



ERF 11136, 181 TENTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: ENGELBRECHT & SCORGIE ARCHITECTURAL OFFICE (PTY) LTD ON BEHALF OF JUDENE BOTHA FAMILY TRUST

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 that an application has been received for the following:

- ❖ **Departure** in terms of Section 16(2)(b) of the By-Law in order to:
 - relax the western lateral building line from 2m to 1,249m to accommodate the existing first-floor cantilever balcony with a roof,
 - relax the western lateral building line from 2m to 1,110m and 1.175m to convert the existing storage area into a laundry room, and
 - relax the street building line from 4m to 1,920m to accommodate the existing free-standing braai.
- ❖ **Determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Division: Town and Spatial Planning at 16 Paterson Street, Hermanus and on the municipal webpage at the following link <https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/>. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / landuse@overstrand.gov.za) on or before **25 September 2026**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to **Mr. P. Roux** at 028-313 8983. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town & Spatial Planning Department where a municipal official will assist them in order to formalize their comment.

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.

ERF 11136, TIENDESTRAAT 181, VOËLKLIP, HERMANUS, OVERSTRAND MUNISIPALE AREA: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: ENGELBRECHT & SCORGIE ARCHITECTURAL OFFICE (PTY) LTD NAMENS JUDENE BOTHA-FAMILIETRUST

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 dat 'n aansoek ontvang is vir die volgende:

- ❖ **Afwyking** ingevolge Artikel 16(2)(b) van die Verordening ten einde die:
 - westelike syboullyn vanaf 2m na 1,249m te verslap om die bestaande eerstevloer vrydraende balkon met a dak te akkommodeer,
 - westelike syboullyn vanaf 2m na 1,110m en 1,175m te verslap om die bestaande stoorarea in 'n waskamer te omskep, en
 - straatboullyn vanaf 4m na 1,920m te verslap om die bestaande vrystaande braai te akkommodeer.
- ❖ **Bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) van die Verordening.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende woensdae tussen 08:00 en 16:30 by die Afdeling: Stads- en Streekbeplanning, Patersonstraat 16, Hermanus en op die munisipale webtuiste by die volgende skakel <https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/>. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / landuse@overstrand.gov.za) voor of op **25 September 2026**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan **Mnr. Mr. P. Roux** by 028-313 8983. Die Munisipaliteit mag weier om die kommentaar te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement: Stads- en Streekbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

U aandag word gevestig op die Bepalings van die "POPI" Wet, en aangesien u opmerking deel sal uitmaak van 'n openbare deelname proses, u derhalwe toestem dat u naam, van, kontakbesonderhede en kommentaar(e) openbaar gemaak mag word.

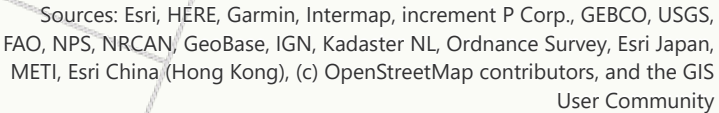
ISIZA 11136, 181 TENTH STREET, VOËLKLIP, HERMANUS, INDAWO KAMASIPALA WASE OVERSTRAND: ISICELO SOKUHAMBA KUNYE NOKUSETYENZISWA KWESOHLWAYO SOKULAWULA: I-OFISI YEE-ARCHITECT ZE-ENGELBRECHT & SCORGIE (PTY) LTD EGAMENI LE-JUDENE BOTHA FAMILY TRUST

Isaziso ngoko ke sinikezelwa ngokwemiqathango yeCandelo lama-48 loMthetho kaMasipala wase-Overstrand oLungisiweyo woCwangciso loSetyenziso loMhlaba kaMasipala, ka-2020 sokuba isicelo sifunyenwe kwezi zinto zilandelayo:

- ❖ **Ukuhamba** ngokwemiqathango yeCandelo 16(2)(b) loMthetho kaMasipala ukuze:
 - kunciphiswe umgca wesakhiwo umgca wesakhiwo osecaleni osentshona ukusuka kwi-2m ukuya kwi-1,249m ukuze kulungiselelwe ibalcony ye-cantilever ekhoyo enophahla,
 - kunciphiswe umgca wesakhiwo osecaleni osentshona ukusuka kwi-2m ukuya kwi-1,110m kunye ne-1.175m ukuze kuguqulwe indawo yokugcina impahla ekhoyo ibe yindawo yokuhlamba impahla, kunye
 - nokunciphisa umgca wesakhiwo sesitalato ukusuka kwi-4m ukuya kwi-1,920m ukuze kulungiselelwe indawo yokosa inyama ekhoyo ezimeleyo.
- ❖ **Ukumiselwa kwesohlwayo solawulo** ngokwemiqathango yeCandelo 16(2)(q) loMthetho kaMasipala.

linkcukacha ezipheleleyo malunga nesindululo ziyafumaneka ukuze zihlolwe phakathi eveleni phakathi kwe-08:00 kunye ne-16:30 kwiSebe: UCwangciso lweDolophu neSithuba, eHermanus. Naziphi na izimvo ezibhaliweyo zinokungeniswa ngokungqinelana nezibonelelo zeCandelo 51 nelama-52 loMthetho kaMasipala oxeliweyo (16 Paterson Street, Hermanus / landuse@overstrand.gov.za) ngoLwesihlanu okanye ngaphambi koLwesihlanu, **25 Septemba 2026**, uqaphula igama lakho, idilesi kunye noqhagamshelwano. iinkcukacha, umdla kwisicelo kunye nezizathu zezimvo. Imibuzo ye-Telephonic inokwenziwa kuMnu P Roux kwi-028-313 8983. UMasipala usenokwala ukwamkela izimvo azifumeneyo emva komhla wokuvala. Nawuphi na umntu ongakwaziyo ukufunda nokubhala unokundwendwela iSebe leDolophu noCwangciso lweMhlaba apho igosa likamasipala liya kubancedisa ukuze benze izimvo zabo zibe sesikweni.

Nceda uqaphele ukuba ngokoMthetho woKhuseleko lweNgcaciso loLwazi loBuqu (POPIA), uya kuba ungena kwinkqubo kawonke-wonke kwaye uvuma ukuba igama lakho, ifani, iinkcukacha zoqhagamshelwano kunye nezimvo zingabengezwa / zisetyenziswe kwi (isicelo) inkqubo.



**DEPARTURE FROM THE OVERSTRAND MUNICIPALITY'S
ZONING SCHEME REGULATIONS AND THE DETERMINATION OF
AN ADMINISTRATIVE PENALTY
ERF 11136 HERMANUS**

MOTIVATION REPORT

1. INTRODUCTION TO THE PLANNING APPLICATION:

1.1 BACKGROUND:

The owner of the property, The Judene Botha family Trust, has instructed Brandon Scorgie from the firm Engelbrecht & Scorgie Architectural offices to apply for a Building Line departure from the Overstrand Municipality's Zoning Scheme Regulations and for the determination of an administrative penalty. Refer to **Annexure D** for the enclosed Power of Attorney from The Judene Botha family Trust.

Erf 11136, referred to in this document as the application area, measures 547m² in extent and is held by Title Deed no. T000040809/2025. Refer to **Annexure C** for the enclosed Title Deed.

1.2 The property has been developed as a split level (partly double storey dwelling with an off-street parking area and outdoor free-standing braai on the northern side of the Erf (being 10th Street).

Our office was approached shortly after the purchase of the property to prepare and submit plans for a new boundary wall and off-street parking on 10th Street. Our services included applying for a demolition order for the now redundant bus shelter, which was positioned along the northern portion of Erf 11136.

1.3 As background :

- Erf 11136 is a consolidation of Erf 11145 and Erf 6830
- Erf 11145 was purchased by The Judene Botha family Trust, who shortly afterwards purchased Erf 6830 from the Overstrand Municipality with the agreement that the bus shelter could be demolished (see attached **Annexure P** being the correspondence between a Trustee for the Judene Botha Family Trust and Anja le Roux from Overstrand Property Department)

In our preparation for the necessary services, we obtained drawings, surveyed the property and found deviations from the approved drawings. Our services were expanded to include :

- Applying for building line departures
- Applying for the determination of an administrative penalty

2.0 APPLICATION DETAIL :

The application is submitted in terms of the Overstrand Municipality's amended By-Law on

Municipal Land Use Planning 2020. The application comprises the following :

2.1 Chapter 4 – Section 16(2)(b) – Building Line departures

- 2.1.1 Section 16(2)(b)i() – the application is for the relaxation of the street building line on Erf 11136 to authorize minor encroachments
- 2.1.2 Section 16(2)(b)(ii) – the application is for the relaxation of the lateral building line to authorize a minor encroachment and proposed usage change within the lateral building line

2.2 Chapter 4 – Section 16(2)(q) – for the determination of an administrative penalty

- 2.2.1 The application for the determination of an administrative penalty in respect of the minor deviations and an authorized structure

3.0 **NEED AND DESIRABILITY :**

3.1 **Property description, zoning and property analysis :**

3.1.1 **Property description :**

The application area 547m² in extent, is located at no. 181-10th Street, VOëLKLIP

Refer to **Annexure H** for the enclosed locality plan and extract below



The application area has been developed as a split-level home with a section being double storey.

