the area.
31. We submit that there is no compelling reason to depart from the prescribed height restriction. The applicant's only motivation appears to be driven by personal financial gain. The motivation also fails to demonstrate a compelling need or public benefit that would justify such a substantial departure from the prescribed height limit.

Conclusion

32. In light of the above, we respectfully request that the Overstrand Municipality refuse the application for departures from the prescribed height restriction and number of storeys. The proposed increase to 16.67m is excessive, unjustified, and contrary to the principles of responsible and sustainable development as outlined in the Municipal Land Use Planning By-law and SPLUMA.

Yours faithfully

DU PLESSIS HOFMEYR MALAN INC



PER: A B HARRIS

DU PLESSIS HOFMEYR MALAN INC.

25 Lourensford Road
SOMERSET WEST
Tel: 021-8510359

SPECIAL POWER OF ATTORNEY

We, the undersigned, being duly authorised trustees of the Body Corporate of Hermanus Station Square SS 32/2018 & SS 128/2020, established in terms of the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011),

do hereby nominate, constitute and appoint

attorneys DU PLESSIS HOFMEYR MALAN INC, with power of substitution, to be our lawful agent and in our name, place and stead lodge an objection with the Overstrand Municipality against the land use applications relating to Erf 848, 173 Main Road, Northcliff, Hermanus,

and generally, for effecting the purposes aforesaid, to do or cause to be done whatsoever shall be requisite, as fully and effectually, for all intents and purposes, as we might or could do if personally present and acting herein - hereby ratifying, allowing and confirming and promising and agreeing to ratify, allow and confirm all and whatsoever our said agent shall lawfully do, or cause to be done, by virtue of these presents.

Signed at Bellville this 30th day of October 2025, in the presence of the undersigned witnesses.

1. Name: Danie Virjoen

Capacity: Trustee / Chairperson

Signature : [Signature]

WITNESS 1 : [Signature]

2. Name: Ton Vosloo

Capacity: Trustee

Signature : [Signature]

WITNESS 2 : [Signature]

Loretta Gillion

From: Angelique Harris <angelique@dhmlaw.co.za>
Sent: Friday, 31 October 2025 08:26
To: Loretta Gillion
Subject: OBJECTION AGAINST PROPOSED DEPARTURES - ERF 848, 173 MAIN ROAD, NORTHCLIFF, HERMANUS
Attachments: Objection 30 Oct 2025.pdf; Special POA - 30 October 2025.pdf

Good day,

Please find our Objection attached hereto.

Kindly acknowledge receipt hereof.

Kind regards,

Angelique Harris

DHM
 du plessis • hofmeyr • malan
 land law specialists

Du Plessis Hofmeyr Malan Inc. Registration Number: 2011/134862/21

Director:

N Malan BA Industrial Psych (US), LLB (UNISA)

Consultant:

JP du Plessis B Juris, LLB (UNISA), BPhil & MPhil Sustainability (US)

Associates:

M Redpath BA Applied Value- & Policy Studies (US) LLB (US)

AB Harris LLB (UNISA), PGDip Sustainable Development (US)

25 Lourensford Street, Somerset West, 7130 | PO Box 1044, Somerset Mall, 7137

Tel: (021) 851 0359 / Fax: (021) 851 4852 / E-mail: angelique@dhmlaw.co.za Website: www.dhmlaw.co.za

SCAM WARNING: SHOULD YOU RECEIVE AN EMAIL FROM "US" STATING THAT OUR BANK ACCOUNT DETAILS HAVE CHANGED AND THAT AN ALTERNATIVE BANK ACCOUNT IS TO BE USED PLEASE REPORT THIS TO OUR OFFICE IMMEDIATELY. ALWAYS VERIFY OUR BANKING DETAILS WITH RECEPTION BEFORE MAKING A PAYMENT.

This message and any files transmitted with it are confidential and intended for the use of the individual or entity to whom they are addressed. If you have received this message in error please delete it and notify the sender immediately. You should not retain the message or disclose its contents to anyone. If you require assistance please contact the sender.

****POPIA DISCLAIMER****

POPIA DISCLAIMER: DHM Inc complies with the Protection of Personal Information Act, Act 4 of 2013 (POPIA) and has adopted a privacy policy to this effect. Data Subjects who submit their personal information to our firm's Responsible Parties or Processors confirm that they have read and understand our POPIA Policy. Such Data Subjects agree that their personal information may be recorded and processed by our firm in executing our mandate(s) and in complying with legislation. Data Subjects submitting personal information confirm that they are aware of their rights, such as the right to request that their personal information be amended or removed from our records at any time, if we are not otherwise obliged to retain such records.

8/12

DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY**Planning Application ERF. 848 173 Main Road Northcliff Hermanus**

I am a resident of Hermanus and have a concern regarding overdevelopment in the CBD and in desirable coastal locations with sea views.

My motivation is commenting is that I wish to be involved in preserving the character of the town which is my home which is in danger of being lost.

In response to the revised application for the construction of a penthouse on the Carriages Building I wish to comment as follows:

Firstly, the Planning Tribunal must be complimented for refusing the original application on the grounds which they did. This second application is simply an attempt to soften the blow without altering the conditions in any material way.

Secondly, the applicant makes reference to the building having been built in order to satisfy anticipated future demand for parking in the CBD. I'm not inclined to believe this statement to be correct. I speak under correction but having consulted a long-time resident of Hermanus I was informed that the Carriages Building was built at the insistence of the Overstrand Municipality in order to comply with the parking requirements related to the construction of the Village Square. At the time there was insufficient ground level acreage to fulfill requirements and the only option was to go upwards. The current situation is that no casual parking is available at Carriages with all units being rented out. In addition, the car wash takes up what could be available parking bays. These factors effectively negate the desired effect of the building being built in the first place. The applicant make mention of only 2 bays being required for the penthouse but with 3 ensuite bedrooms the likelihood of additional parking being required is quite strong.

