

**ERF 6199, 18 RESERVOIR STREET, VOËLKLIP. HERMANUS, OVERSTRAND MUNICIPAL AREA:  
APPLICATION FOR DEPARTURE: J ELLIS**

Notice is hereby given in terms of Section 48 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 (By-Law) that an application has been received for a departure in terms of Section 16(2)(b) of the By-Law, to relax the permissible height restriction of 8m with 0,25m, to accommodate a roof.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, 16 Paterson Street, Hermanus. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) on or before **Friday, 24 May 2024**, 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 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.

**ERF 6199, RESERVOIRSTRAAT 18, VOËLKIP, HERMANUS, OVERSTRAND MUNISIPALE AREA:  
AANSOEK OM AFWYKING: J ELLIS**

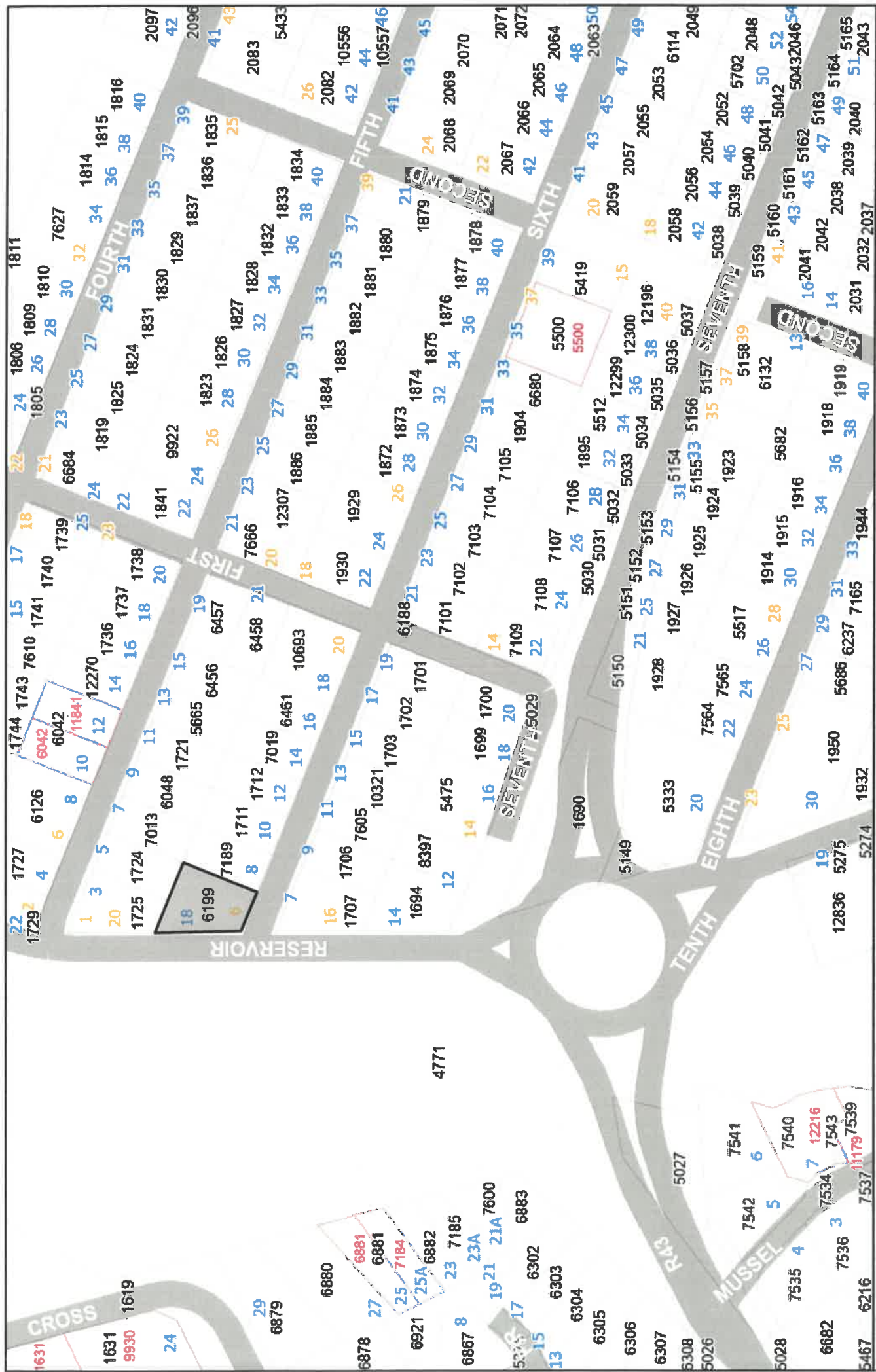
Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) dat 'n aansoek ontvang is om afwyking ingevolge artikel 16(2)(b) van die Verordening, om die toelaatbare hoogtebeperking van 8m met 0,25m te verslap, om 'n dak te akkommodeer.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) voor of op **Vrydag, 24 Mei 2024** met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan **Mnr P Roux** by 028-313 8900. Die Munisipaliteit mag weier om die kommentaar te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