The ground level includes :

- A single garage (to be converted into storage)
- Store to be converted into a laundry
- Two bedrooms and bathroom along the western wing of the house
- Open plan living, dining and kitchen
- Two bedrooms and bathroom on the eastern side of the house

The first-floor level includes :

- A lounge
- Undercover balcony to the south

Parking and access to the property is taken from 10th Street

- An outdoor free-standing braai has been constructed to the side of the vehicle parking area

- Existing first floor	<u>41,533m²</u>
(TOTAL existing approved area)	<u>204,709m²</u>
- Coverage	29,83%
ADDITIONS :	
- Braai attached to dwelling	1,178m ²
- Undercover patio (1st floor)	16,313m ²
- Area below cantilever patio	16,313m ²
- Open parking	34,0m ²
- Braai (free-standing)	<u>1,640m²</u>
(TOTAL additional area - undercover)	<u>33,804m²</u>
(TOTAL coverage - new)	33,03%

3.1.2 ZONING :

Erf 11136, the application area, has the following land use rights :

Erf number:	Zoning:
Erf 11136, Hermanus	Residential Zone 1: Single Residential

The zoning permits the development of a residential dwellings with outbuildings as defined in the Overstrand Municipality's Zoning Scheme.

All erven directly surrounding the application area are zoned as Residential Zone 1: (Single Residential) with the road zoned as Transport Zone 2 : (Road and Parking). Refer to the zoning map abstract provided below.

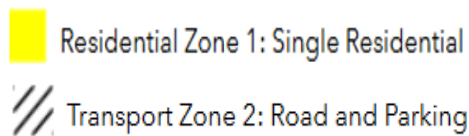


Figure 1: Zoning, an extract from the Overstrand Public Viewer – NOT TO SCALE

3.1.3 PROPERTY ANALYSIS AS PER THE OVERSTRAND MUNICIPALITY'S ZONING SCHEME REGULATIONS:

The development parameters for the application area as per the Overstrand Municipality Land Use Scheme, 2020 can be summarized as follows:

Design parameters:	Overstrand Municipality's Zoning Scheme Regulations:	Proposal:	Comments:
Zoning	Residential Zone 1: Single Residential (SR1)	Residential Zone 1: Single Residential (SR1)	Unchanged

Primary Use		Crèche, dwelling house, guest rooms, home occupation, second dwelling unit and self - catering	Dwelling house	Unchanged
Consent Use		Day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and intensive horticulture	None	Unchanged
Coverage		50%	33,03%	Unchanged
Height Restriction		8.0m	8.0m	Unchanged
Building lines	Municipal street building line	4.0m	1,920m	Application for a departure
	Lateral (West) – First floor balcony cantilever	2.0m	1,249m	Application for a departure
	Lateral (West) – Usage change	2.0m	1,110m	Application for a departure
	Lateral (East)	2.0m	2.0m	Unchanged
	Rear	2.0m	2.0m	Unchanged
Parking		Dwelling house: 2 bays	Dwelling house: 2 bays	Unchanged

3.1.4 **PROPERTY ANALYSIS AS PER THE TITLE DEED OF THE APPLICATION AREA:**

Refer to **Annexure C** for the enclosed Title Deed for Erf 11136, Hermanus.

Title Deed No. T000040809/2025 has no restrictive conditions that prohibits the proposals being made.

There is no bond registered against Erf 11136.

3.1.5 **CONTEXTUAL SITE INFORMATION :**

3.1.5.1 **LOCATION :**

APPLICATION AREA WITHIN A REGIONAL CONTEXT:

Within a regional context, the application area is located within the eastern portion of Hermanus,

known as VOëLKLIP

Refer to **Annexure H** for the enclosed Locality layout.



Figure 3: Erf 11136 within a Regional Context, an extract from the Overstrand Public Viewer – NOT TO SCALE

3.1.5.2 APPLICATION AREA WITHIN A LOCAL CONTEXT :

Within a local context, the application area consists of a residential erf within Hermanus. The application area is located at 181-10th Street, VOëLKLIP



Figure 3: Erf 11136 within a Local Context, an extract from the Overstrand Public Viewer – NOT TO SCALE

3.2 **LAND USE :**

Erf 11136 located at no. 181-10th Street, VOëLKLIP, is zoned Single Residential Zone 1. The zoning allows for a primary dwelling, a 2nd dwelling unit, together with associated amenities and structures.

The property has been developed to include :

- A primary dwelling
- Off-street parking area
- Free-standing braai

The surrounding properties are similarly zoned as single residential and have all been developed with similar type accommodation

3.3 **LAND USE POTENTIAL :**

Erf 11136 in its current form and size (547m²) is the result of a number of subdivisions and a recent consolidation of Erf 11145 and Erf 6830.

The Erf was originally developed as typical holiday and family accommodation.

Erf 11136 (previously Erf 11145), has always had access over Erf 3037 by way of a servitude. With the recent consolidation, permission was granted by Overstrand Municipality Role Players to allow access to be taken off 10th Street and with the servitude registered over Erf 3037 being cancelled.

The property is in a well-established and sought after area in VOëLKLIP and within walking distance to Grotto and VOëLKLIP beaches. The property has much development potential, which may be realized sometime in the future by the current or future owners.

The drawings attached to this application (refer to **Annexure K and L**), aim to regulate the unauthorized structures and minor deviations from the approved plans.

Simultaneously the drawings as attached, include minor proposed internal changes (some of these proposed changes fall within the lateral building line).

3.4 **BACKGROUND AND INTRODUCTION TO THE APPLICATION AND THE ACTUAL APPLICATION:**

3.4.1 **Planning application :**

The application is submitted in terms of the Overstrand Municipality's amended By-Law on Municipal Land Use Planning 2020. The application comprises the following :

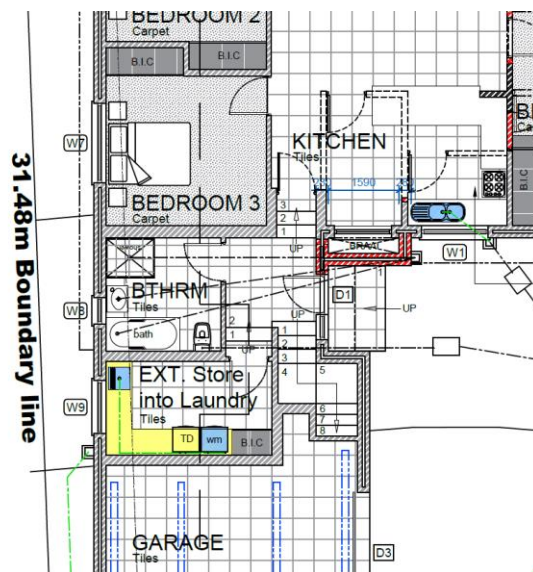
3.4.1.1 Chapter 4 – Section 16(2)(b) – Building Line departures

- 3.4.1.2.1 Section 16(2)(b)(i) – The application is for the relaxation of the street building line on Erf 11136 to authorize minor encroachments

Usage change of store room to laundry :

- This work has not yet been affected and is proposed
- The current usage of this area as approved, is for storage
- The proposal is for the space to be changed from a storage area into a laundry space
- No windows or masonry will be affected or change
- Due to the orientation of the house being at a slight angle to the boundary, there are two dimensions to consider
- The storage area is placed 1,175m away from the boundary at the furthest point and 1,110m away from the boundary at the closest point
- The usage change would require a boundary line departure from 2,0m to 1,110m To allow the usage change within the Building Line Zone

Refer to **Annexure K and L** for the enclosed drawings, as well as the extract below reflecting the position of the existing store within the lateral building line



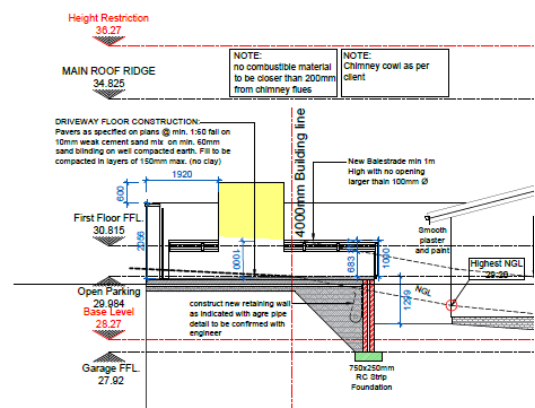
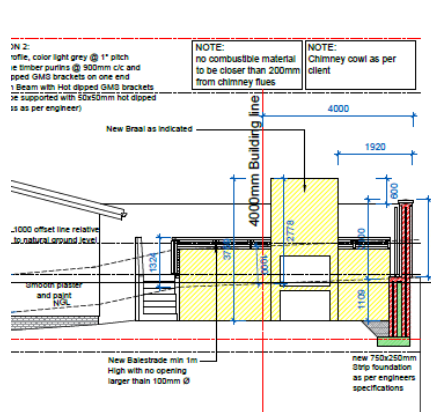
Braai :

- When The Judene Botha family Trust took ownership of the property in 2025, this being prior to the demolition of the bus shelter ; the property included :
 - A boundary wall along 10th Street, but set-back on the boundary line of Erf 11145
 - A free-standing braai with roofed structure

Refer to enclosed **Annexure P** as well as below for photos reflecting the “existing structures”, which were never approved.