Thirdly, there is anecdotal evidence of concern among many residents around the issue of rampant development in what is one of South Africa's most sought-after destinations. Many who have relocated here have done so on the basis of the Sense of Place which Hermanus affords. Adding an additional storey to an already tall building detracts from the visual landscape and will not, as the application cynically suggests, "blend with the skyline".

Finally, mention is made of other buildings in the vicinity which are taller than the proposed development. This is incontrovertible. However, having already set a precedent there is no justification for compounding the error of a previous poor decision. Using precedent as a means of justification will simply be the thin edge of the wedge if and when other developments, referred to by the applicant, wish to exceed planning parameters. One understands that well located sea facing properties are sought after but one simply has to visit The Strand on the False Bay coast to see the consequences of poor planning decisions.

Brian Wridgway
13 Fynbos Street
Hermanus Heights
076 941 8065 - wridgways@gmail.com

FILE NO.	EF 848-HNC
SCAN NO.	
COLLABORATOR NO.	2893801

TP 31 OCT 2025

Loretta Gillion

9/12

From: Brian Wridgway <wridgways@gmail.com>
Sent: Thursday, 30 October 2025 12:21
To: Loretta Gillion
Subject: Objection: ERF 848 173 Main Road Northcliff
Attachments: Carriages objection.docx

Good afternoon Loretta,

Please find attached my objection to the proposed development at Erf 848 173 Main Road, Northcliff.

Kind regards,
Brian Wridgway

31 OCT 2025

10/12

Loretta GillionDOCUMENT CONTROL
OVERSTRAND MUNICIPALIT

From: Edelweiss Monaghan <edelweiss@hpmhermanus.co.za>
Sent: Thursday, 30 October 2025 16:56
To: Loriaan Isaacs
Cc: gavrob@telkomsa.net; kevin@verticor.co.za; peter@brianroberts.co.za
Subject: [CAUTION: SUSPECT SENDER] FW: Erf 848, 173 Main Road, Northcliff, Hermanus: Public Participation - You are regarded as a potentially affected property owner
Attachments: ADVERTISEMENT (MN193_2025) Erf 848, 173 Main Road, Northcliff, Hermanus (departure).pdf; LUP Response Form - COMMENT_OBJECTION_SUPPORT.pdf; Notification to potentially affected property owner e-mail.pdf

Dear Loretta,

On behalf of the Trustees of the Marine Square Body Corporate, we acknowledge receipt of the notice regarding the **Application for Departures: Erf 848, 173 Main Road, Northcliff, Hermanus**, submitted by Plan Active Town & Regional Planners on behalf of Kee Prop Inv (Pty) Ltd.

After reviewing the information provided, the Trustees of Marine Square wish to **object to the proposed extension** as set out in the application.

Our concerns are as follows:

1. **Previous Rejection:** We understand that a similar proposal has been submitted and declined in the past, which suggests that the concerns identified at that time may still be relevant.
2. **Canyon Effect:** The proposed extension would negatively impact the visual character of the area and create a "canyon effect" along Main Road, detracting from the current aesthetic and spatial balance of the surroundings.
3. **Precedent for Future Developments:** Approval of this application could establish an undesirable precedent, encouraging other property owners in the vicinity to apply for similar departures, which would cumulatively alter the architectural integrity and openness of the area.

We therefore request that the Municipality take these concerns into account when considering the application.

Edelweiss Monaghan
Portfolio Administrator



Tel +27 (0) 28 312 4474
edelweiss@hpmhermanus.co.za | 21 Mitchell Street Hermanus 7200

Hermanus Property Management (Pty) Ltd. | Reg No. 2011/006931/07

FILE NO	Erf 848 - HNC
SCAN NO.	
COLLABORATOR NO.	2893842

TP 31 OCT 2025

Loretta Gillion

From: Wilhelm van Rensburg <wilhelmvr@outlook.com>
Sent: Monday, 29 September 2025 10:36
To: Loriaan Isaacs; Loretta Gillion
Cc: Alida Conradie
Subject: RE: Erf 848, 173 Main Road, Northcliff, Hermanus: Public Participation - You are regarded as a potentially affected property owner
Attachments: LUP Response Form - COMMENT_OBJECTION_SUPPORT.pdf

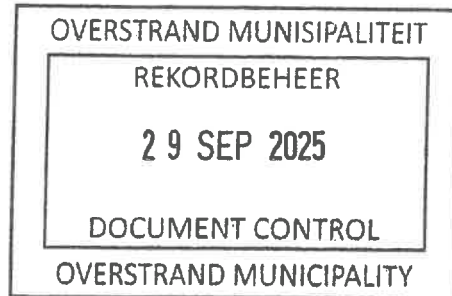
Good day

Hope you are doing well.

Herewith attached my objection.

Kind regards

Wilhelm



FILE NO.	ERF 848
	Northcliff Hermanus
SCAN NO.	
COLLABORATOR NO.	2872564

From: Loriaan Isaacs <loriaanisaacs@overstrand.gov.za>

Sent: Thursday, 25 September 2025 14:01

To: Loretta Gillion <loretta@overstrand.gov.za>

Subject: Erf 848, 173 Main Road, Northcliff, Hermanus: Public Participation - You are regarded as a potentially affected property owner

To whom it may concern

ERF 848, 173 MAIN ROAD, NORTHCLIFF, HERMANUS: APPLICATION FOR DEPARTURES: PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF KEE PROP INV (PTY) LTD

You are regarded as a potentially affected property owner.

Attached please find a self-explanatory notice for your attention.

Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 (By-Law) requires that notice must be given, and Section 49 allows for a period of not less than 30 days from the date on which notice was given to affected persons to submit comments, objections or representations in respect of a land use planning application. Council, during a meeting held on 30 November 2023, resolved that such notice be given via e-mail in accordance with the provisions of the Electronic Communications and Transactions Act, 25 of 2002. Due to ongoing difficulties in service delivery experienced by the South African Post Office, and as per the aforesaid Council resolution, **NO** registered mail/letters will be forwarded in the interim period.

Kindly regard this email as your formal notification of such land use application. Kindly provide your comment, objection or representations, if any, directly to Loretta Gillion (loretta@overstrand.gov.za) on or before **31 October 2025**.

Also note that the notice will be available at the Division: Town & Spatial Planning, and on the municipal webpage at the following link: <https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/>

Kind regards / Vriendelike Groete

TP 19 11/12



DIRECTORATE: PLANNING & DEVELOPMENT TOWN & SPATIAL PLANNING

LAND USE PLANNING APPLICATION RESPONSE FORM

E-mail to relevant person stipulated on the notice: loretta@overstrand.gov.za / alida@overstrand.gov.za
16 Paterson Street / PO Box 20 HERMANUS, 7200 / Tel: 028 313 8900

APPLICATION DETAILS

Application erf number: ERF 848, 173 MAIN ROAD, NORTHCLIFF APP ID: 5063/2025
How did you receive notice of the application? By email from the Overstrand Municipality

STATE YOUR INTEREST IN THE APPLICATION:

I am the owner of a unit in Marine Square

TICK RELEVANT BOX



OBJECTION



COMMENT

SUPPORT

REASONS FOR OBJECTION / COMMENT / SUPPORT:

The proposed changes will limit the view from my apartment. I do further think that it will have an negative impact on the aesthetics of the area. i therefore object.

Feel free to continue on separate page(s)...

PERSONAL INFORMATION (To be completed in full – Compulsory)

Name & surname (PRINT) Wilhelm van Rensburg

Your erf number: 10327/ST023

Company/Trust details:

Postal address:

12 Orange Crescent, Durbanville, 7550

Contact details:

Cell: 083 703 3276

E-mail address: wilhelmvr@outlook.com

Signature:

Date: 29 Sep 2025

Please note that in terms of the Protection of Personal Information Act (POPIA), you will be entering into a public process and as such agree and consent to your name, surname, contact details and comment(s) may be disclosed/used in the application process. Any objection, comment or representation received as a result of a public notice process must be in writing and addressed to the person mentioned in the notice within the time period stated in the notice.



TOWN & REGIONAL PLANNERS STADS-EN STREEKSBEPLANNERS

6 Magnolia St / Str
PO Box / Posbus 296
HERMANUS
7200

Tel: (028) 313 1673
Email: planactive@hermanus.co.za
Website: www.planactive.co.za

Your reference: 848 HNC

28 November 2025

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
28 NOV 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP-A Theart
(H Olivier)

For attention: Hanneen van der Stoep

Sir

COMMENTS ON OBJECTIONS: ERF 848 HERMANUS: PROPOSED DEPARTURE

Your email dated 14 November 2025 with the 4 objections attached thereto refers.

This document serves as a fully expanded, legally structured, evidence-based response to all objections lodged in respect of the proposed penthouse addition on Erf 848, 173 Main Road, Northcliff, Hermanus. The responses are supported by verified height data, spatial planning policies, SPLUMA principles, the Overstrand Municipal Land Use Planning By-law (2020), and the proposed architectural drawings, sections, roof plans, and visual renderings. Our comments presents a comprehensive, point-by-point legal rebuttal, formatted for municipal decision-makers and suitable for your tribunal proceedings.

Recent municipal support further strengthens this application. The Overstrand Municipality Heritage and Aesthetics Committee, at its meeting on 16 October 2025, formally supported the application for departure from the height restriction and confirmed that the proposed penthouse design is contextually appropriate.

FILE NO. ERF 848-HNC
SCAN NO.
COLLABORATOR NO. 2916748

Divine Inspiration Trading 329 (Pty) Ltd. trading as Plan Active
Reg. No. 2006/030921/07
Vat. No. 4770250340

John Mc Lachlan: Ndip (Town Planning) Tech Witwatersrand; MSAPI Nr.10908; SACPLAN Tch.Pl n B/8250/2014

Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)

Meriké Lerm: B. Art et Scien Cum Laude (Town Planning) UNW; SACPLAN Pr.Pl n A/158/2009

