



**OVERSTRAND MUNISIPALITEIT**  
**ERF 7677, HARBOURSTRAAT 16, HERMANUS EN**  
**ERF 9823, MARINEWEG 61, HERMANUS: AANSOEK**  
**OM ONDERVERDELING, HERSONERING,**  
**KONSOLIDASIE, AFWYKING, EN BEPALING VAN 'N**  
**ADMINISTRATIEWE BOETE: PLAN ACTIVE STADS-**  
**EN STREEKSBEPLANNERS NAMENS CHARLIE'S**  
**TAPPAS CC EN THE HERMANUS ESPLANADE DEV**  
**CO (PTY) LTD**

Kragtens Artikels 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die volgende aansoeke van toepassing op Erwe 7677 en 9823, Hermanus, naamlik:

**Onderverdeling**

Aansoek ingevolge Artikel 16(2)(d) van die Verordening vir die onderverdeling van Erf 9823, Hermanus in twee (2) gedeeltes, naamlik Gedeelte A ( $\pm 3m^2$  groot) en die Restant ( $\pm 2908m^2$  groot).

**Hersonering**

Aansoek ingevolge Artikel 16(2)(a) van die Verordening vir die hersonering van Gedeelte A hierbo vanaf Algemene Residensiële Sone 3: Woonstelle ("Bulk Zone 1") na Sakesone 1: Algemene Sake ("Bulk Zone 1").

**Konsolidasie**

Aansoek ingevolge Artikel 16(2)(e) van die Verordening vir die konsolidasie van Gedeelte A hierbo met Erf 7677, Hermanus.

**Afwyking**

Aansoek om afwyking ingevolge Artikel 16(2)(b) van die Verordening vir die verslapping van die westelike laterale boulyn en die agterboulyn van Erf 7677, Hermanus vanaf 3m na 0m om die bestaande personeelkamer, te akkommodeer.

**Bepaling van 'n administratiewe boete**

Aansoek ingevolge Artikel 16(2)(q) van die Verordening vir die bepaling van 'n administratiewe boete.

Besonderhede aangaande die voorstel lê ter insae gedurende weksdae tussen 08:00 and 16:30 by die Departement: Stadsbeplanning te Patersonstraat 16, Hermanus.

Enige kommentare moet skriftelik wees in ooreenstemming met Artikels 51 en 52 van die Verordening en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) bereik voor of op Vrydag ,21 Junie 2024, met u naam, adres en kontakbesonderhede, belang in die aansoek, asook die redes vir kommentaar. Telefoniese navrae kan aan die **Stadsbeplanner, Mr. H Boshoff** gerig word by 028-3138900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer.

Munisipale Bestuurder, Overstrand Munisipaliteit, Posbus 20, **HERMANUS**, 7200

Munisipale Kennisgewing Nr. 84/2024

**OVERSTRAND MUNICIPALITY**  
**ERF 7677, 16 HARBOUR ROAD, HERMANUS AND**  
**ERF 9823, 61 MARINE DRIVE, HERMANUS:**  
**APPLICATION FOR SUBDIVISION, REZONING,**  
**CONSOLIDATION, DEPARTURE AND**  
**DETERMINATION OF AN ADMINISTRATIVE**  
**PENALTY: PLAN ACTIVE TOWN AND REGIONAL**  
**PLANNERS ON BEHALF OF CHARLIE'S TAPPAS CC**  
**AND THE HERMANUS ESPLANADE DEV CO (PTY)**  
**LTD**

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) of the following applications applicable to Erven 7677 and 9823, Hermanus, namely:

**Subdivision**

Application in terms of Section 16(2)(d) of the By-Law for the subdivision of Erf 9823, Hermanus into two (2) portions, namely Portion A ( $\pm 3m^2$  in extent) and the Remainder ( $\pm 2908m^2$  in extent).

**Rezoning**

Application in terms of Section 16(2)(a) of the By-Law for the rezoning of the above Portion A from General Residential Zone 3: Flats (Bulk Zone 1) to Business Zone 1: General Business (Bulk Zone 1).

**Consolidation**

Application in terms of Section 16(2)(e) of the By-Law for the consolidation of the above Portion A with Erf 7677, Hermanus.

**Departure**

Application for departure in terms of Section 16(2)(b) of the By-Law for the relaxation of the western lateral building line and the rear building line of Erf 7677, Hermanus from 3m to 0m to accommodate an existing staff room.

**Determination of an administrative penalty**

Application in terms of Section 16(2)(q) of the By-Law for the determination of an administrative penalty.

Details regarding the proposal is available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning at 16 Paterson Street, Hermanus.

Any comments must be in writing in accordance with Sections 51 and 52 of the By-Law to reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) on or before Friday, **21 June 2024**, quoting your name, address and contact details, interest in the application, as well as the reasons for comment. Telephonic enquiries can be made to the **Town Planner, Mr. H Boshoff** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.