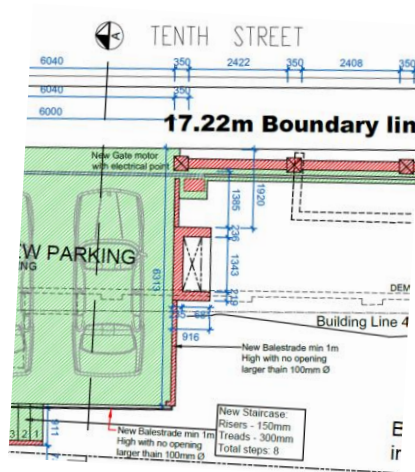


- The Trustees for The Judene Botha family Trust made the assumption (in error) that these structures had status and upon receiving approval for the demolition of the bus shelter, they proceeded to re-locate the braai with the simultaneous construction of the new boundary wall on the new Erf boundary
- The construction of this new free-standing braai, was done in error by the Trustees, not realizing the restrictions within Zoning Scheme Regulations. We, ourselves being the Consultant, felt no need to advise the Trustees as to the status of this existing braai and roof, as we assumed it would merely be removed with the demolition of the old boundary wall and bus shelter
- The braai is constructed in masonry, plastered and painted and positioned 1,920m away from the street boundary
- Due to the natural topography of the Erf and subsequent excavation on the northern side of the house, very little of the braai chimney extends above the boundary wall with approx. 600mm being visible from the street and sidewalk
- See extract below from the building plans attached as **Annexures K and L**



- A building line departure is required to relax the street building line from 4,0m to 1,920m in order to accommodate the free-standing braai

Refer to **Annexures K and L** for the enclosed drawing, as well as the extract below



3.4.2.1 The effect that the structures will have on the character of the area, the environment, the streetscape and on surrounding properties :

3.4.2.1.1 Cantilever balcony :

- The cantilever balcony at first-floor level, has been in existence since approx. 2005
- The balcony is set-back from the rear boundary by approx. 3m and is placed approx. 1,249m away from the lateral boundary
- Due to the balcony design, the corner of the balcony is positioned further away from the lateral boundary than the corner of the approved double storey level of the house
- As mentioned, the surrounding properties have been developed over the years and since 2005, there has been no impact on surrounding properties, nor have there been any objections received from any surrounding property owners
- The encroachment over the 2m lateral building line aligns with many of the structures built in the VOëLKLIP area. In the meantime, the applicable lateral building line enforced by Overstrand Municipality was still 1,2m
- The balcony does not detract from any of the surrounding properties, nor from the character and surrounding residential environment
- The placement of the first-floor balcony does not compromise the rights and privacy of the affected adjoining properties

3.4.2.1.2 Usage change within the building line :

- The proposed usage change of the floor area from storage to laundry, will have no impact whatsoever on any of the surrounding properties

3.4.2.1.3 Free-standing braai :

- The position of the newly constructed free-standing braai, is relatively similar to the free-standing braai, which has recently been demolished
- Not to condone the construction of the braai without approved drawings, it can be noted that the new construction is similar to the braai as demolished with less of a visual impact from the one affected neighbour to the east of the application area

- The braai in totality is less invasive on the streetscape being lower in overall height
- The braai does not impact on the character or environment of the neighbourhood due to the natural topography of the area and subsequent excavation of the northern section of the Erf
- The braai is well hidden from view from any of the adjoining properties with only a small portion of the chimney visible above the boundary wall
- The amenities, privacy and rights of the adjoining property owners, have not been compromised in any way

4.0 **Determination of an administrative penalty :**

The Overstrand Municipality's amended By-Laws on Municipal Land Use Planning, Chapter 10, Section 90, 2020, state that a person who is in contravention of this By-Law, and submits application to rectify the contravention, must apply to the Municipality for the **determination of an administrative penalty**. An application is therefore made for the determination of an administrative penalty for the unauthorized first floor balcony and free-standing braai. As highlighted throughout this departure application document.

Refer to **Annexure I** for the enclosed administration form.

4.1 **Background and summary of the contravention :**

The Judene Botha family Trust took ownership of the property in 2025.

Our office was approached shortly after the purchase of the property to prepare and submit plans for a new boundary wall and off-street parking on 10th Street. Our services included applying for a demolition order for the now redundant bus shelter, which was positioned along the northern portion of Erf 11136.

As background :

- Erf 11136 is a consolidation of Erf 11145 and Erf 6830
- Erf 11145 was purchased by The Judene Botha family Trust, who shortly afterwards purchased Erf 6830 from the Overstrand Municipality with the agreement that the bus shelter could be demolished (see attached **Annexure P** being the correspondence between a Trustee for the Judene Botha Family Trust and Anja le Roux from Overstrand Property Department)

In our preparation for the necessary services, we obtained drawings, surveyed the property and found deviations from the approved drawings. Our services were expanded to include :

- Applying for building line departures
- Applying for the determination of an administrative penalty

4.2 **Nature, duration, gravity and extent of the contravention :**

As contemplated in the Overstrand Municipality's amended By-Laws on Municipal Land Use Planning, Chapter 10, Section 90, 2020, the following factors must be considered when determining appropriate administrative penalty :

4.2.1 **Nature and extent of the unauthorized structures :**

The unauthorized/ structures, are related to building line encroachments.

A small portion of the first-floor cantilever balcony encroaches marginally into the lateral building line.

The balcony structure forms part of a typical residential dwelling with a minimal visual impact, due to its cantilever design with no grounding walls or columns at the lower level with the balcony itself being open and light in design.

The free-standing braai placed within the street building line, is hardly visible from the adjoining properties and roadside with a small portion of the chimney being visible from the road and sidewalk.

The nature of the unauthorized structures, include :

- A first-floor undercover balcony cantilevering over the western lateral building line by 0,751m
- A free-standing braai constructed 1,920 away from the street boundary thus encroaching the 4,0m street boundary by 2,08m

4.2.2 **Duration of the unauthorized, as-built structures :**

Undercover first floor balcony :

- The first-floor cantilever balcony was constructed by the previous owner in approx. 2005
- The undercover balcony in its current form, has been in existence unaltered for ±20years
- In the 20 years that the balcony has been in existence, no objections have been recorded from adjoining property owners, nor has the Municipality issued any notice or demolition directive
- This indicates that the undercover balcony in its current state, has not given rise to any dispute with no negative impact on the neighbourhood or adjoining properties

Braai :

- The braai in its current position has recently been constructed
- As background to this contravention, I refer to information provided and mentioned earlier in this planning application.
- When The Judene Botha family Trust took ownership of the property in 2025, this being prior to the demolition of the bus shelter ; the property included :
 - A boundary wall along 10th Street, but set-back on the boundary line of Erf 11145
 - A free-standing braai with roofed structure

Refer to enclosed **Annexure P**, as well as the extract below for photos reflecting the “existing structures”, which were never approved.

4.2.3 Gravity of the unauthorized, as-built structures :

- The gravity of both the unauthorized structures are minor in extent
- The portion of the undercover balcony overhanging the building line by 0,751m, is small in scale with the area overhanging the building line, being 2,113m²
- The free-standing braai is limited to a footprint of 1,640m² in area and mostly concealed from the view of adjoining properties
- These structures do not compromise the structural integrity of the dwelling and do not pose any health or safety risk and do not detract from the privacy, amenities or rights of adjoining affected properties
- The structures as built and integrated within the property are consistent with the character of the area
- Due to the minor scale of the encroachments on the building lines, seen in context within the VOëLKLIP residential area, the unauthorized structures could be seen to have low gravity

4.2.4 Conduct of the person involved in the contravention :

- The gravity and extent of the unauthorized structures, are minor
- The area (size) and scale of the encroachments within the building lines, are small, i.e. :
 - Cantilever balcony at first-floor level 2,113m²
 - Free-standing braai at ground floor level 1,640m²
- The cantilever balcony was constructed by the previous property owner in approx. 2005
- According to information provided, this construction process was facilitated by a Structural Engineer, who has subsequently passed away
- The free-standing braai (as currently constructed), was the wrong doing of The Judene Botha family Trust who recently purchased the property

As a mitigating factor, please refer to references throughout this planning application giving context to the “honest mistake”.

With this being said, The Judene Botha family Trust seeks to legalize the unauthorized structures as mentioned throughout this departure application document.

4.2.5 Whether the unlawful conduct was stopped :

- The unlawful conduct, including the first-floor balcony and the free-standing braai was not stopped and no notices were served that we are aware of
- The balcony has been in existence since 2005 with no notice being served by the Overstrand Municipality
- The new braai in its current form and position, was seen to be a replacement for the braai and undercover roof, which was demolished at the same time that the demolition order was granted for the bus shelter
- No notice has been served on the current owners for the newly constructed braai, nor are we aware of any notices being served for the previous structures, which were demolished

4.2.6 Whether the person involved in the contravention has previously contravened this By-Law or previous Planning Law :

- To the knowledge of this office, it is unknown whether the previous owner has previously contravened this By-Law or any other previous law

- Neither The Judene Botha family Trust nor any of the Trustees have previously contravened this By-Law or any other previous By-Law

4.2.7 A report by a Quantity Surveyor in matters of the unauthorized building/ construction work :

- Due to the small-scale nature of the encroachment, no Quantity Surveyor was involved. Our firm, Engelbrecht & Scorgie Architectural offices, consulted with two local, reputable Contractors to provide us with an estimating cost reports on the unauthorized structures, at current building rates

Refer to **Annexure O** for the enclosed costing reports in matters of the unauthorized building/ construction work.

- The costs for the unauthorized work within the building lines are summarized as follows :

CONTRACTOR : JN BUILDERS

	<u>Description</u>	<u>Total</u>
Area A	Section of decking, railing and roof	R22 186,50
Area B	Braai all included	R20 500,00
	Total Cost of Project	R42 686,50

CONTRACTOR : 360 HOME DEVELOPERS

	<u>Description</u>	<u>Total</u>
Area A	Section of decking, railing and roof	R25 786,35
Area B	Braai all included	R20 075,00
	Total Cost of Project	R45 861,35

- The combined values of the portions of construction within the building lines, amounts to an average figure of R44 273-93
- This figure is submitted as the basis for the calculation of the administrative penalty in line with Chapter 10, Section 90 of the Overstrand Municipality's amended By-Law on Municipal Land Use Planning 2020

4.2.8 Recommendation for the determination of the administrative penalty :

- In lights of the above assessment, we appeal to the Overstrand Municipality that the administrative penalty be waived or limited to 10% of the value of the works
- As mentioned throughout this planning application, our client, The Judene Botha family Trust, purchased the property in good faith
- The Trustees for the Trust were unaware of the irregularities on the property, due to the previous owner sharing information that the construction of the contraventions, were facilitated by a Structural Engineer

- The re-construction/ re-location of the free-standing braai, was an honest oversight by overly-eager property owners, unaware that planning application would be required for the re-construction of the braai in their now “enlarged Erf”

5.0 IMPACT OF THE PROPOSED NEW DEVELOPMENT:

5.1 Economic impact:

The Overstrand Municipality’s Land Zoning Scheme Regulations govern structures and the uses thereof on properties. The proposed new development on the application area, as highlighted throughout this Departure Application Document, form part of common residential components one would find on any typical residential erf. With this being said, the existing first-floor cantilever balcony and free-standing braai on Erf 11136, will add value to the property on the application area as well as the area in which it is located.