**ISIZA 6199, 18 RESERVOIR STREET, VOËLKLIP. HERMANUS, UMMANDLA WOMASIPALA WASE-  
OVERSTRAND: ISICELO SOPHAMBUKO: J ELLIS**

Isaziso sinikwe ngokwemiqathango yeCandelo 48 loMthetho oYilwayo kaMasipala wase-Overstrand ongoCwangciso lokuSetyenziswa koMhlaba kaMasipala, 2020 (uMthetho kaMasipala) sokokuba isicelo sifunyenwe sokuphambuka ngokwemiqathango yeCandelo 16(2)(b) soMthetho kaMasipala ukulungiselela ukunyenysiswa kothintelo lomphakamo ovunyelweyo wesi-8m nge-0,25m, kulungiselelwa ulwakhiwo lophahla.

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ngeentsuku zomsebenzi phakathi kweyure yesi-08:00 neye-16:30 kwiSebe: loCwangciso lweDolophu, Paterson Street, Hermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zamaCandelo 51 nelama-52 zalo Mthetho kaMasipala mazithunyelwe kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) ngomhla okanye ngaphambi komhla **24 uMeyi 2024** unike igama lakho, idilesi neenkukacha zonxibelelwano nawe, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Xa ufuna ukubuza into malunga nesi saziso ungatsalela umxeba **uMunu P Roux** kule nombolo 028-313 8900. UMasipala angala ukuzamkela izimvo ezifike emva komhla wokuvalwa. Nabani na ongakwaziyo ukufunda okanye ukubhala makaye kwiSebe loYilo lweDolophu apho igosa likamasipala liya kumncedisa azibhale izimvo zakhe.



29 January 2024  
Senior Manager: Town and Spatial Planning  
16 Paterson Street  
7220

## **MOTIVATION FOR THE PROPOSED RELAXATION OF THE 8M HEIGHT RESTRICTION**

### **1. BACKGROUND**

After completion of the construction works of a new dwelling on Erf 6199 Hermanus, Geomatics Africa surveyors were tasked, as per municipal request to survey the completed new dwelling. The purpose of the survey was to obtain post works height certificate. It was subsequently found that the roof ridge height of the northern block of the dwelling exceeded the 8m height restriction by 0.25m.

The final report of the surveyor has necessitated the need to lodge a departure application for the relaxation of the 8m height restriction applicable to Erf 6199 Voelklip, Hermanus.

### **2. APPLICATION DETAILS**

The application is made in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's by-law on municipal land use planning ,2020, for the departure from the height restriction applicable to Erf 6199 Voelklip, Hermanus.

#### **Supporting Documents:**

- a. Appendix A – Overstrand Municipality approved plan No. 41682
- b. Appendix B – Geomatics Africa's height survey certificates
- c. Appendix C – QS report of works exceeding the 8m height restriction.

### **3. GENERAL APPLICATION INFORMATION**

#### **3.1. PROPERTY DESCRIPTION**

Erf 6199, 18 Reservoir Road is zoned as residential and is 737m<sup>2</sup> in extent. The title deed applicable to the erven is T1279/2022.

There is a one double story dwelling on the property. The dwelling is made up of two identically sized blocks, a north facing and a south facing block which are linked in the centre.



### 3.2. ZONING

The property is zoned a single residential and is utilised as such. The surrounding properties are also zoned as such.

### 3.3. LAND USE

The property is currently developed as indicated on the enclosed set of building plans as approved by the Overstrand Municipality.

## 4. PROPOSED DEVELOPMENT:

The following is proposed:

Chapter 4, Section 16(2)(b) of the Overstrand Municipality's by-law on municipal land use planning, 2020, for the departure from the 8m height restriction applicable to Erf 6199 Voelklip, Hermanus.

### 4.1. PROPOSED RELAXATION OF THE 8m HEIGHT RESTRICTION BY 0.25m:

Building plans were compiled by Alab Architects for the new dwelling that was constructed on Erf 6199 Voelklip, Hermanus. With reference to the plans drafted, the new dwelling was designed to comply with the land use restrictions in terms of the Overstrand Municipality Scheme Regulations. The building plans were submitted and approved by the Overstrand Municipality before construction work commenced. Please refer to the attached copy of the building plans for ease of reference as Appendix A.