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

Municipal Notice No. 84/2024

**UMASIPALA WASE-OVERSTRAND**  
**ERF 7677, 16 HARBOUR ROAD, HERMANUS NESIZA**  
**ESINGU-ERF 9823, 61 MARINE DRIVE, HERMANUS:**  
**ISICELO SOKWAHLULA-HLULA, UKUCANDA**  
**KWAKHONA, UYONDELELANISO, UKWAHLULA**  
**NENGIKELELO YOMDLIWO WOBHALISO:**  
**NGABAKWAPLAN ACTIVE TOWN AND REGIONAL**  
**PLANNERS EGAMENI LIKA CHARLIE'S TAPPAS CC**  
**NEHERMANUS ESPLANADE DEV CO (PTY) LTD**

Kukhutshwe isaziso esimayela nemiba yeSoloty lama47 nelama48 loMthethwana OsisiHlomelo soMthethwana kaMasipala wase-Overstrand ngeZicwangciso Zokusetyenziswa koMhlaba kaMasipala ku2020 (uMthethwana) ongezi zicelo zilandelayo nezisebenza kwiziza ezinguErven 7677 no 9823, Hermanus, ezibizwa:

**Ukwahlulahlula**

Isicelo esimayela yeSoloty le16(2)(d) loMthethwana mgokwahlulwahlulwa isiza esingu-Erf 9823, Hermanus ibe zinxalenye ezimbini (2) ezaziwa njengeNxalenye A ( $\pm 3m^2$  ububanzi) neNtsalela ( $\pm 2908m^2$  ububanzi).

**Ukucanda kwakhona**

Isicelo ngokwemiba yeSoloty le16(2)(a) oMthethwana ongokucanda kwakhona ngasentla kuNxalenye A ukusuka kwindawo Yokuhlala Jikelele enguZoni 3: IIflethi (Bulk Zoni 1) ukuya kwiNdawo yoShishino uZonei1: Indawo yoShishino Jikelele (Bulk Zoni 1).

**Uyondelelaniso**

Isicelo esingemiba yeSoloty le16(2)(e) loMthethwana ngoyondelelaniso lweNxalenye A engentla, nesiza esingu- Erf 7677, Hermanus.

**Ukwahlula**

Isicelo sokwahlula ngokwemiba yeSoloty le16(2)(b) loMthethwana ngokunyenyisa umgca wesakhiwo omelene necala elisentshona nagasemva kumgca owesakhiwo omelene nelcala elingasemva kwesiza u-Erf 7677, Hermanus ukusuka kwiimitha ezi-3m ukuya ku-0m ukulungiselela igumbi esele likhona labasebenzi.

**Ingikelelo yomdlivo wobhaliso**

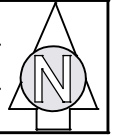
Isicelo esingemiba yeSoloty le16(2)(q) noMthethwana wengikelelo yobhaliso lomdlivo.

linkcukacha ezimayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekuni phakathi kwentsimbi ye08:00 neye16:30 kwiSebe: Izicwangciso zeDolophu kwa16 Paterson Street, Hermanus.

Naziphi na izimvo ezibhalwe ngokwezibonelelo zeSoloty lama51 nelama52 loMthethwana zifike kwaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) ngomhla okanye ngaphambi ngoLwesiHlanu, **21 Juni 2024**, uchaze igama lakho, idilesi nenkcukacha ofumaneka kuzo, umdla wakho kwesi sicelo, nezizathu zakho zokuhlomla. Imibuzo ngefowuni ingabuzwa ku**Mcwangciso weDolophu, Mnu. H Boshoff** kwa028-313 8900. UMasipala angala ukwamkela izimvo ezifiki emva komhla wokuvala. Nabani na ongakwazi ukufunda nokubhala angahambela kwiSebe LeZicwangciso zeDolophu apho igosa likamasipala liza kumnceda ukuhlomla ngokusemthethweni.

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

Inothisi kaMasipala Nomb. 84/2024



**PROPOSED DETERMINATION OF AN  
ADMINISTRATIVE PENALTY, SUBDIVISION,  
REZONING, CONSOLIDATION AND  
DEPARTURES**

**ERVEN 9823 AND 7677 HERMANUS**

**OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT**

**1. BACKGROUND**

Mrs. M. Muller, on behalf of Charlies Tapas CC, the owner of Erf 7677 Hermanus and Mr. F. Steenkamp, on behalf of The Hermanus Esplanade Dev Co (PTY) LTD, the owner of Erf 9823 Hermanus have instructed the company Plan Active Town and Regional Planners to apply for the determination of an administrative penalty, subdivision, rezoning, consolidation and building line departures of Erven 7677 and 9823 Hermanus.

An as-built survey was done of the subject properties. The survey confirmed that there was an encroachment of the existing staff room situated on Erf 7677 Hermanus onto Erf 9823 Hermanus. The intention is to address the building encroachment by applying for a determination of an administrative penalty, subdivision, rezoning, consolidation and building line departures.

Erf 7677 Hermanus is 1412m<sup>2</sup> in extent and is held by Title Deed No. T67341/1998. Erf 9823 Hermanus is 2911m<sup>2</sup> in extent and is held by Title Deed No. T12082/2022.

## **2. APPLICATION DETAILS**

Application is made in terms of:

- **Chapter 4, Section 16(2)(q)** of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an administrative penalty.
- **Chapter 4, Section 16(2)(d)** of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the subdivision of Erf 9823 Hermanus.
- **Chapter 4, Section 16(2)(a)** of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the rezoning of Portion A, a portion of Erf 9823 Hermanus.
- **Chapter 4, Section 16(2)(e)** of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for consolidation of Erf 7677 Hermanus with Portion A, a portion of Erf 9823 Hermanus.
- **Chapter 4, Section 16(2)(b)** of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the building line departures to accommodate an existing staff room.