5.2 Social impact:

The existing first-floor cantilever balcony and free-standing braai on Erf 11136 will have no impact on the social status of the area in which the application area is located, as no negative impact on the social wellbeing of the surrounding properties is anticipated. As mentioned elsewhere in the Departure Application Document, both these structures are compatible with the character of the area and will not negatively impact the rights of any of the adjacent properties in the area.

5.3 Compatibility with surrounding land uses:

The application area is situated in a well-established up-market low-density residential area. The Departure Application does not pose to change the current zoning or the current land use of the application area, and therefore the current land use is compatible with the surrounding land uses.

As mentioned above, the surrounding properties are developed with single and double storey dwellings and the use of the surrounding properties are being used for permanent residences and holiday houses. The scale of the dwelling as approved, including both the structures as constructed, merge well with the scale of the surrounding dwellings in the immediate area.

5.4 Impact on Municipal Engineering services:

All services on the application area already exist.

The first-floor cantilever balcony and free-standing braai on the application area will have no negative impact on the usage of the existing available municipal services, such as electricity, water, or sewerage, since no additional loading of the existing municipal services is needed.

5.5 Impact on health, safety and the wellbeing on the surrounding community:

The first-floor cantilever balcony and the free-standing braai do not create any risks relating to structural, fire or access to emergency services. Both the structures as mentioned above, have recently been inspected and certified by a Structural Engineer. The balcony has been in existence for approx. 20 years. Although the braai has only recently been constructed, both these structures pose no risk on the health and safety and wellbeing of the surrounding community.

5.6 Impact on heritage and heritage value:

Erf 11136, the application area, is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality's Heritage Overlay Zone, has no grading, and has no heritage value.

5.7 Impact on traffic, parking and access:

There is an existing approved access servitude recorded over Erf 3037 giving access to the existing single garage and general access to the property. The Overstrand Municipality's Engineering Department has agreed to the cancelation of this servitude with access been granted on 10th Street.

Refer to **Annexures K and L** for the enclosed drawings.

The above is mentioned for background only, as the first-floor cantilever balcony and free-standing braai do not impact on the traffic, parking or access to the property

The land use of the property will remain the same and therefore the impact on the traffic flow and parking in the area withing the property, will remain unchanged.

6.0 PLANNING PRINCIPLES :

Policies, principles, planning, development norms, and criteria as set out in Section 42 of the Spatial Planning and Land Use management Act (SPLUMA) and Chapter VI of the Land Use Planning Act (LUPA) were considered and the proposed Departure Application is in compliance with this. The principles are defined and recorded below:

6.1 Spatial justice:

The primary objective of this application is to enable the owner of Erf 11136, the application area, to legalize the structures on the application area not reflected on approved drawings. With this being said, it is important to note that it is not predicted that the proposed new development on the application area is set to influence past spatial injustices.

6.2 Spatial sustainability

The planning application seeks to authorize long-standing and recent encroachments. No additional burden will be placed on engineering services

6.3 Efficiency

The planning application intends to regulate long-standing and recent irregularities.

This prevents possible and unnecessary enforcement action and assists the Municipality to manage and keep up to date records of developments on erven.

6.4 Spatial resilience

The existing urban land is used optimally according to its zoning.

With the above being said, we are of the opinion that the principle of Spatial Resilience is not applicable to this application.

6.5 **Good administration**

The Judene Botha family Trust and we, the applicant, are 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 Departure Application will follow due process as stipulated in the relevant Municipal By-Laws 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-Laws on Municipal Land Use Planning, 2020.

7. **FORWARD PLANNING :**

The Overstrand Spatial Development Framework (SDF), 2020, earmarks the area where Erf 11136, the application area, is situated, for urban development purposes. The structures for which the Departure Application is required, form part of any typical residential component and the Overstrand Municipality's Zoning Scheme Regulations make provision for departure procedures to incorporate structures within the building line zones.

This planning application seeks to regulate building line encroachments. This aligns with the SDF's objective of ensuring that urban land use is utilized optimally while maintaining the residential character.

7.1 **BUILDING LINE DEPARTURES :**

- The relaxation of the western lateral building line from 2,0m to 1,249m to accommodate the existing first-floor undercover cantilever balcony
- The relaxation of the northern street building line from 4,0m to 1.920m to accommodate the recently constructed free-standing braai
- The balcony has been in existence since 2005 and has no negative impact on adjoining properties in terms of view lines, privacy or the use and enjoyment of the land
- The free-standing braai (although recently constructed), is the replacement of an existing braai recently demolished

The braai does not affect the view lines, privacy or the use and enjoyment of any adjoining properties and has no negative impact on the streetscape or neighbourhood as a whole

7.2 **DETERMINATION OF AN ADMINISTRATIVE PENALTY :**

- Section 90 of the Overstrand Municipal Land Use Planning By-Law, makes allowance for an administrative penalty to be levied on minor contraventions
- When determining the applicable administrative penalty and considering that no Municipal services nor any of the adjoining owners have been affected negatively and given the background for the contraventions as detailed in the planning application, both of which were not willfully undertaken, the penalty should be proportionally calculated

7.3 **RECOMMENDATION**

We trust that when the planning application is reviewed that all the information provided, will be considered.

The planning application on Erf 11136 for which approval is requested, includes :

- The first-floor balcony and free-standing braai are aligned with the Overstrand Spatial Development Framework (2020), the Overstrand Growth Management Strategy (2010) and Planning Principles of Spluma (2013). The application reflecting the mentioned structures, aligns with the development of the surrounding properties in the neighbourhood and “Old Hermanus” as a whole.
- As mentioned throughout this document, the first-floor balcony and free-standing braai have very little to zero impact on any of the surrounding properties.
- The property values of surrounding erven, will not be affected.
- There is no addition impact on the Municipal services.
- There is no Heritage implication.

Based on the factors and motivational reasons as mentioned, the proposed building line departures are considered to be reasonable and it is recommended that the application be considered positively.

ANNEXURE K

NOTES:
REVISION B
Braai Addition and garden wall alterations

AREA CALCULATION STRUCTURES WITHIN BUILDING LINE ZONE	
Portion (A) Undercover First Floor Balcony	-2.113
Portion (B) Freestanding Braai	-1.640

AREA CALCULATIONS:	
Ground Floor area -	
Garage area -	25.718m²
Habitable Area -	137.458m²
New Braai attached to house -	1.178m²
Sub total -	164.354m²
First Floor Area	
Habitable First Floor Under Patio -	41.533m²
New Covered Patio -	16.313m²
Sub-total -	74.159m²
Total area:	238.513m²
ERF -	547m²
Coverage -	33.03%