The new dwelling was constructed as per the approved plans that were submitted. On completion of the construction works, as per municipal request, the dwelling was surveyed by Geomatics Africa surveyors for the purposes of issuing a height certificate. The initial post works survey calculation indicated that the roof pitch of the northern block of the dwelling was 0.25m above the height restriction of 8m applicable to the zoning scheme. A copy of the height certificate is included as Appendix B, page B-4.

The double story house was designed with a roof pitch of 35 degrees slope to optimise the roof angle for solar power generation via solar panels and to allow for an internal open truss and raked ceiling double volume design.

The open truss design was an integral part of the design philosophy for the dwelling to create a sense of open space and increased volume.

With reference to the architectural drawings the open truss design and roof pitch angles were all designed to fall within the prescribed 8m height restriction. After the surveyor issued the height certificate it was noted that the dwelling exceeded the height restriction by 0.25m. The encroachment of the height restriction was completely unintentional and only became known after the height survey was completed.



A follow up height survey was completed in January 2024 with the aim to identify where the possible construction errors were made.

The additional height certificate, Appendix B-5 shows the that the nominal base level as per approved plan was calculated at 24.37m.

The as built base level was erroneously set out at 24.58m. So there was an initial setting out error of 0.21m made from the very beginning of the project.

The contractor stated that he assumed that the base level of the remaining footings of the previous structure was at the correct level at 23.37m and set out the new foundations from the old base levels. He did not think to have these hieghts verified.

The TOC of the first floor level was planned to be at 27.35m where the as built measured TOC of the existing structure is at 27.65. At this point in the construction phase the existing height was 0,3m above the planned level.

These height errors were mostly carried over to the final height level which is now 0.25m over the 8.0m height restriction.

The above errors were clearly unintentional and purely human error based.

The dwelling is positioned parallel with the northern boundary line and is situated centrally with a bias to the southern portion of the erven. The primary views of the surrounding properties are towards the Voelklip mountains that is, in a North Easterly (NE) direction.

The portion of the dwelling that exceeds the 8m restriction, is the roof ridge of the northern block of the dwelling and is 12m long and only 0.25m higher than the 8m limitation. The affected area is annotated in within the red block in Appendix A, page A-3.

The impact to the views of the surrounding neighbours is not affected as their primary views are towards the north in the opposite direction of Erf 6199 dwelling's roof ridge. The neighbour on Erf 1725 does have an oblique view towards the ocean that's is in a south westerly (SW) direction but the situation of the respective dwellings on their erven ensures that the 0.25m departure has no bearing on the quality of this SW view.







Figure 1. View to the north from Erf 6199. Direct neighbours dwelling orientation and primary views are away from Erf 6199.