## **3. GENERAL APPLICATION INFORMATION**

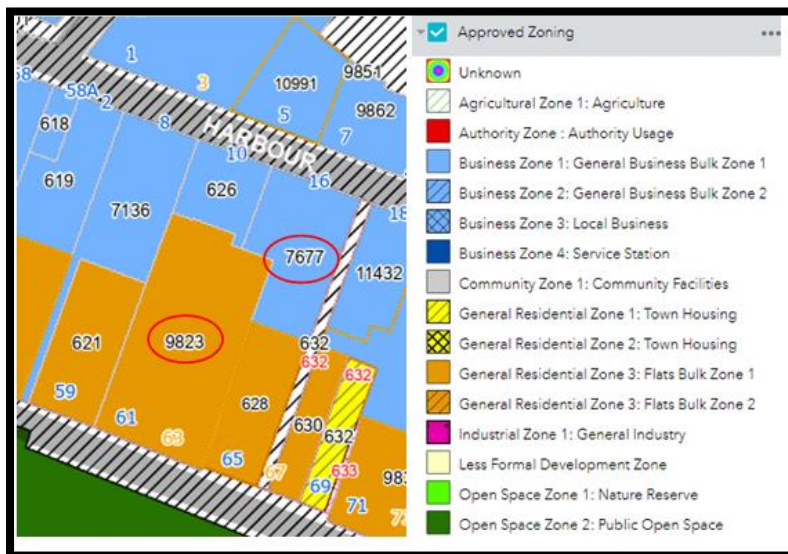
### **3.1 PROPERTY DESCRIPTION**

Erf 7677 Hermanus is situated at 16 Harbour Road, Hermanus and Erf 9823 Hermanus is situated at 61 Marine Drive, Hermanus. Please refer to the aerial photograph below and the locality plan attached. Erf 7677 Hermanus is 1 412m<sup>2</sup> in extent and Erf 9823 Hermanus is 2 911m<sup>2</sup> in extent.



### 3.2 ZONING

Erf 7677 Hermanus is zoned Business Zone I: General Business Bulk Zone 1. Erf 9823 Hermanus is zoned for General Residential Zone 3: Flats Bulk Zone 1.



Surrounding properties are zoned for general residential purposes, business zones and public roads.



### **3.3. LAND USE**

Erf 7677 Hermanus is used as boutique hotel & spa. Residential apartments are situated on Erf 9823 Hermanus.

The subject properties are situated in the CBD of Hermanus. Surrounding land uses also consists of restaurants, business uses and accommodation.

### **3.4. PROPOSED DEVELOPMENT**

Application is made in terms of:

- **Chapter 4, Section 16(2)(q)** of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an administrative penalty.
- **Chapter 4, Section 16(2)(d)** of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the subdivision of Erf 9823 Hermanus.
- **Chapter 4, Section 16(2)(a)** of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the rezoning of Portion A, a portion of Erf 9823 Hermanus.
- **Chapter 4, Section 16(2)(e)** of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for consolidation of Erf 7677 Hermanus with Portion A, a portion of Erf 9823 Hermanus.
- **Chapter 4, Section 16(2)(b)** of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the building line departures to accommodate a staff room on Erf 7677 Hermanus.

The intention of the owner of Erf 7677 Hermanus is to address an encroachment of the building situated on Erf 7677 Hermanus onto Erf 9823 Hermanus, which only came to light with an as-built survey as seen below.



The illegal structure that needs to be addressed is the existing **staff room** situated on Erf 7677 Hermanus. The detail of the proposed applications are as follows:

#### **3.4.1. Determination of an administrative penalty**

The owner of the subject property was unaware that the staff room was not in the position as indicated on the approved building plan. An as-built survey confirmed that the staff room encroaches the boundary line and therefore the position of the staff room should be addressed as it encroaches the 3m building line as well as the boundary line. The position of the existing building was used to determine the new proposed boundary line and therefore a departure from the building line from 3m to 0m is also applied for.

The current owner is addressing the unauthorised building work that only became aware with an as-built survey. Although building plans do exist for the subject property, it does not reflect the correct position of the staff room on Erf 7677 Hermanus.

In terms of **Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020**, an application is made for the determination of an administrative penalty for unauthorised land uses. In terms of **Chapter 10, Section 90(1)**, "A person who is in contravention of this By-Law, and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned".

In terms of **Chapter 10, Section 90(3)**, of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 the applicant must to the satisfaction of the municipality, provide the following:

### **3.4.1.1 CRITERIA FOR DETERMINATION OF AN ADMINISTRATIVE PENALTY**

#### **The Nature, duration, gravity, and extent of the contravention**

The existing owner became aware of the encroachment after an as-built survey was done of the subject property. The encroachment only became evident with the as-built survey as the portion to be subdivided from Erf 9823 Hermanus, rezoned and consolidated is merely  $\pm 3\text{m}^2$ . The intention of the owner is to address the encroachment in order to obtain building plan approval for the structures as situated on the subject property.

The extent of the unauthorised building work is as follows:

Structure	Extent of unauthorised building work
Second dwelling	$\pm 35\text{ m}^2$
<b>Total Extent of unauthorised building work</b>	<b><math>\pm 35\text{ m}^2</math></b>

The owner of the subject property intends to provide their full co-operation to the Overstrand Municipality to rectify the encroachment. The applications for the determination of an administrative penalty, subdivision, rezoning, consolidation and a building line departure are submitted simultaneously in order to address the building line and boundary line encroachments.

The position and nature of the unauthorised building work is unobtrusive in nature and do not impact negatively on the surrounding properties, as no complaint from surrounding property owners has been received over the years and the encroachment only became known with the as-built survey.