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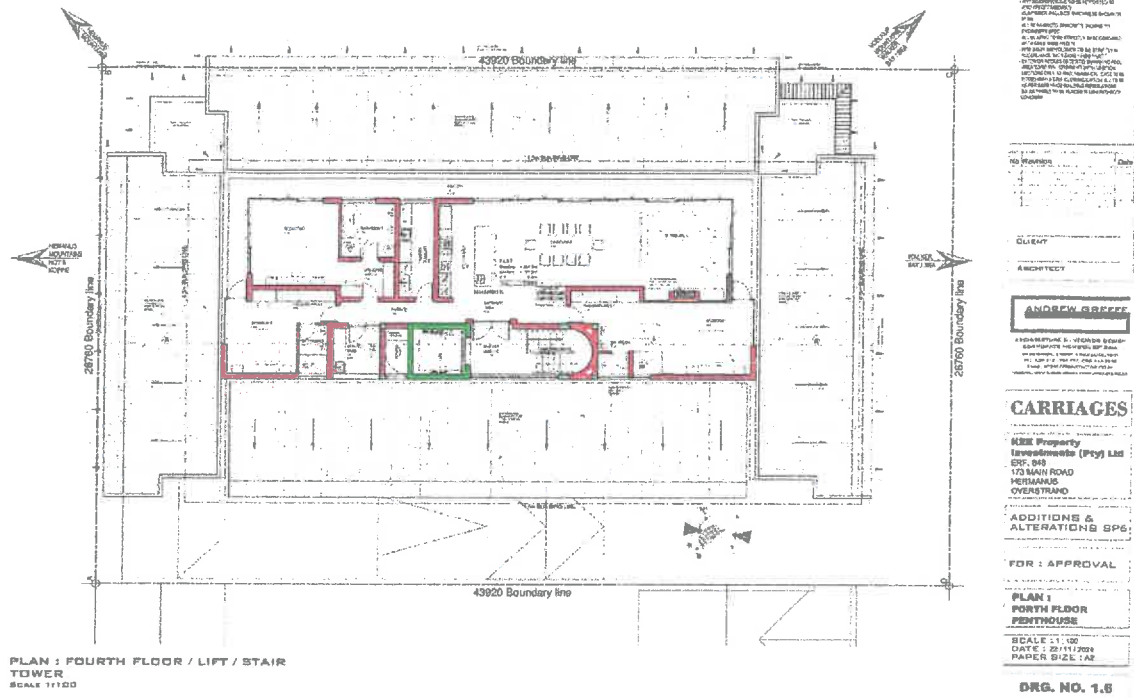