Figure 2. Wider angle view to the north from Erf 6199



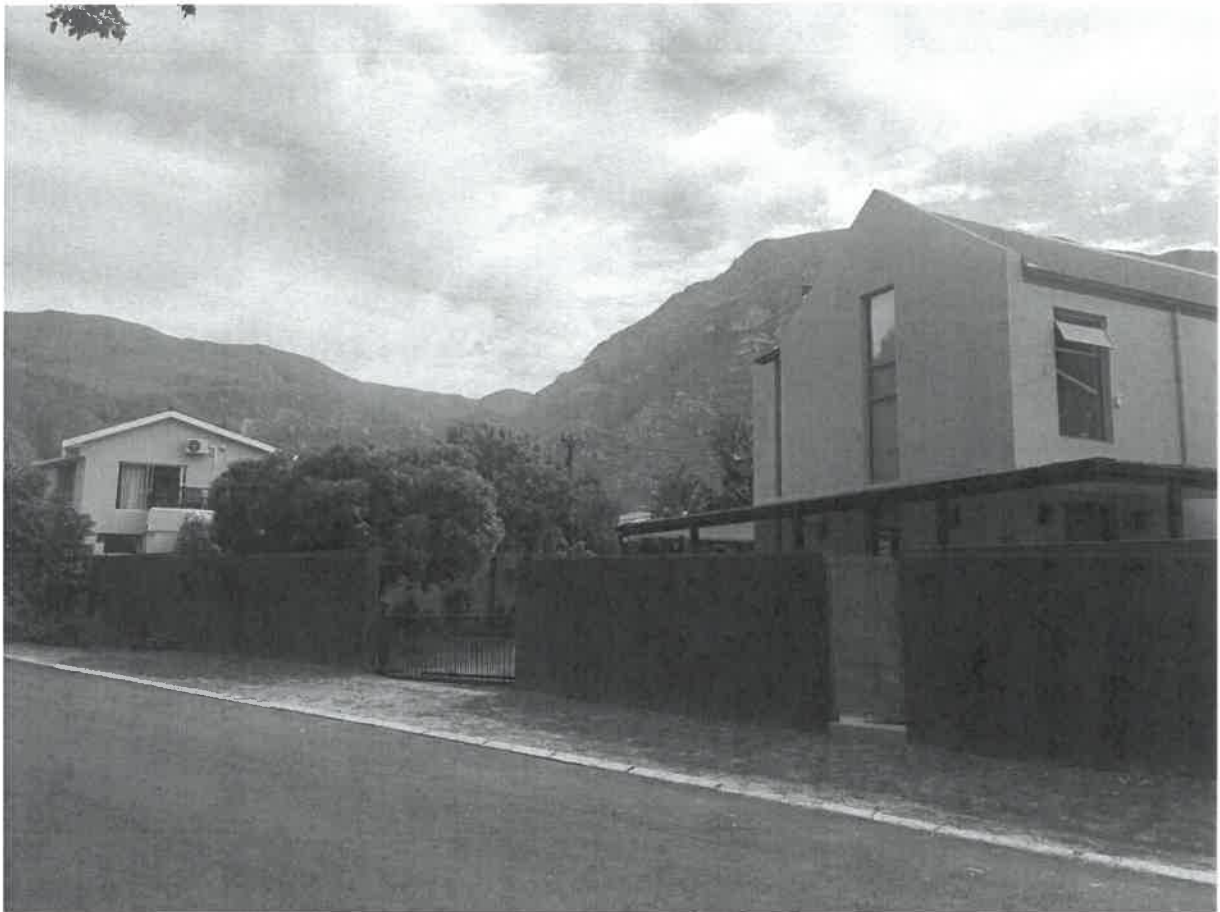


Figure 3. Image indicating unobstructed view of Erf 1725 south westerly view

#### 4.2. THE TITLE DEED:

The title deed of Erf 6199, T1279/2022 has no restrictive title deed conditions that need to be addressed. A bond is registered over the property.

#### 4.3. CHARACTER OF THE ENVIRONMENT

It is not proposed to change the primary land use of the subject property. The impact on the character of the area will remain unchanged. Furthermore the proposed encroachment of only 0,25m on the 8m height restriction of the northern block roof ridge will not have a negative impact on the build character, land values and the privacy of neighbours.

As stated earlier the impact the encroachment has on the views of the neighbours has no material value as the views are orientated in the opposite direction of the dwelling.



#### 4.4. DESIRABILITY OF THE PROPOSED UTILISATION

The subject property's zoning and land use will remain unchanged. The proposed departure from the prescribed height restriction will not affect any future developments on Erf 6199.

Since the primary land use and zoning remain unchanged the impact of the surrounding properties is negligible. Property values of the surrounding erven will not be negatively impacted by the proposed application.

#### 4.5. THE IMPACT OF THE PROPOSED LAND DEVELOPMENT ON MUNICIPAL ENGINEERING SERVICES

No additional municipal engineering services will be required or affected by the proposed relaxation of the height restriction

### **5. PLANNING PRINCIPLES**

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

Spatial Justice: Spatial justice does not apply to the application.

Spatial Sustainability: Spatial sustainability does not apply to the application.

Efficiency: The original approved design falls within the prevue of efficient use of land and space. The slope of the roof pitch and orientation is also within the optimal parameters for solar energy collection. The design also makes the dwelling to be very energy efficient.

The original design is complaint with the 8m height restriction but there was an unintentional departure from this restriction during the initial setting out phase of the base height of the construction project.

Spatial Resilience: Spatial resilience does not apply to the application.

Good Administration: Good administration is not infringed upon by this application.

### **6. DETERMINATION OF AN ADMINISTRATIVE PENALTY**

The determination of an administrative penalty in terms of Section 90(5) of the Overstrand Municipality Amendment By-law on Municipal Land Use planning 2020 is applicable.

The as built section of the roof encroaching on the 8m building height restriction was completed in November 2022. To ensure compliance with the Overstrand Municipality Amendment By-law on Municipal Land Use Planning 2020 it is of importance to include the determination of an administrative penalty application.





It is however requested that the administrative penalty be waived as this application serves as a means to rectify the unintentional contravention that occurred during setting out of the base levels and that the error was only known once the works were completed.

Nature, duration gravity and extent of the contravention:

The nature and gravity of the contravention is described in Section 4 of the document.