#### **The conduct of the person involved in the contravention.**

The current unlawful encroachment only became aware with the as-built survey. The structure was erected more than 20 years ago. The owner is now in the process of addressing the unauthorised encroachment that is in contravention of the zoning scheme regulations.



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

If the Overstrand Municipality finds it necessary, that an administrative penalty fee needs to be enforced for the unauthorised building work erected we will submit a report from a quantity surveyor.

According to the Overstrand Tariffs list for the 2023/2024, Formal structures – habitable space (erven larger than 150m<sup>2</sup>) per sqm is calculated at R19 107.00 (VAT inclusive).

The unauthorised encroachments can be calculated as follow:

Staff room:

**±35m<sup>2</sup>x R 19 107**

**= R 66 8745**

**Whether the unlawful conduct was stopped**

The owner is in the process of rectifying the contravention by applying for the determination of an administration penalty, subdivision, rezoning, consolidation and a building line departure. The structure already exists, and the encroachment only became aware with an as-built survey.

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

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

We appeal to the Overstrand Municipality to take into consideration the low impact the unauthorised building work has on the surrounding area. It should also be considered that no complaint from surrounding property owners has been received with regards to the unauthorised building work/ encroachment.

It should also be taken into consideration the low impact that the unauthorised encroachment has on the neighbouring properties. It is also important to note that the Zoning Scheme Regulations and the Overstrand Municipality's Amended Bylaw on Municipal Land Use Planning, 2020 will still be used to guide future development on

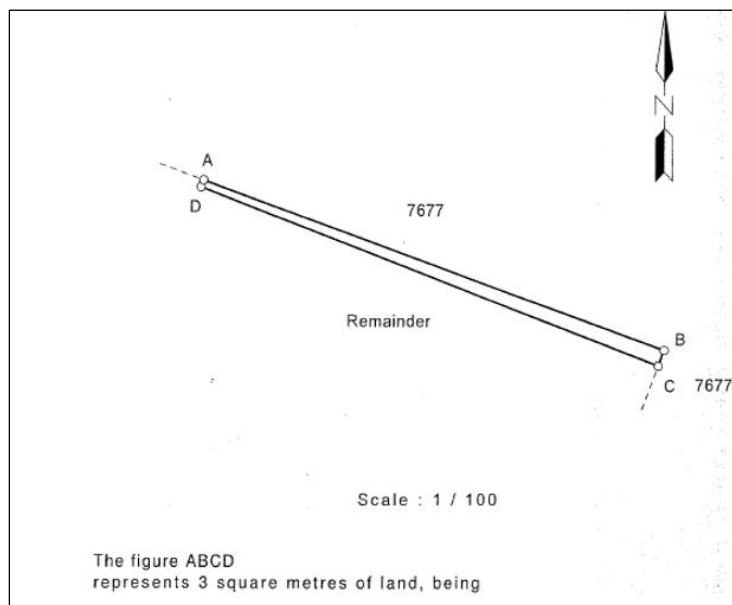
the subject property. We therefore respectfully request that a penalty fee **not** be imposed on the property owner for the reasons given above.

### 3.4.2. Proposed Subdivision

The intention is to address the building encroachment onto Erf 9823 Hermanus. The encroachment will be addressed by subdividing Erf 9823 Hermanus into Portion A and a remainder and rezone Portion A, a portion of Erf 9823 Hermanus. Portion A will be rezoned from General Residential Zone 3 to Business Zone 1 and will be consolidated with Erf 7677 Hermanus.

The detail of the proposed subdivision is as follows:

Erf	Size	Zoning
Remainder Erf 9823	±2908m <sup>2</sup>	General Residential Zone 3
Portion A	±3m <sup>2</sup>	General Residential Zone 3



The proposed subdivision of Erf 9823 Hermanus in order to address a building encroachment will not have any impact on the existing character as only a small portion of Erf 9823 Hermanus (**±3m<sup>2</sup>**) will be subdivided, rezoned, and consolidated with Erf 7677 Hermanus.

### **3.4.3. Rezoning and Consolidation**

In order to consolidate Portion A, a portion of Erf 9823 Hermanus with Erf 7677 Hermanus, it is required that Portion A be rezoned from General Residential Zone 3 to Business Zone 1 the same zoning as Erf 7667 Hermanus. The consolidated property will be  $\pm 1\,415\text{m}^2$  in extent after consolidation is concluded.

The detail of the rezoning of Portion A, a portion of Erf 9823 Hermanus and the consolidation of Erven 7677 Hermanus and Portion A, a portion of Erf 9823 Hermanus is as follows:

Erf	Components	Zoning	Proposed extent of property
Portion A	A portion of Erf 9823 Hermanus	Rezoned to Business. Zone 1	$\pm 3\text{m}^2$
Erf 7677 Hermanus	Erf 7677 and Portion A (Portion of Erf 9823 Hermanus)	Business Zone 1	$(\pm 3\text{m}^2) +$ $(\pm 1412\text{m}^2)$ $= \pm 1415\text{m}^2$

The proposal will not have any impact on the surrounding properties. The proposal will not have any impact on the existing character and property values of the surrounding erven as the proposal is merely to accommodate a building encroachment.