Figure 1: Penthouse Floor Plan

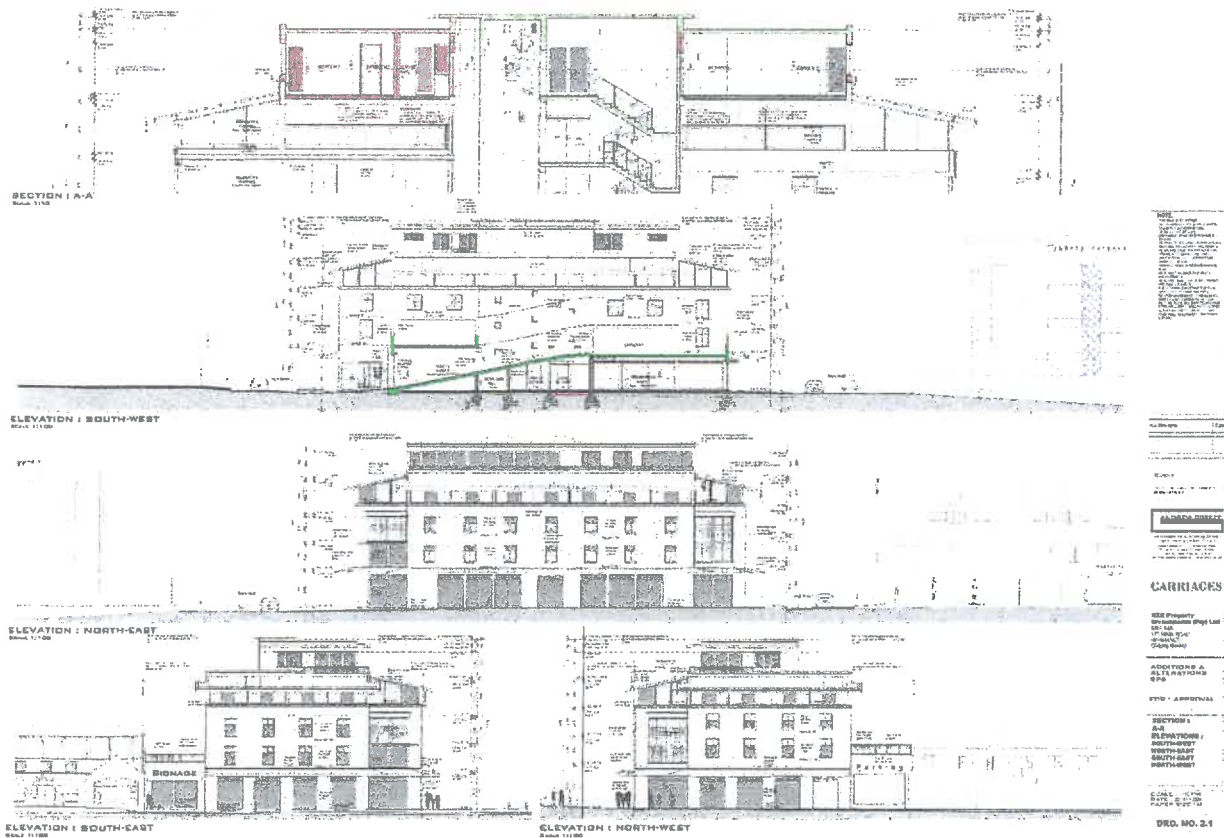


Figure 2: Section & Elevation – Demonstrating Vertical Recession

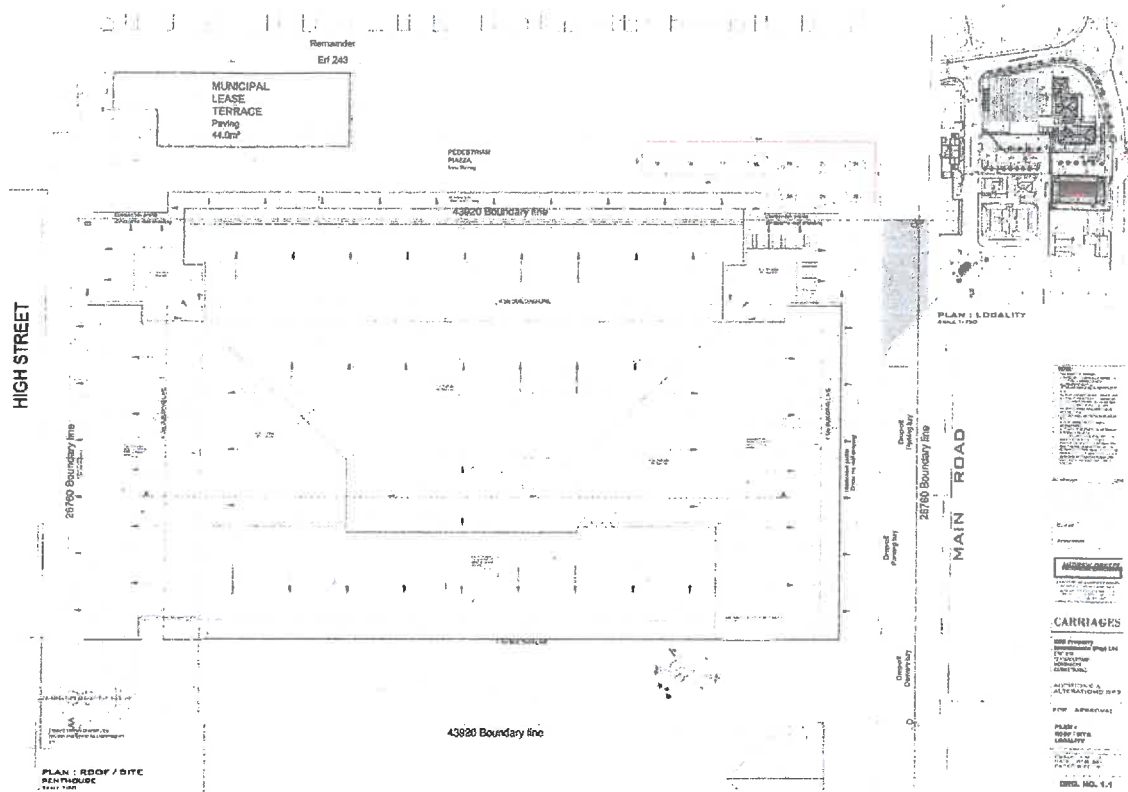


Figure 3: Roof Plan – Showing Central Setback



Figure 4: Render – View 1 (Street Integration)



Figure 5: Render – View 2 (CBD Integration)

1. STATUTORY AND POLICY FRAMEWORK

This statutory context is reinforced by the Heritage and Aesthetics Committee minutes (16 October 2025), which record explicit support for both the height departure and the contextual suitability of the proposed penthouse design. This endorsement by the Committee, tasked with safeguarding heritage and urban character, provides authoritative confirmation that the proposal aligns with municipal objectives and aesthetic standards.

The Overstrand Municipality has an established precedent for approving height departures in the immediate context. Notably, the Station Square (Woolworths Building) building, directly adjacent to Erf 848 Hermanus, was granted a formal departure to exceed the 14m height restriction, allowing a maximum height of 16.2m specifically to accommodate two penthouses (see Overstrand Decision Letter, 21 September 2017). This approval was granted despite objections, with the municipality confirming that the process followed due legal procedure, that the building would be of similar height to surrounding structures, and that view corridors and urban design principles were respected. The same 14m height restriction remains applicable today, and the precedent demonstrates that departures are permissible where urban design, spatial policy, and contextual integration are satisfied.

All objections must be assessed strictly within the statutory context. SPLUMA section 42 requires the decision-maker to rely on factual, evidence-based grounds.

The Overstrand By-law (2020) empowers approval where a departure is consistent with spatial policy, does not create material adverse impact, and promotes efficient land-use. None of the objections submitted provide the measurable or evidentiary basis that SPLUMA requires.

2. ALIGNMENT WITH THE BUILT FORM AND FLOOR-TO-FLOOR FUNCTIONALITY IN HERMANUS CBD

A key consideration in evaluating the proposed height departure for Erf 848 Hermanus is the functional and contextual distinction between this development and other multi-storey buildings within the Hermanus CBD. While it is correct that no buildings in the Hermanus CBD consist of five traditional storeys of habitable or commercial floor space, the proposal for Erf 848 Hermanus differs fundamentally in the nature and proportion of its lower floors.

The development comprises ground-floor shops, with Floors 1 to 3 dedicated entirely to public parking. These parking levels are significantly lower in vertical profile than standard commercial or residential floors, as they do not require the ceiling heights, service voids, or internal structural volumes associated with habitable spaces. The result is that although the structure is technically four storeys at present, its overall height is already lower than several existing four-storey buildings in the immediate vicinity, including mixed-use and commercial blocks along the same precinct.

This is an important planning distinction. Measured against the surrounding built environment—not by number of floors but by actual building height—Erf 848 Hermanus remains visually and volumetrically compatible. The proposed addition of a single penthouse level, reaching approximately 16.670 m to the top of the lift shaft (with the penthouse roof being roughly 0.5 m lower), does not introduce a dominant or intrusive mass. Instead, it results in a total building height that is comparable to, and in some instances still below, other established structures in the CBD.

A meaningful example is Station Square (Woolworths Building), where penthouses on the 4th floor create an effective fifth storey in functional terms, even though they may not be classified as such under strict floor-count definitions. These penthouses form part of the accepted visual character of the area and already establish a precedent for upper-level residential elements above commercial bases.

Accordingly, the proposed penthouse on Erf 848:

- Respects the established height profile of its surroundings despite the additional storey.

- Achieves a similar perceived height to existing developments because its lower parking levels are materially lower.
- Introduces no visual or urban design impacts beyond what is already present in the CBD.
- Aligns with local precedents, including upper-floor residential units already accepted at nearby developments such as Station Square (Woolworths Building).

In summary, although the proposal introduces a fifth storey in regulatory terms, the actual physical height remains harmonious with—and in some cases lower than—other four-storey buildings in the vicinity. This demonstrates that the requested height departure is both reasonable and consistent with the evolving character and scale of the Hermanus CBD.