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DRAWN BY: Keagan Forster

CHECKED BY: Brandon Scorgie ST 1939

PROJECT DESCRIPTION: Proposed additions and alterations

PAGE CONTENT: Ground storey / Site plan
Roof Plan

CLIENT: Judene Botha Familietrust

ADDRESS: 181 10th street

ERF: 11136

DRAWING No.: Project Number; A101; B

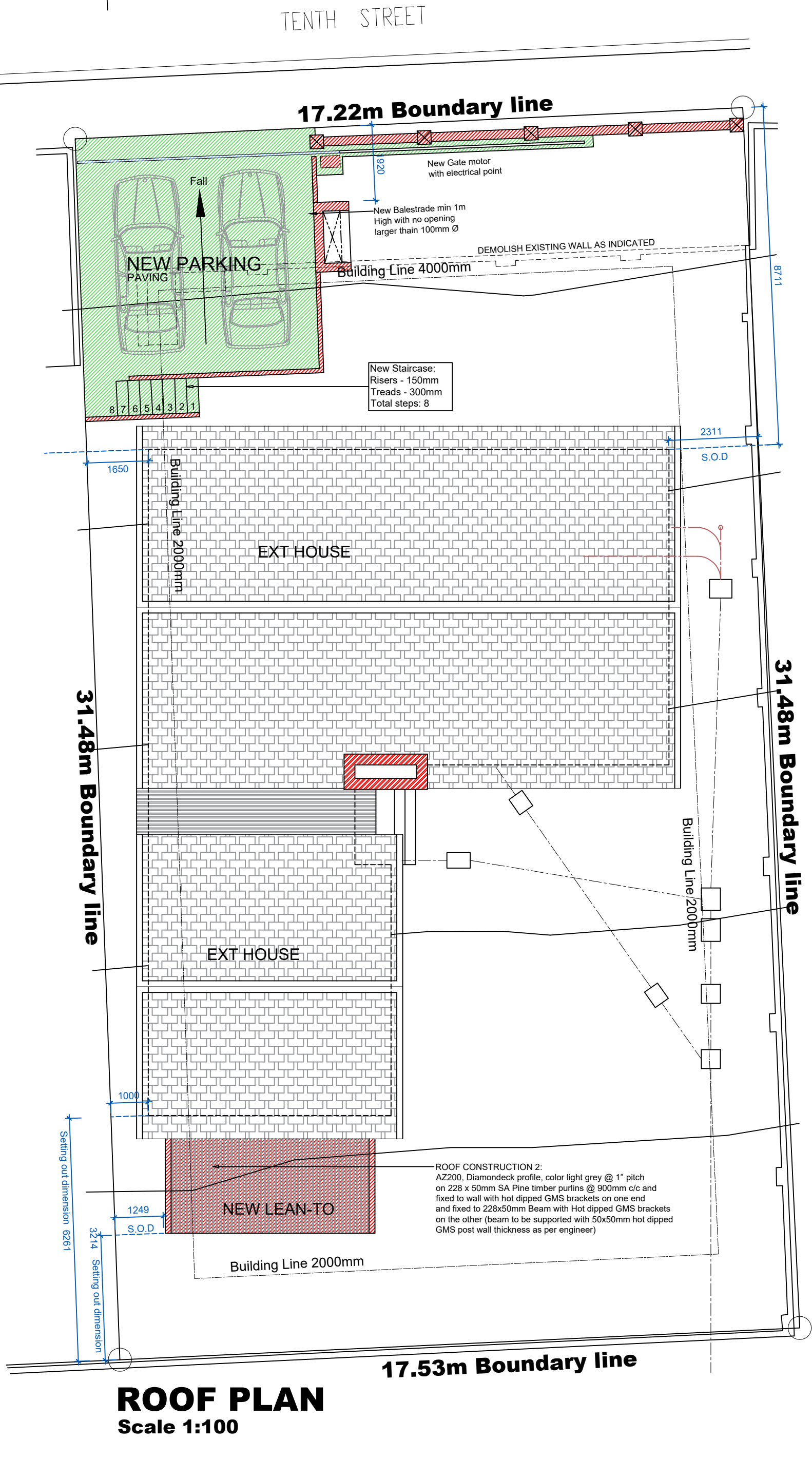
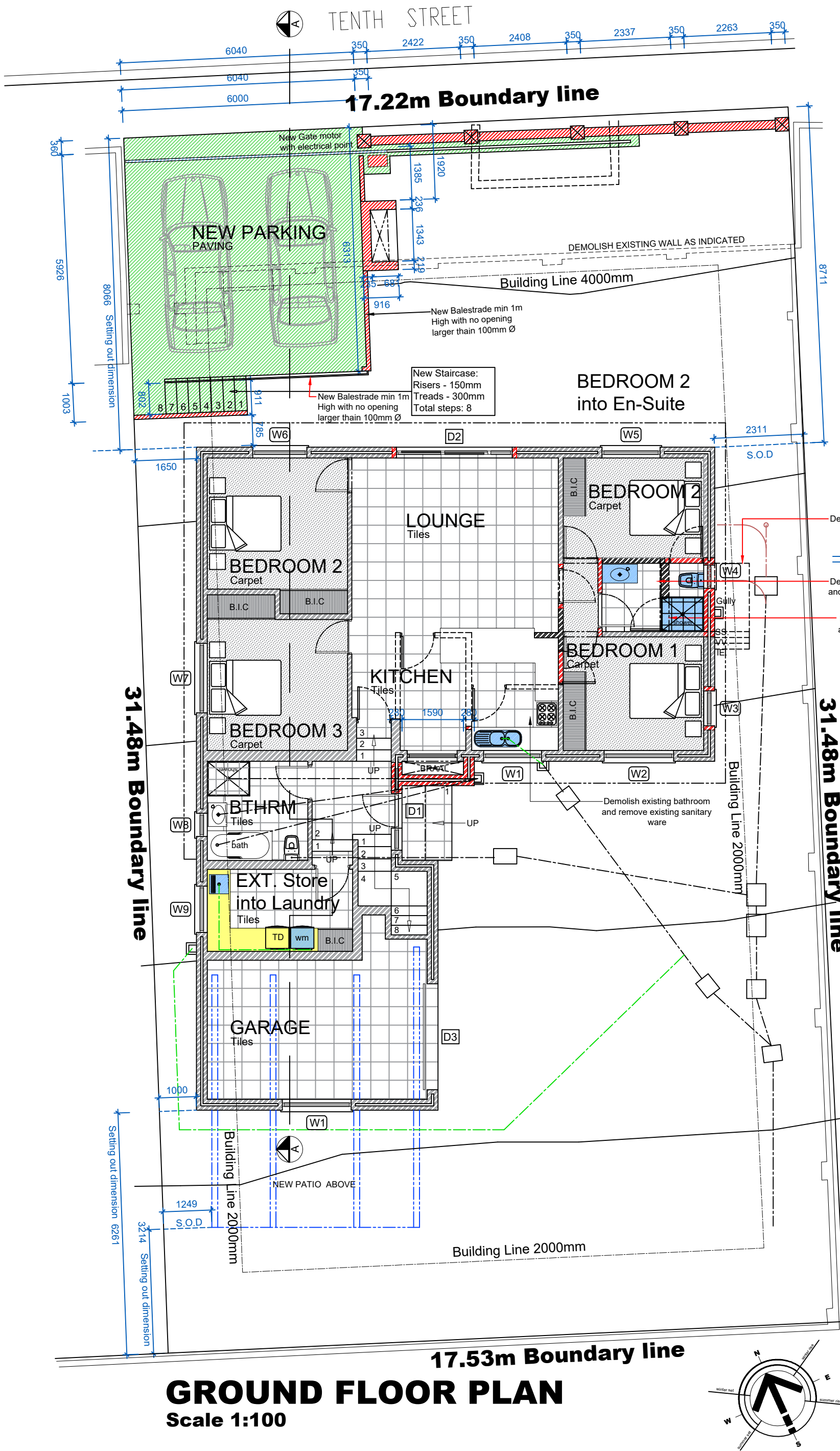
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14 / Nov / 2025

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J1366... - 01 / 06

REV
B



ANNEXURE K

NOTES:
REVISION B
Braai Addition and garden wall alterations

AREA CALCULATION STRUCTURES WITHIN BUILDING LINE ZONE

Portion (A) Undercover First Floor Balcony	-2.113
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DRAWN BY: Keagan Forster

CHECKED BY: **Brandon Scorgie ST 1939**

PROJECT DESCRIPTION:	Proposed additions and alterations
----------------------	------------------------------------

PAGE CONTENT:

Elevations and sections

CLIENT	Judene Botha Familietrust
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ADDRESS:	181 10th street
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ERF:	11136
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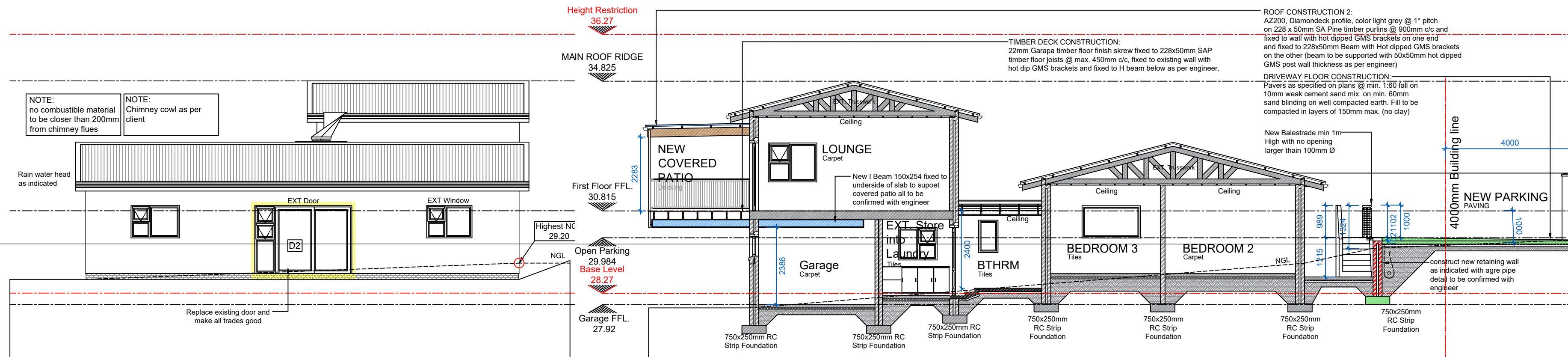
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DATE
14 / Nov / 2025