### **3.4.1. BUILDING LINE DEPARTURES**

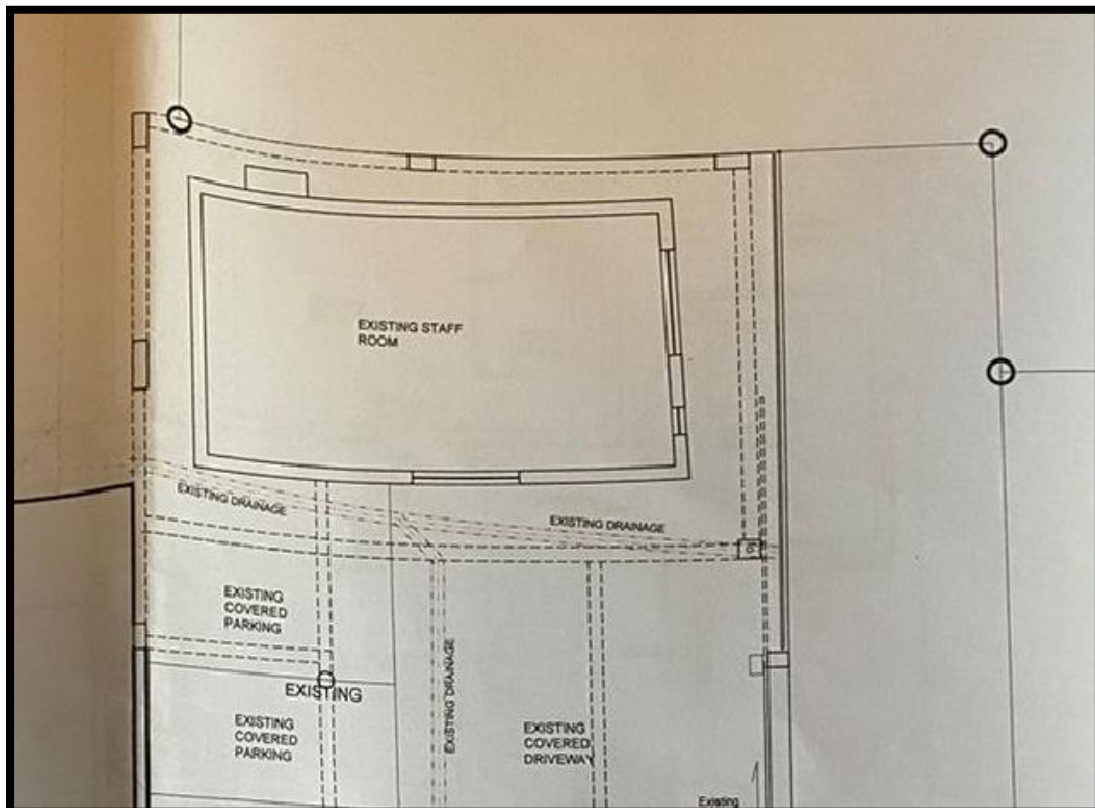
Erf 7677 Hermanus is  $1412\text{m}^2$  in extent and Erf 9823 Hermanus is  $2911\text{m}^2$  in extent. The Overstrand Scheme Regulations stipulate that a **3m rear and side building line** are applicable to Business Zone 1 properties where the property abuts a Residential or Community zone property. Erf 9823 Hermanus is zoned Residential Zone 3 and abuts Erf 7677 Hermanus and therefore a 3-meter building line is applicable for the rear boundary line of Erf 7677 Hermanus. The position of the rear side of the building situated on Erf 7677 Hermanus was used to determine the new proposed boundary line and therefore a building line relaxation is required from 3m to 0m to accommodate the existing staff room. With the boundary re-alignment a small side boundary line will

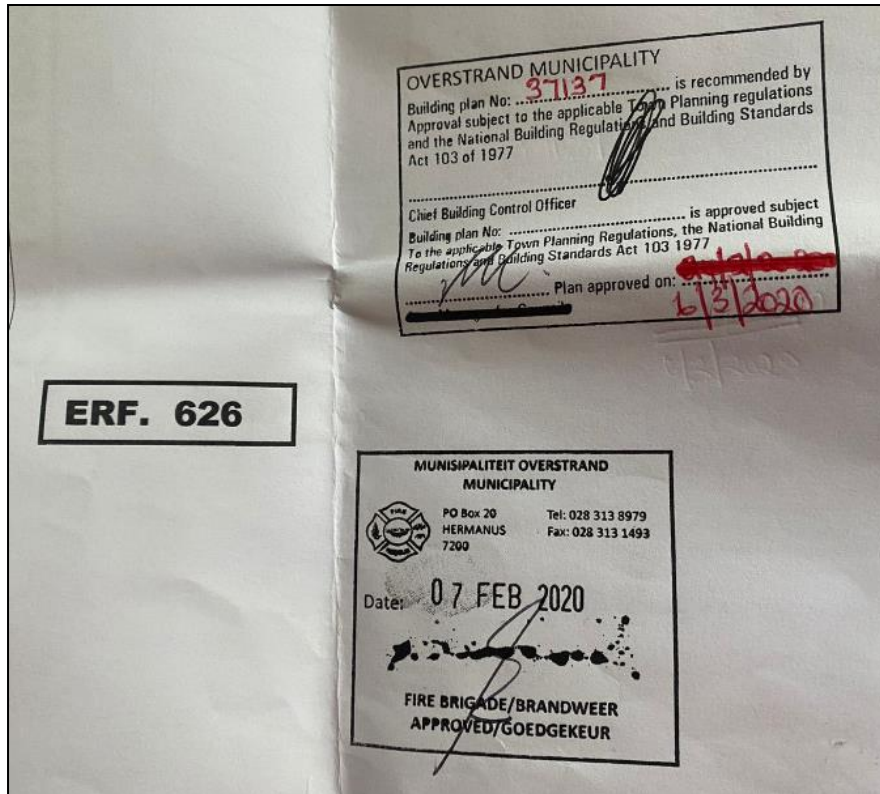
also be affected and therefore a relaxation will also be applicable to the small boundary line as indicated by line AD on the proposed diagram.