3. RESPONSE TO OBJECTION: HERMANUS STATION SQUARE BODY CORPORATE (DHM ATTORNEYS)

The objector's claim that the penthouse will exceed acceptable height is factually incorrect when considered in context. The Station Square (Woolworths Building) building, which forms the dominant built form in the block, was approved at 16.2m for its penthouses and in reality, reaches 19.457m at its highest point. The proposed penthouse on Erf 848 Hermanus, at 16.67m, is therefore both subordinate to and consistent with the established built environment.

The municipality has already determined, in the Station Square (Woolworths Building) case, that such departures do not create unacceptable visual or urban impacts, provided design and setback conditions are met. The objector's concern about precedent is misplaced. The Station Square (Woolworths Building) approval demonstrates that the municipality evaluates each application on its merits, considering site-specific context, design, and compliance with policy. The Station Square (Woolworths Building) decision explicitly noted that objections were considered, and that approval was justified by contextual parity and urban design compliance.

The objector raises concerns regarding height, visual impact, character conflict, and cumulative precedent risk. Each claim is examined below in detail.

• Height Allegation:

The objector asserts that the penthouse will exceed acceptable height and dominate the skyline.

However, according to the approved architectural sections (Figure 2), the penthouse reaches approximately 16.67 metres, which is materially lower than the height of Station Square (Woolworths Building) at 19.457 metres.

The proposed addition is therefore subordinate in height to the dominant built form. SPLUMA requires contextual parity, which is demonstrably met.

• **Canyon Effect Claim:**

The objector fails to provide any modelling, section overlays, or photogrammetry to substantiate the claim.

The penthouse is centrally recessed from all edges of the existing roof slab (Figures 2 and 3). Canyon effects occur when two vertical façades align to create enclosure at street level; the penthouse introduces no vertical mass at street interface. The allegation is unsupported and contrary to the architectural evidence.

• **Character Impact Assertion:**

The objector provides no visual analysis or character-study evidence. Conversely, the provided renderings (Figures 4–5) demonstrate a harmonious addition with consistent roof pitch, materials, and structural recess. The proposal strengthens, rather than weakens, CBD architectural coherence.

• **Precedent Risk Claim:**

South African administrative law (PAJA) prohibits decisions based on speculative future conduct. The municipality must evaluate this application on its merits. The objection is legally invalid.

4. RESPONSE TO OBJECTION: BRIAN WRIDGWAY

Mr. Wridgway raises concerns regarding misrepresentation, character impact, overdevelopment, and tourism harm. None of these claims are supported by evidence.

• **Misrepresentation Allegation:**

The objection provides no contradictory plans, no expert testimony, and no certified assessment. The submitted drawings are professionally prepared and SANS-compliant. Allegations without proof cannot satisfy the evidentiary threshold required under SPLUMA.

- **Character Harm Claim:**

No heritage study, no policy reference, and no character assessment is provided. Planning objections must rely on measurable and policy-based evidence; the objection relies solely on opinion.

- **Overdevelopment Assertion:**

The spatial framework explicitly supports intensification in the Hermanus CBD. A penthouse addition on an already approved floor does not constitute overdevelopment. The footprint remains unchanged.

- **Tourism Impact Speculation:**

No tourism study or market research is provided. Decisions cannot lawfully rely on untested speculation.

5. RESPONSE TO OBJECTION: MARINE SQUARE BODY CORPORATE

The Station Square (Woolworths Building) approval confirms that increased height, when centrally recessed and designed to avoid additional bulk at street level, does not result in adverse urban design outcomes. The penthouses on Station Square (Woolworths Building) were approved, with a principle mirrored in the current proposal for Erf 848. The proposed penthouse is similarly recessed and does not increase the building's footprint, ensuring that massing and overshadowing concerns are addressed in line with established municipal practice.

The Marine Square objection asserts loss of views, reduced daylight, overshadowing, and massing concerns. None of these claims are supported by technical studies.

- **Loss of Views:**

South African case law consistently holds that there is no inherent legal right to a view unless established by servitude or heritage designation. No such rights exist in this case. Renderings (Figures 4–5) confirm minimal change in visible massing.

- **Daylight/Shading Allegations:**

No shadow diagrams or solar modelling accompany the objection. The sectional drawings (Figure 2) demonstrate that the penthouse is located well behind the existing parapet line, introducing no measurable new shading impact.

- **Massing Concerns:**

The footprint of the building remains unchanged; only a lightweight, recessed volume is introduced. This reduces any perceived bulk compared to traditional full-floor additions.

6. RESPONSE TO OBJECTION: WILHELM VAN RENSBURG

The objection consists primarily of aesthetic preferences and generalised concerns about development pressure.

These are not valid planning grounds.

- **Aesthetic Concerns:**

Aesthetic objections are only relevant when accompanied by character studies or heritage assessments. None are provided. The proposal maintains consistent roof pitch and materiality.

- **Overdevelopment Claim:**

The SDF encourages CBD densification and rooftop utilisation. The penthouse aligns with these policies.

To strengthen the reasoning contained within the response above, this expanded section integrates both detailed legal authority and rigorous planning and architectural analysis. The purpose is to demonstrate clearly that the objections lodged lack the evidentiary foundation required under South African land-use law and municipal statutory processes. The expansion further illustrates how the proposed penthouse aligns with the applicable spatial, architectural, and urban design frameworks.

7. LEGAL ANALYSIS

The Station Square (Woolworths Building) approval is a clear demonstration of the municipality's application of SPLUMA and the Overstrand By-law: departures are permissible where supported by evidence, policy alignment, and contextual fit. The municipality's decision letter for the development of 2 penthouses on Station Square (Woolworths Building) explicitly states that objections were noted but did not outweigh the merits of the application, as the proposal adhered to view corridors, urban design principles, and the established character of the area. This directly supports the current application, which is even more modest in height and impact.