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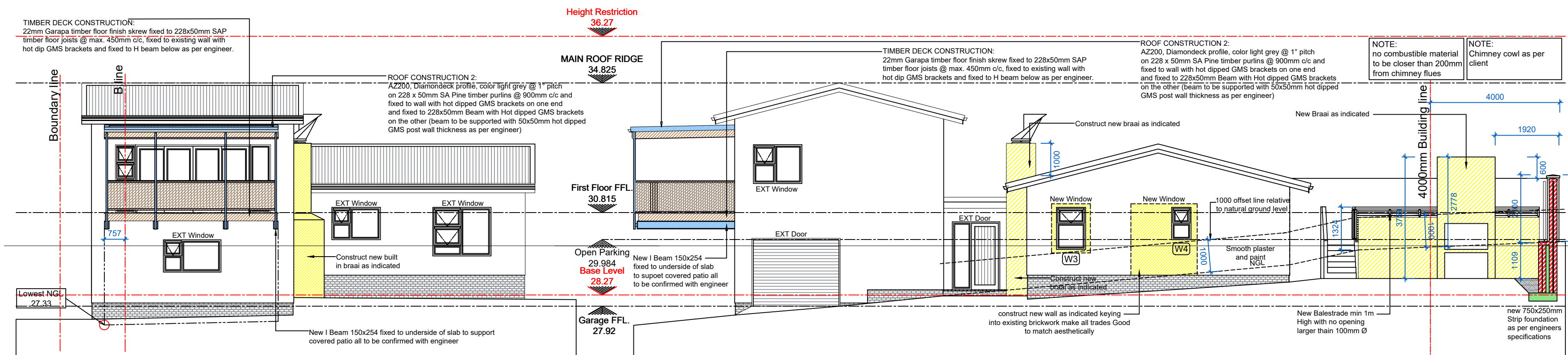
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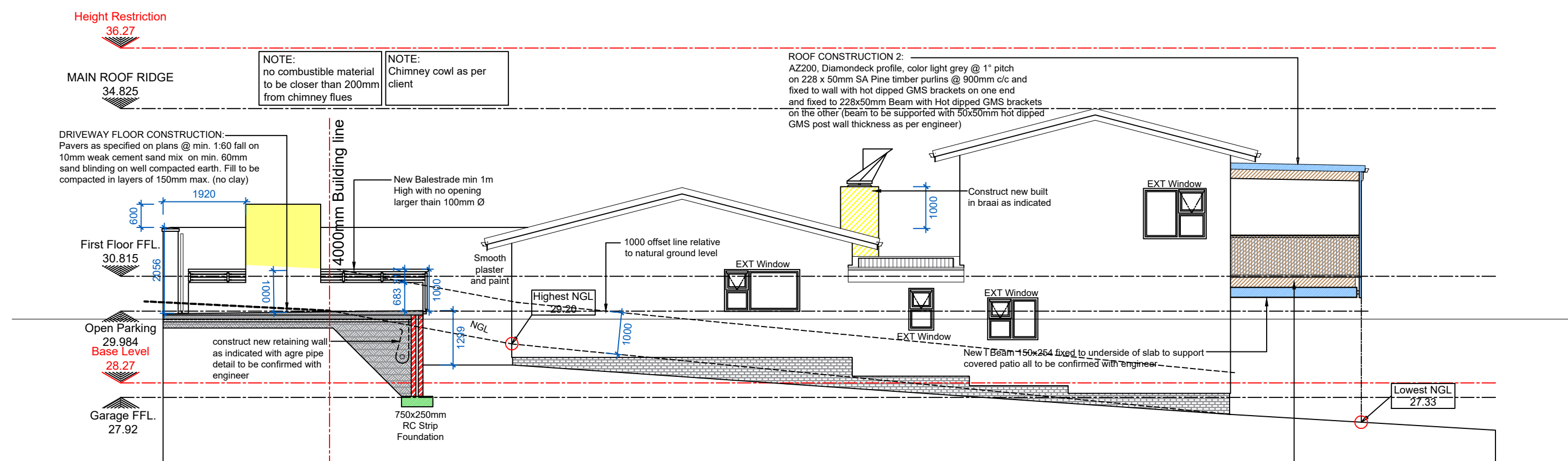
NORTH ELEVATION

Scale 1:100



SOUTH ELEVATION

Scale 1:100



WEST ELEVATION

Scale 1:100

TIMBER DECK CONSTRUCTION: _____
22mm Garapa timber floor finish screw fixed to 228x50mm SAP
timber floor joists @ max. 450mm c/c, fixed to existing wall with
hot dip GMS brackets and fixed to H beam below as per engineer

- NOTES -

GENERAL:

Foundation of any boundary wall not to project beyond boundary line.
FFL of house to be min. 300mm above NGL.
All work to comply to SANS 10400 and National Building Regulations.
All work to be in accordance to Local Authorities regulations and by-laws.
Figured dimensions to be taken in preference to scaled dimensions.
All levels and dimensions to be checked on site before building work commences.
Contractor shall be deemed to have acquainted themselves with site conditions and make allowances in their tenders for all site development work.

LEVELS AND DIMENSIONS:

The building to be laid out and erected in the position and to the levels as indicated on the site layout plan.
General: All top soil must be removed from the area to be built upon, including roads and paving areas.
Excavate where necessary to reduce levels as shown on drawings.
Excavated material can be used for filling if suitable and can also be used for other site works.
All grading and leveling of ground will be done by qualified civil contractor.
Minor filling to be done by Contractor.
Where large tree stumps and stones are to be removed in the area, the hole must be filled with suitable material and well compacted in layers of max. 150mm before being built upon.

FOUNDATIONS:

Foundation mass concrete in-situ 1:4:5 nominal mix having a compressive strength of 15MPa at 28 days or 20MPa if there is any steel reinforcing.
Refer to sections for foundation size.
Min. requirements, load bearing walls min 600 x 250mm and non-load bearing wall min. 450 x 200mm.
Foundation walls higher than 1m to be 340mm thick as per engineer.
Foundation walls higher than 1.5m to be in accordance with engineers specification.

FLOOR CONSTRUCTION:

GROUND STOREY FLOOR SLAB:
Floor finish as specified on plans on min. 30mm cement screed on 100mm RC slab on 250 micron SABS approved DPM on 60mm sandblinding on well compacted fill.
Fill to be compacted in layers of 150mm max. (no clay)

TIMBER DECK CONSTRUCTION:
22mm Garapa timber floor finish skrew fixed to 152x50mm SAP timber floor joists @ max. 450mm c/c, fixed to existing wall with hot dip GMS brackets and fixed to 228x50mm SAP timber beam, beam to be hot dip GMS bracket fixed to existing masonry columns.

WALL CONSTRUCTION:

EXTERNAL - 280mm cavity wall construction - Smooth Plaster & Paint colour as per client.
INTERNAL - 110mm walls plastered and painted - colour as per client.
Cavities in foundation walls to be filled with concrete.
Weepholes left on outside skin of cavity tray at 900mm C/C at floor level and above lintels.
Wall ties built in every third brick course at 2.5m² wall face area.
375micron DPC (brickgrip) stepped down into cavity tray at floor level.
Load bearing walls exceeding 5500mm in clear span length with no adjoining/abutting walls to have lateral support by means of a concrete stiffener as per engineer or buttress wall.

WINDOWS, DOORS AND OPENINGS

Windows to exceed 0.2 or 10% of room floor area with 5% minimum to be open able as per SANS 10400 part O.
Glazing to comply with SANS 10400 Part N and SABS 0137 and 1263 as relevant.
Glazing to windows exceeding 1 square metre or lower than 500mm from floor level to be 6mm laminated safety glazing.
All sections of SANS 10400 Part-T and W3 to be complied with.
Doors & windows built into walls securely, plumb and correctly to manufacturers instructions.
375 micron 300mm wide DPC to be built in around all door and window openings.
375micron DPC (brickgrip) stepped down into cavity tray above pre-cast concrete lintels.
Pre-cast concrete lintels above all door and window openings exceeding 3m in width to engineers specifications with 4 courses of brickforce above lintels.
Lintels to have end bearing of min. 230mm on each side.

ROOF CONSTRUCTION:

ROOF CONSTRUCTION 2:
AZ200, Diamonddeck profile, color light grey @ 1° pitch on 228 x 50mm SA Pine timber purlins @ 900mm c/c and fixed to wall with hot dipped GMS brackets on one end and fixed to 228x50mm Beam with Hot dipped GMS brackets on the other (beam to be supported with 50x50mm hot dipped GMS post wall thickness as per engineer)

CEILING:

6.4mm Rhinoboard flush screw fixed @ 150mm c/c to at 38x38mm SAP timber brandering at 400mm C/C max. Joints covered with fabatape, skimmed level and smooth, all as per manufacturer by specialist.

FACIA'S:

Nutec Cement fascia boards, medium density (225 x 12mm) fixed to rafter ends. Fascia joiners to be used between fascia lengths and at corners.

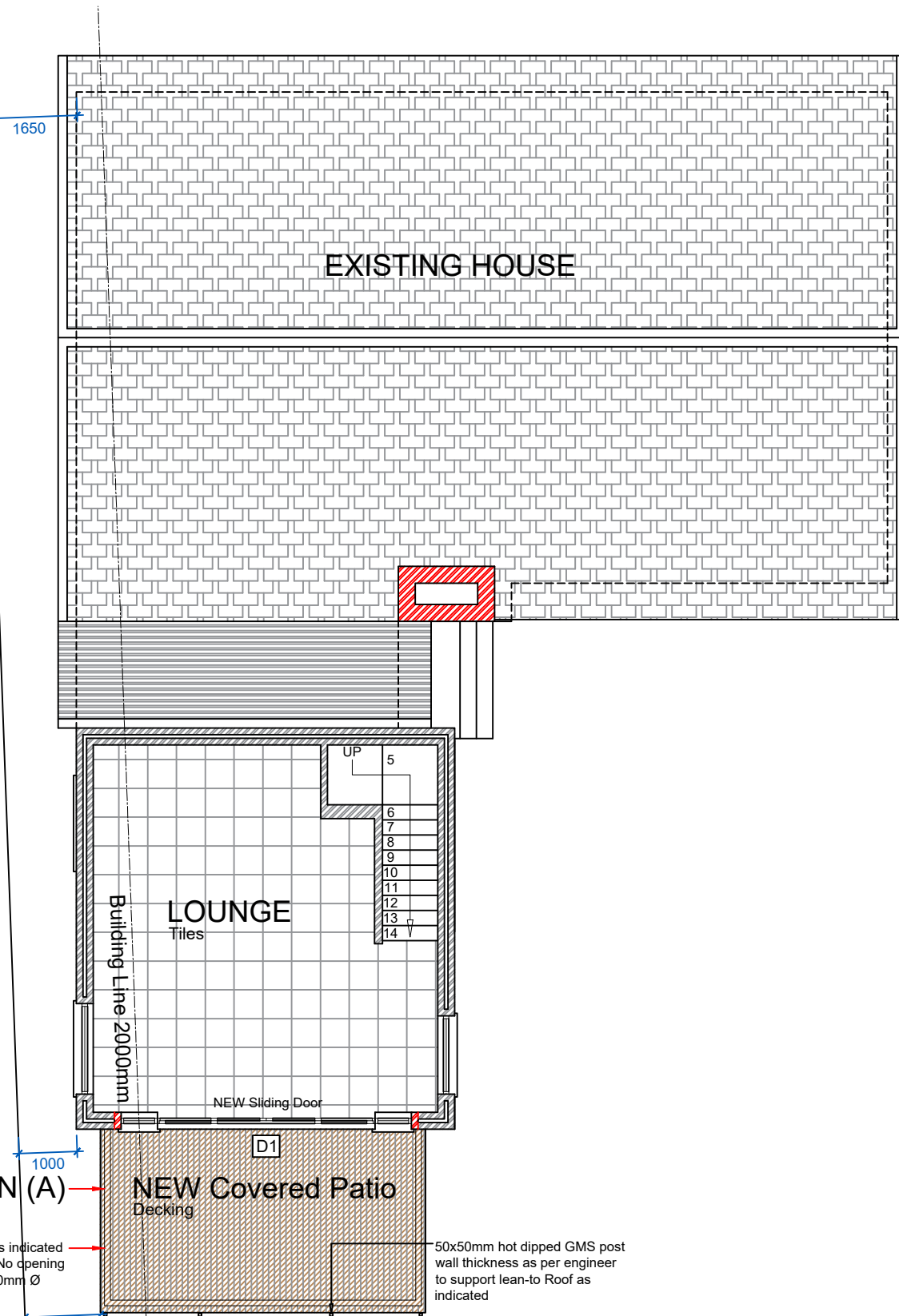
RAINWATER GOODS:

110 x 75mm Aluminium seamless gutters fixed to fascia at rafter ends. Rectangular profile aluminium downpipes fixed to walls as per manufacturer. Refer to plan for positions of downpipes.
Rainwater goods colour to match building colour unless specified otherwise.

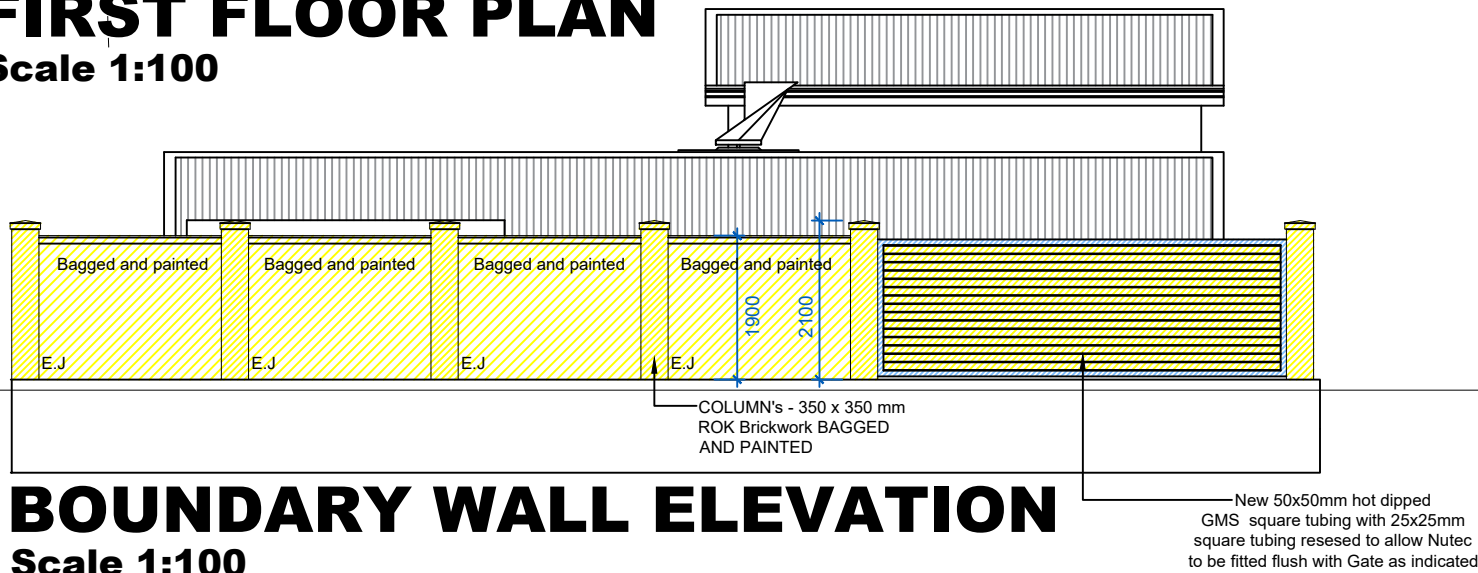
DRAINAGE:

Hot and cold water to be provided to all washing facilities.
All waste fittings to have 40mm dia. PVC waste pipes.
All waste fittings to have 75mm dia. re-seal traps.
Any foundation within 1250mm of drain line to be below such drain line.
All soil fittings to have 110mm dia. PVC soil pipes.
Gully rim to be 150mm above surrounding natural ground level.
Crown of lowest trap to be 150mm above gully rim.
First floor to be fitted with deep seal traps.
All drainage to be in accordance with municipal regulations.
Rodding eyes in drainage run to have min. invert level of 450mm.
Vent valve at highest point.
Overflow gully at lowest point.
All underground pipes to be 110mm diameter uPVC pipes.
Drainage Protection:
SANS 10400, Part P 4.22.5 (a or b)
precast or cast-in-situ concrete slabs placed over such drain, isolated from the crown of the pipe by a soil cushion not less than 100mm thick & such slabs shall be wide enough to prevent excessive superimposed loads being transferred directly to the pipes.

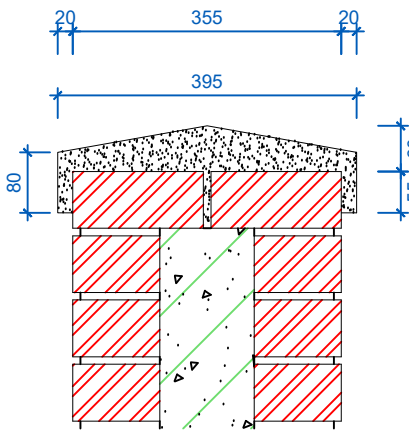
BOUNDARY WALL SECTION
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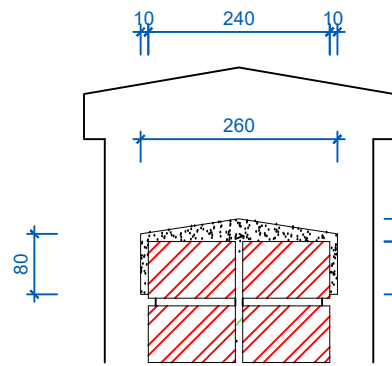
FIRST FLOOR PLAN
Scale 1:100



BOUNDARY WALL ELEVATION
Scale 1:100



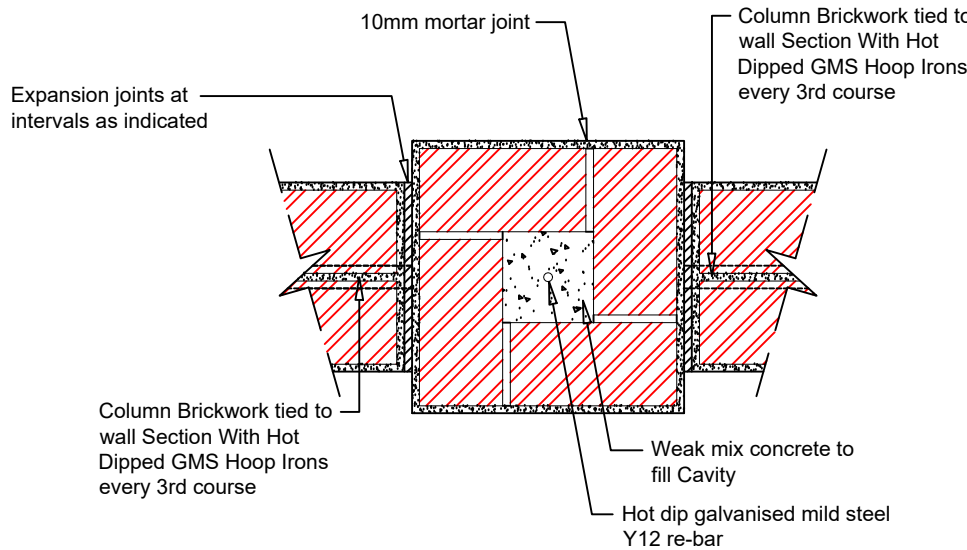
PLASTER CAPPING ON COLUMN
Scale 1:10



PLASTER BAND ON WALL
Scale 1:10

DOOR SCHEDULE

DOOR POSITION No.	D8	D8
QUANTITY	1	1
DESCRIPTION / CAT No.	3600x2100mm Aluminium sliding door with 600mm Sidelights	2400x2100mm Aluminium sliding door with 600mm Sidelights
FINISH	Powder coated - colour: white	Powder coated - colour: white
DESCRIPTION / CAT No.	as per manufacturer	as per manufacturer
FINISH	Powder coated - colour: white	Powder coated - colour: white
GLAZING	-	-
IRONMONGERY	To be specified by client	To be specified by client
AREA	N/A	N/A



BOUNDARY WALL STIFFENER DETAIL
Scale 1:10

WINDOW SCHEDULE

WINDOW POSITION No.	W3	W4
QUANTITY	1	1
DESCRIPTION / CAT No.	900 x 1300mm Aluminium frame window	600 x 900mm Aluminium frame window
GLAZING	Toughened safety - Compas Glass/ Envirotherm 1 single glazing	Toughened safety - Compas Glass/ Envirotherm 1 single glazing
WINDOW FINISH	Powder coated - colour: White	Powder coated - colour: White
IRONMONGERY	According to window manufactures specification	According to window manufactures specification
AREA	0.99m ²	0.99m ²