The building lines departure can be summarised as follows:

- Relaxation of the rear building line from **3m** to **0 m** to accommodate a portion of the existing staff room;
- Relaxation of the western building line (boundary line marked as AD on the proposed diagram) from **3m** to **0 m** to accommodate a portion of the existing staff room;

The building line departure is for an exiting building that was erected more than 20 years ago. The building was converted into a staff room and is approved as such as seen below:





The building line departures are required due to the boundary re-alignment and the ±doors situated in the existing building that will be positioned on the boundary line after the proposed subdivision and consolidation.

The proposed building line departures do not have a negative impact on the property values or the current character of the Hermanus CBD.

### 3.5. CHARACTER OF THE ENVIRONMENT

The proposal will not change the primary land use of the subject properties as this application only constitutes a minor boundary re-alignment to address the ±3m portion of the building situated on Erf 7677 encroaching onto Erf 9823 Hermanus. The impact on the character of the area will therefore be minimal. The proposed subdivision of Erf 9823 Hermanus into Portion A and a remainder, the rezoning and consolidation of Portion A with Erf 7677 Hermanus and a building line departures will not have a negative impact on the neighbouring property or residential character of the area.



### **3.6. IMPACT ON EXTERNAL ENGINEERING SERVICES**

#### **3.6.1. PROVISION OF SERVICES**

All services on the subject properties already exist. Additional services are not required and therefore the proposal will not have a negative impact on existing services that are provided by the Overstrand Municipality.

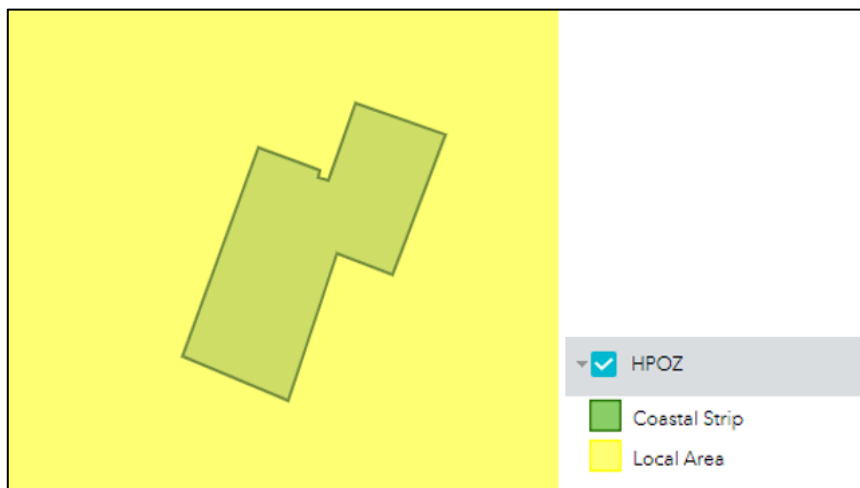
#### **3.6.2. ACCESS**

Access to Erf 7677 Hermanus is from Harbour Road and access to Erf 9823 Hermanus is from Marine Drive as can be seen on the locality plan. No new access points are proposed. The proposed application is merely to accommodate a building encroachment which will be addressed with a minor boundary re-alignment.

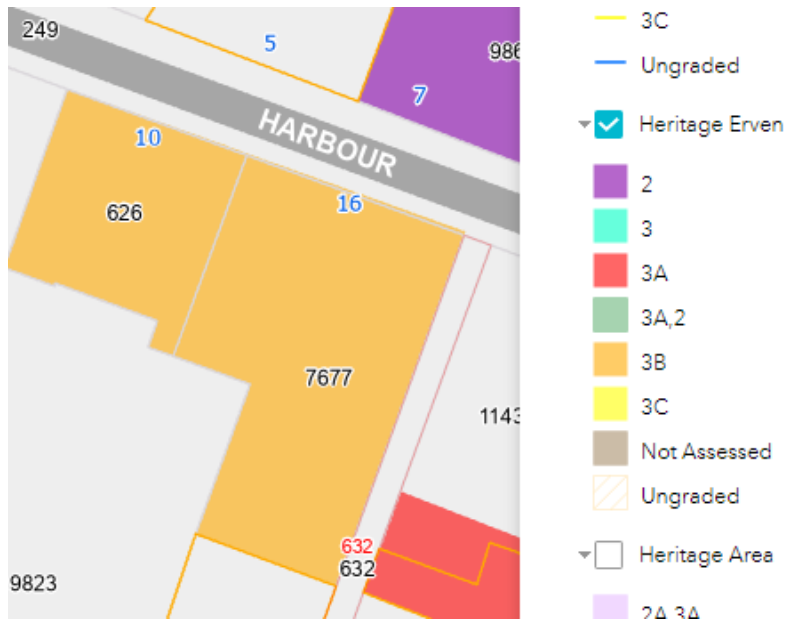
### **3.7. OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**

#### **3.7.1. HERITAGE VALUE**

Erven 7677 and 9823 Hermanus are situated within the Heritage Overlay Zone as determined by the Overstrand Municipality, please refer to an abstract from the Municipal GIS System as seen below. The erven form part of the Local Area, the proposal will not have any impact on the Local Area.