SPLUMA Section 7 establishes the normative principles for land development, including spatial justice, sustainability, efficiency, and good administration. Importantly, Section 42(1) requires that

decisions be made on the basis of factual evidence and municipal policies. Objections relying purely on speculation or preference are therefore not legally cognisable. In this matter, none of the objectors submitted expert analysis, measurable impact evidence, or policy-based argumentation capable of meeting this standard.

Furthermore, the Promotion of Administrative Justice Act requires that municipal decisions be rational and procedurally fair. A refusal based on unproven fears—such as speculative tourism harm or unsupported aesthetic concerns—would be irrational and open to legal challenge. Courts consistently hold that planning decisions must be grounded in demonstrable harm, not perception.

The legal analysis is further strengthened by the Heritage and Aesthetics Committee's formal support for the application, as recorded in the minutes of their meeting on 16 October 2025. This municipal endorsement demonstrates that the proposal meets not only statutory requirements but also the highest standards of heritage and aesthetic review.

8 TECHNICAL AND PLANNING ANALYSIS

From a planning and urban design perspective, the Hermanus CBD is characterised by mixed-use buildings of variable height. The Station Square/Woolworths building, directly adjacent, reaches 19.457m and forms the tallest element in the block. The proposed penthouse on Erf 848 Hermanus reaches only 16.67m and is therefore subordinate. The roof plan diagrams illustrate a substantial recess from all edges, meaning the penthouse is not visible from many public viewpoints.

Carriages (Erf 848 Hermanus) maintains a traditional roof typology, and the proposed penthouse is designed with symmetry, proportion, and material continuity in mind. By recessing the mass inward, the architecture reduces visual presence and creates a rooftop form that blends with surrounding structures.

CBD policy within the Overstrand SDF encourages vertical intensification to support economic vitality. Rooftop utilisation is a recognized form of sustainable densification. This proposal aligns fully with these objectives.

9. ADDITIONAL VISUAL EVIDENCE AND SPATIAL IMPACT ANALYSIS

This section incorporates newly submitted aerial imagery and street-level photographs to strengthen the evidence-based assessment of the spatial relationship between the Carriages (Erf 848 Hermanus), Marine Square (Erf 10327), and Station Square (Woolworths Building) (Erf 11057).

The following visuals illustrate the physical separation, urban layering, and absence of direct visual impact arising from the proposed penthouse addition. The photographic material further substantiates that the proposal will have no detrimental effect on surrounding properties, which forms the basis of several objection claims.



Figure A1: Aerial photograph showing the spatial relationship between Erf 848 Hermanus (Carriages), Erf 10327 Hermanus (Marine Square), and Erf 11057 (Station Square).



Figure A2: High Street view – Carriages on Erf 848 Hermanus(left) and Marine Square (right, background), illustrating clear spatial separation.



Figure A3: Street-level view confirming the offset positioning of Marine Square relative to the Carriages in the background.



Figure A4: Marine Square's south western façade – demonstrating 3 storey, courtyard design facing an internal street.



Figure A5: High Street pedestrian corridor, showing the Carriages (Erf 848 Hermanus) to the left and Marine Square set back to the right.



Figure A6: Street view showing the Carriages (Erf 848 Hermanus) on the left (excluding proposed penthouse) and Station Square (Woolworths Building) on the right.

The aerial photograph (Figure A1) clearly demonstrates that Marine Square is situated to the south-west of Erf 848 Hermanus, with no direct alignment or façade-to-façade interface that could give rise to overshadowing, privacy loss, or view obstruction. The physical layout reveals several layers of built form between the two sites, including the recessed pedestrian walkway and vegetation buffers.

Figures A2 through A6 illustrate the spatial reality from a pedestrian vantage point. Marine Square is both visually and physically separated from the Carriages (Erf 848 Hermanus), with its residential units oriented outward toward High Street, Mitchell Street, College Road, and the adjoining Erf 376 to the north-east, as well as toward the Station Square (Woolworths Building). Importantly, the existing four-storey structure on Erf 848 already forms the visual edge along this interface and, as a result, obscures any potential outlook from units within Marine Square. The proposed penthouse—positioned as a recessed fifth storey—will therefore not introduce any additional visual impact in relation to the objectors. Its setback position ensures that the new level remains visually imperceptible from pedestrian areas and from the Marine Square development itself.

The Carriages (Erf 848 Hermanus) fronts directly onto Main Road and High Street as part of the primary commercial frontage, whereas Marine Square is situated within a secondary, internalised node.

This spatial hierarchy and separation conclusively preclude the possibility that a centrally recessed penthouse, which does not exceed the existing parapet line when viewed from the public realm, could generate any measurable visual, amenity, or character-related impacts on Marine Square.

The photographic evidence therefore wholly refutes the suggestion that Marine Square will experience overshadowing, loss of light, or diminished character. These claims were made without supporting technical studies or visual simulations. The empirical imagery included here confirms that the objections lack an evidentiary foundation and do not meet SPLUMA's requirement for demonstrable, measurable impact.

Additionally, the Overstrand Municipality Heritage and Aesthetics Committee's endorsement (16 October 2025) of both the height departure and the penthouse design provides compelling municipal validation. This support confirms that the proposal is not only legally compliant but also contextually and aesthetically appropriate within the Hermanus CBD.

10. CONCLUSION

Having carefully assessed the four objections submitted against the proposed height departure and penthouse addition on Erf 848, Hermanus, it is evident that none of the concerns raised meet the evidentiary, statutory, or policy-based thresholds required under SPLUMA and the Overstrand Municipal Land Use Planning By-law (2020).