ANNEXURE K

NOTES:

AREA CALCULATION STRUCTURES WITHIN BUILDING LINE ZONE	
Portion (A) Undercover First Floor Balcony -2.113	
Portion (B) Freestanding Braai -1.640	

AREA CALCULATIONS:

Ground Floor area -	
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ERF -	547m ²
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DRAWN BY: Keagan Forster

CHECKED BY: **Brandon Scorgie ST 1939**

PROJECT DESCRIPTION: **proposed additions and alterations**

PAGE CONTENT: **details, boundaty wall elevation , Fenestration, General notes and**

CLIENT: **Judene Botha Familietrust**

ADDRESS: **181 10th street**

ERF: **11136**

DRAWING No.: **Project Number; A101; B**

DATE

14 / Nov / 2025

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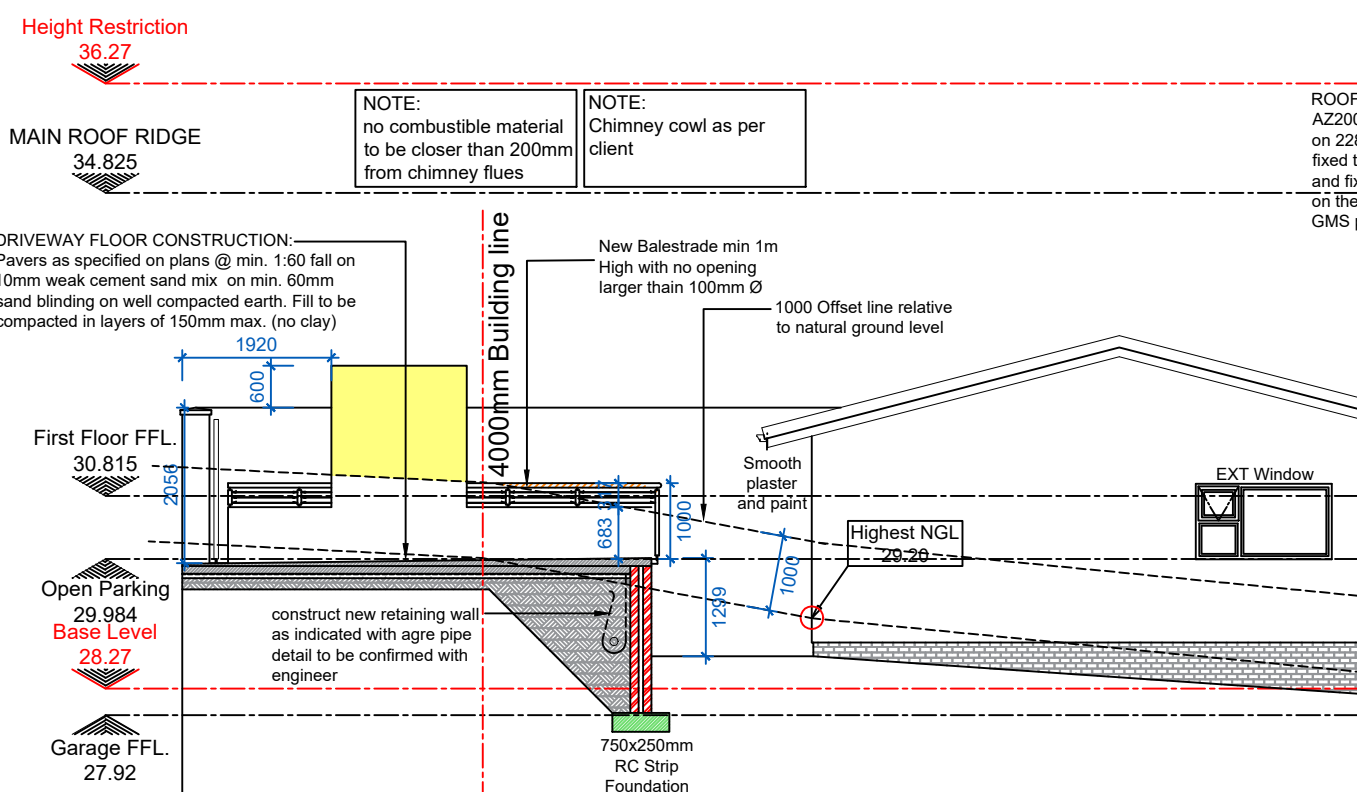
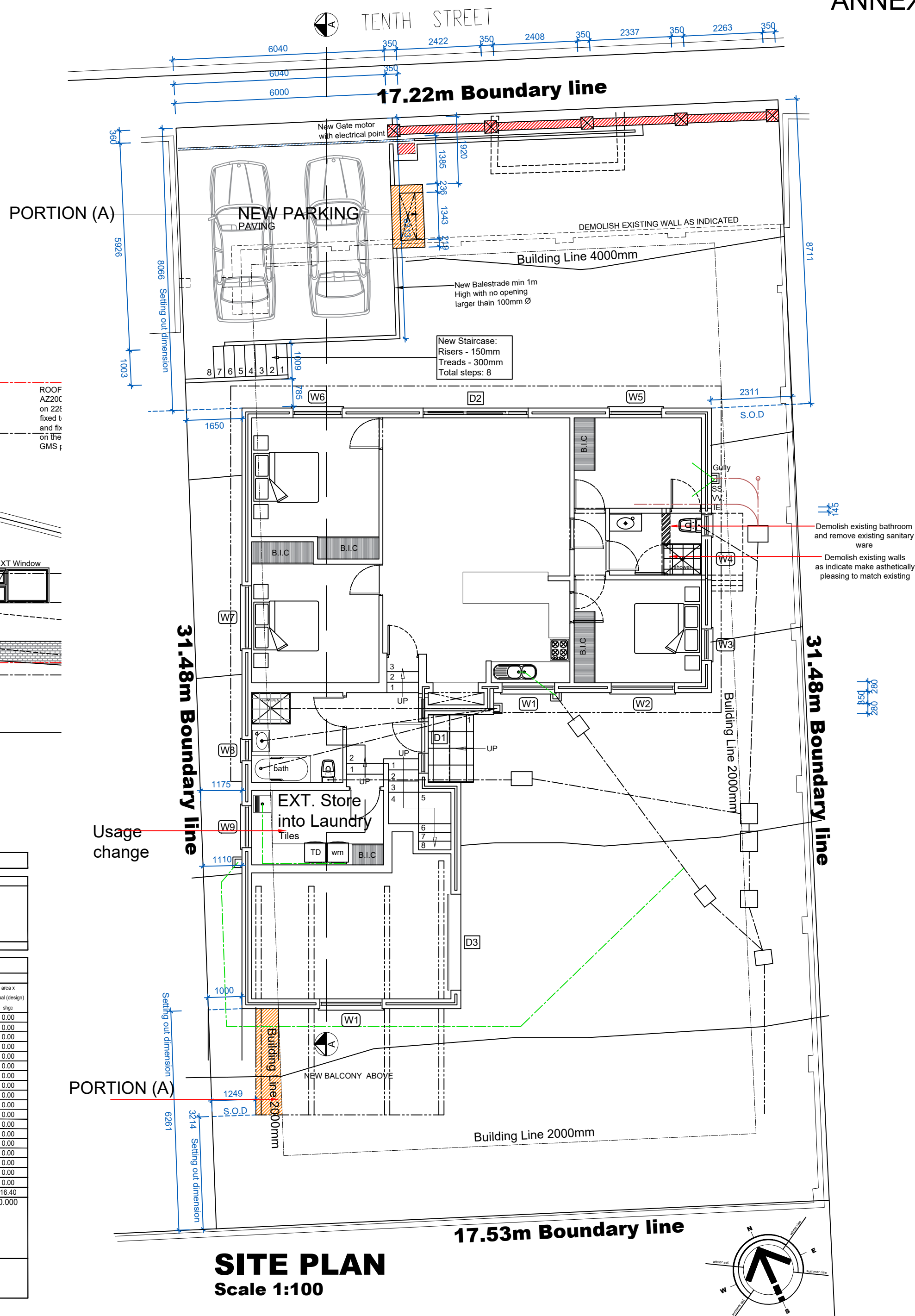
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J1366... - 03 / 05

REV

B

FENESTRATION COMPLIANCE:	
Conductance, Solar Heat Gain to comply with SANS 10400, part XA 2021 energy efficiency as shown on calculated fenestration tables.	
CONCRETE ROOF INSULATION:	
Internal Air Film	0.11
19mm crushed stone layer	0.03
25mm cement screed	0.09
Durbigum torch-on waterproofing	0.01
170mm Concrete slab	0.12
80mm Lambdaboard	3.33
External Air Film	0.03
Blanket laid to manufacturer's specifications and SANS 204:4.3.6.2	
Total R-value (of min. 3.7) =	3.72

[illegible]

NOTES:
REVISION B
Braai Addition and garden wall alterations

AREA CALCULATION STRUCTURES WITHIN BUILDING LINE ZONE	
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PROJECT DESCRIPTION:	Proposed additions and alterations
1. Add a new section to the end of the document titled "Future Research". 2. Revise the "Conclusion" section to include a summary of the findings and a statement on the limitations of the study. 3. Update the "References" section with the latest research in the field.	1. Add a new section to the end of the document titled "Future Research". 2. Revise the "Conclusion" section to include a summary of the findings and a statement on the limitations of the study. 3. Update the "References" section with the latest research in the field.

PAGE CONTENT:

Elevations and sections

CLIENT	Judene Botha Familietrust
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ADDRESS:	181 10th street
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ERF:	11136
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DRAWING No.:	Project Number; A101; B
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DATE
14 / Nov / 2025

SCALE
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PAGE SIZE
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J1366... - 04 / 05

REV
B