Erf 7677 Hermanus is also identified as a Category 3B Heritage erf as seen below.



The proposal will not have any impact on the Heritage status of the subject property.

Erven 9823 and 7677 Hermanus are earmarked for conservation purposes. A portion of Erf 9823 Hermanus is identified for Conservation Area and a portion for Special Area. Erf 7677 Hermanus is identified for Special Area.



The subject properties are not associated with any important persons or groups or important events and activities.

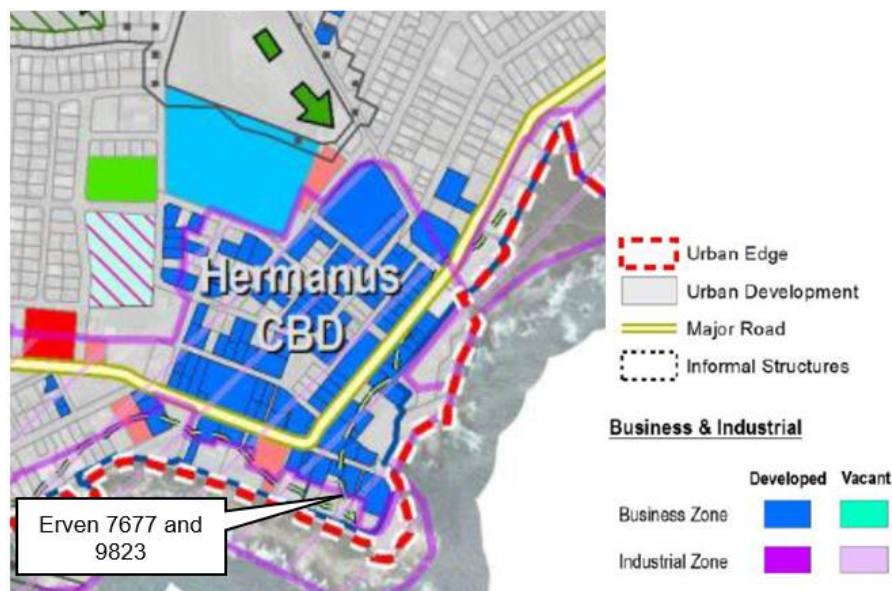
In light of the above mentioned it is evident that the proposed subdivision, rezoning, consolidation and departures will not hinder any future land use applications on the subject erven. The proposed applications will not have a negative impact on the heritage value of the subject properties or the greater area of Hermanus.

### 3.7.2. IMPACT ON THE BIOPHYSICAL ENVIRONMENT

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

### 3.8. FORWARD PLANNING AND LAND USE DOCUMENTS

The *Overstrand Spatial Development Framework (2020)* earmarks the area where Erf 7677 Hermanus is situated for Business use and the area for Erf 9823 Hermanus for Urban development purposes. Even though it is proposed that a portion of Erf 9823 Hermanus be rezoned from General Residential Zone 3 to Business Zone 1 and consolidated with Erf 7677 Hermanus, the proposal is still in line with forward planning proposals for the area.



The Overstrand Municipal Growth Management Strategy (OMGMS, 2010) specifies that Erven 9823 and 7677 Hermanus form part of Planning Unit No.13. This planning unit consists of the Hermanus CBD which is a heritage area and is mostly used for business purposes with a limited number of permanent residential units.

From the above it is evident that the proposed rezoning, consolidation and departures adhere to the spatial planning policies for the Hermanus area and consequently falls within the existing planning for the Hermanus area. The proposal is merely to accommodate a building encroachment onto Erf 9823 Hermanus which is addressed by a boundary re-alignment (subdivision, rezoning, consolidation and departures). The proposal does not have any impact on the

Our application is for a determination of an administration penalty boundary re-alignment (subdivision, rezoning and consolidation) and building line departure and subsequently the Growth Management Strategy does not apply to this application.

### **3.9. PLANNING PRINCIPLES**

The planning principles of spatial justice and sustainability are not applicable to this application.

**Spatial justice** refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access to opportunities, facilities, services and land. In the broadest sense, it seeks to promote the integration of communities and the creation of settlements that allow the poorest of the poor to access opportunities. In a spatially just settlement, opportunities and access are provided to those whose historical access and opportunities have been impeded by the practice of apartheid spatial planning. Land development procedures must include provisions that accommodate access to, and facilitation of, security of tenure and the incremental upgrading of informal areas. The principle of spatial justice is not applicable to this application.

**Spatial sustainability** essentially refers to a sustainable form of development. A part of this means promoting less resource consuming development typologies that promote compaction, pedestrianisation and mixed-use urban environments which

allow for the development of a functional public transport system and space economy. A spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl. The principle of spatial sustainability is not applicable to this application.

**Efficiency:** refers to the need to create settlements that optimise the use of space, energy, infrastructure, resources, and land. Inherent in this statement is the need to promote densification and urban (as opposed to suburban) development typologies. This also has to do with the way the settlement itself is designed and functions, which should reduce the need to travel long distances to access services, facilities, and opportunities. Efficiency also refers to decision making procedures which are designed to minimise negative financial, social, economic, or environmental impacts. In addition, efficiency refers to the need for development application procedures that are efficient and streamlined. In our opinion the principle of efficiency is not applicable to this application.