All objections rely on unsubstantiated assertions, aesthetic preferences, speculative harm, and generalised assumptions—none of which constitute material planning grounds capable of withstanding scrutiny in a lawful administrative process.

By contrast, the application for Erf 848 is supported by verified survey-based height measurements, professionally prepared architectural drawings, section diagrams, roof-plan setbacks, photographic and spatial-impact evidence, and clear policy alignment with the Overstrand Spatial Development Framework and applicable CBD intensification guidelines. The proposed penthouse achieves a total height of 16.670 m to the lift shaft (and approximately 0.5 m lower to the proposed penthouse roof)—a height confirmed in the record already stored in municipal correspondence and significantly lower than the adjacent Station Square (Woolworths Building), which reaches 19.457 m at its highest point. The proposal therefore remains contextually subordinate within the immediate urban block.

The central recession of the penthouse—set well back from every edge of the existing roof slab—ensures that no additional massing is experienced at street or pedestrian level. Shadow diagrams, section lines, comparative elevations, and photographic street-level analysis all confirm that no measurable overshadowing, privacy loss, or daylight reduction will result from the proposed addition. The physical relationship between the Carriages (Erf 848 Hermanus) and Marine Square (Erf 10327), as demonstrated by aerial imagery and street-level photographs, further confirms that the developments occupy separate visual planes, with no façade-to-façade connection and no spatial alignment capable of amplifying visual impact. Claims of view obstruction are neither supported by evidence nor legally cognisable, given that no servitude or statutory view protection exists.

The municipality has already established, through the Station Square (Woolworths Building) approval (21 September 2017), that height departures above 14 m are permissible where contextual integration, urban-design response, and policy compliance are substantively demonstrated. This application achieves all of these requirements. The proposed penthouse is architecturally harmonious, visually recessive, and maintains the symmetry, proportion, and materiality of the existing structure. It constitutes efficient use of urban land, supports CBD economic vitality, and aligns with SPLUMA's normative principles of spatial efficiency, sustainability, and good administration.

Furthermore, the objections fail under the Promotion of Administrative Justice Act. Municipal decisions must be based on factual evidence, measurable impact, and proper application of policy—not on untested fears, conjecture, or subjective personal preferences. No objector submitted expert evidence, technical analysis, visual simulations, solar modelling, or any factual substantiation capable of contradicting the submitted plans, renders, or policy alignment.

In light of the detailed legal, spatial, architectural, and technical analysis contained in this document—together with the verified height record and acknowledged municipal precedents—it is clear that:

- The penthouse addition will not generate material nuisance or adverse impact.
- The proposal is consistent with surrounding built form and remains subordinate in height to neighbouring structures.
- The objections lack evidentiary foundation and cannot be sustained in law.
- The proposal complies with SPLUMA, the Overstrand By-law, the SDF, and accepted CBD design principles.
- The departure enables efficient land-use without expanding the building footprint or introducing additional bulk at street level.

For these reasons and based on the full body of factual and legal evidence available, approval of the proposed height departure and penthouse addition on Erf 848 is fully justified, policy-compliant, and recommended.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'John Mc Lachlan', with a stylized flourish at the end.

John Mc Lachlan

**COMMENTS FROM THE PROJECT MANAGEMENT DIVISION FOR :
APPLICATION FOR DEPARTURE: ERF 848, NORTHCLIFF (5063/2025)**

Stormwater (SW)	:	In Order
Electricity	:	In Order
Water	:	In Order
Sewer	:	In Order
Roads and traffic	:	In Order

Conditions:

1. That a Bulk Services Contribution Levy (BICL) be paid by the developer to supplement municipal services and amenities in accordance with the relevant legislation and as determined by the Council. The BICL tariff is adjusted by Council annually. The total BICL payable will be the amount as determined by the BICL Policy and tariff at the date of **actual payment**. BICL amounts quoted in any document will normally be applicable to the particular year in which the document was compiled and Council will not be bound by the quoted amounts.

1.1 Developments containing Sectional Title Units/ Commercial Buildings
(non-free standing properties – property is not to be subdivided)

The BICLs are to be paid in full **prior** to submission of the building plans. Building Plans will not be accepted unless the BICL is paid in full.

1.2 Developments with free standing properties (property that is subdivided and plots to be sold individually).

The BICLs are payable **prior** to clearance being issued by the Income Department of the Municipality.

1.3 The contribution according to the current policy (2025/2026) is as follows:

Freehold erven:

Water	R 27 598.00 x 0.6	=	R 16 558.80
Sewerage	R 19 725.00 x 0.6	=	R 11 835.00
Roads	R 8 845.00 x 1	=	R 8 845.00
Stormwater	R 10 205.00 x 0	=	R 0.00
Solid Waste	R 1 769.00 x 1	=	<u>R 1 769.00</u>
TOTAL (inclusive of VAT)		=	<u>R 39 007.80</u>

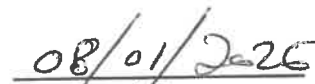
Please note that the above figures:

- a) are estimates
- b) do not include investigation and connection fees
- c) are subject to annual tariff adjustments

2. that the existing sewer and water connections to Erf 848 shall be used to service the development;

3. that only the existing electricity connection will be available to the development; Any capacity upgrades required will be provided at the owner's cost.
4. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage;
5. that on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Division: Civil Engineering Services;
6. that any additional and / or extended vehicle entrances will be for the owner's account;
7. that no reservation of on-street parking be allowed;
8. that stormwater discharged from higher lying properties and generated in the catchment area of the property be allowed to drain freely through the property;
9. that stormwater reticulation and connection(s) to the municipal system be provided at the owners cost, if required.


RICARDO ANDREW


DATE

PRINCIPAL TECHNOLOGIST: DEVELOPMENT CONTROL