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

**Good administration:** Our Company is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an



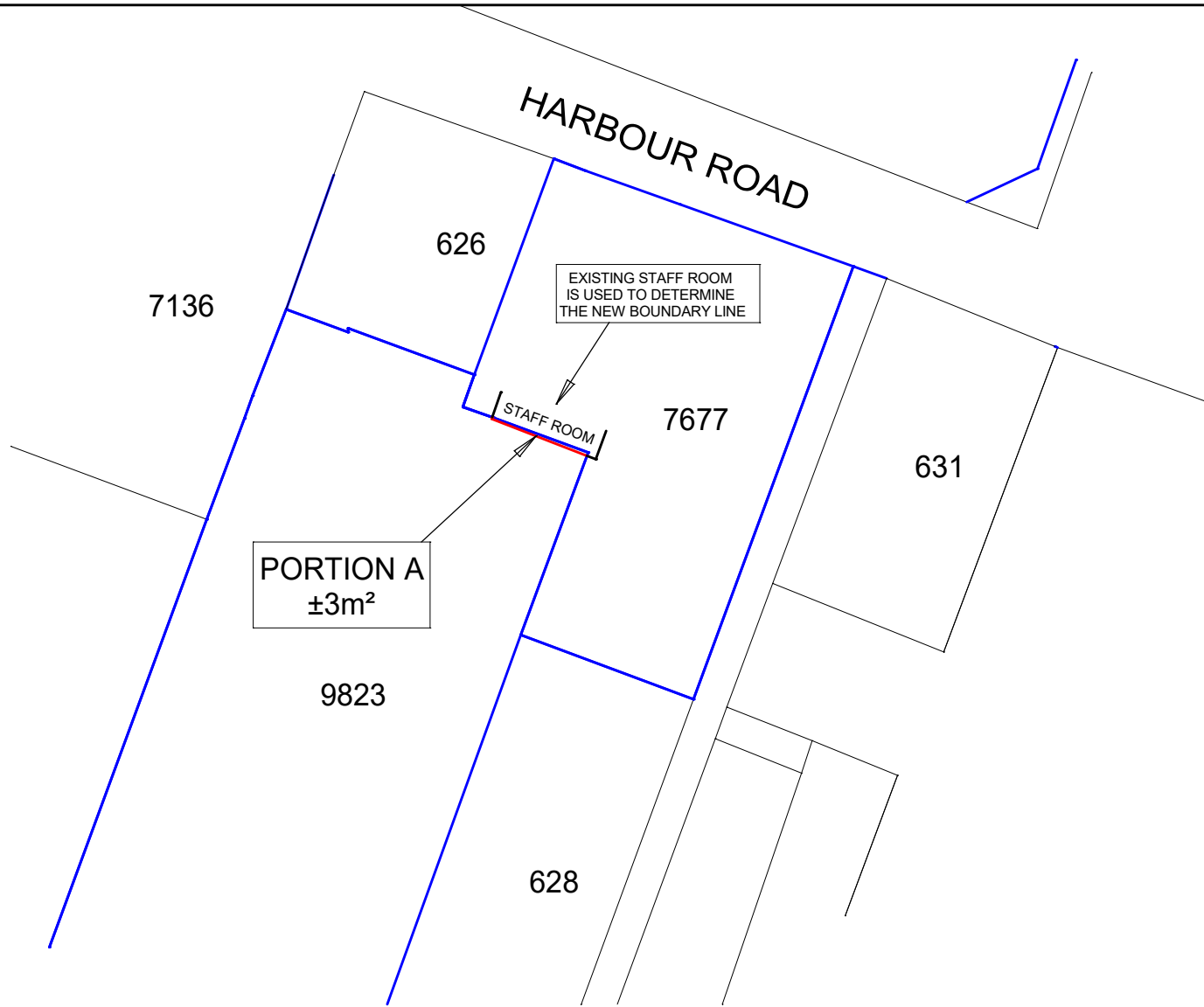
efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020.

#### **4. RECOMMENDATION**

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

- All services already exist. Additional services will not be required;
- Access to Erven 9823 and 7677 Hermanus will remain unchanged and the impact on the traffic will also remain unchanged;
- The proposed subdivision, rezoning, consolidation, and departure are compatible with the existing built character of the area;
- The proposed subdivision, rezoning, consolidation, and departure will not have a negative impact on the current character and land values of the surrounding erven;
- The proposed application is in line with Spatial Planning Land Use Management Act, 2013 (SPLUMA) and the Land Use Planning Act, 2014 (LUPA).

With regards to the above mentioned it would be appreciated if the Overstrand Municipality would approve the proposed subdivision, rezoning, consolidation, and departures applicable to Erven 9823 and 7677 Hermanus and that a penalty fee **is not** imposed.



NOTES

ERF 9823	2911m <sup>2</sup>
ERF 7677	1412m <sup>2</sup>
PORTION A	±3m <sup>2</sup>
AFTER SUBDIVISION, REZONIING AND CONSOLIDATION	
ERF 9823	±2908m <sup>2</sup>
ERF 7677	±1415m <sup>2</sup>

PORTION A TO BE REZONED FROM GENERAL RESIDENTIAL ZONE 3 TO BUSINESS ZONE 1 AND CONSOLIDATED WITH ERF 7677 HERMANUS



Stads- en Streeksbeplanners  
Town & Regional Planners

All distances approximate and subject to survey.

COPY RIGHT RESERVED

Property Description:

ERVEN 7677 & 9823  
HERMANUS

Plan Description:

PROPOSED SUBDIVISION,  
REZONING, CONSOLIDATION  
AND DEPARTURES

Scale:

1:750

Drawing Nr:

erven 7677 and 9823 s.drw

Date:

JANUARY 2024