The extent of the triangular roof section of works encroaching over the 8m building height limit is calculated at 6.1m<sup>2</sup>.

The duration of the contravention is as from the date of the initial as build land surveyors certificate which was received on 21 February 2023. We then embarked on a process to understand where the errors occurred and there was a long period of discussions between the various parties involved to understand the impact of the height certificate.

The initial contact with the Overstrand Municipality was May 2023 to clarify the process to follow going forward and to understand the requirements of a departure application.

The conduct of the person (allegedly) involved in the contravention:

The latest land surveyor report produces evidence that the base levels used by the contractor were 0.21m above those in the approved plans. The contractor indicated to the owner he assumed these level were the same as the existing structures level and that he did not have the level height verified before continuing the works.

Neither the contractor nor the owner were aware of the error at this point in the construction phase.

Report by the quantity surveyor in the matter of the unauthorised construction:

The report by Panoptic Quantity Surveyors, the QS that was consulted from the start of the project, is attached as Appendix C.

The value of the works contravening the 8m height restriction is calculated at a total of R 14 516.20.

Whether the unlawful conduct was stopped:

The encroachment over the height restriction was not known until after the entire project was completed and surveyed as per the request of the municipal building inspector.

Whether the person allegedly involved in the contravention has previously contravened this by-law or a previous planning law:



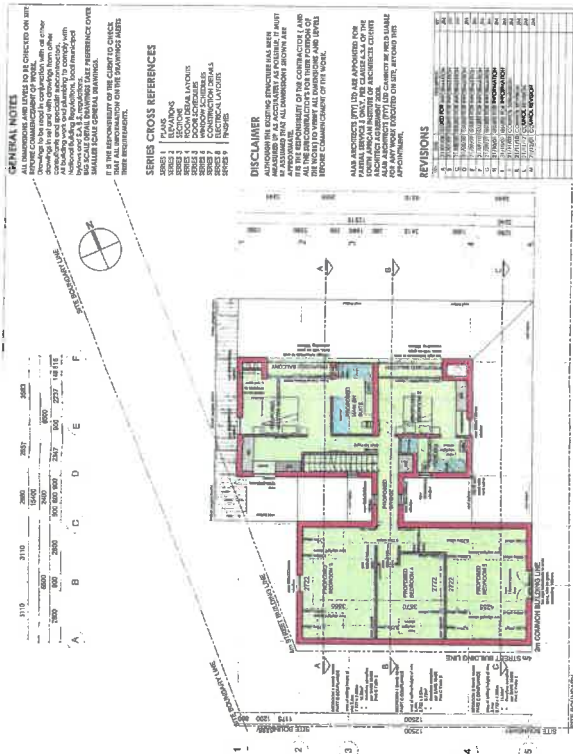
The owner of the Erf 6199 has never before contravened any By-law and to the knowledge of the owner the contractor involved has never been in contravention of an building by-law.

## 7. CONCLUSION

- 7.1. The height restriction encroachment was unintentional with the bulk of the error resulting from the error made in setting out the initial base height of the northern block.
- 7.2. The encroachment of the height restriction is negligible at only 0.25m above the 8.0m limit.
- 7.3. None of the neighbouring properties views or privacy are affected by the encroachment.
- 7.4. The proposal is within existing build character of the surrounding areas and complies with all other land use restrictions applicable.
- 7.5. The proposal will not have a negative effect on land values in the surrounding area.

Taking the above considerations in mind we request that the Overstrand Municipality grants the approval for the relaxation of the 8m height restriction by 0.25m.





THIS DRAWING IS TO BE USED FOR PROJECT STATUS PURPOSES ONLY



**DRAWING TITLE**  
PLANS

**PROJECT TITLE**  
3105, 11 RESERVE ROAD

**PROJECT ADDRESS**  
3105, 11 RESERVE ROAD

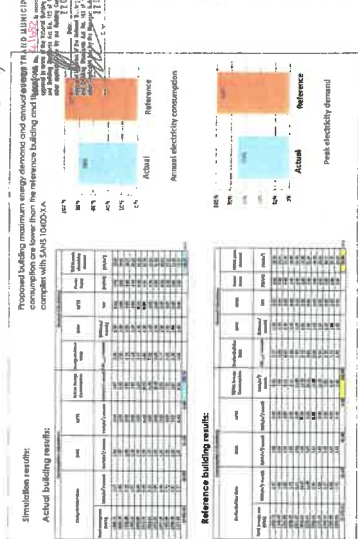
**CURRENT ISSUE DATE**  
2024/01/02

**SCALE**  
1:100 (N/A)

**DRAWING NO.**  
0001/1/02

**CURRENT REV.**  
M

FIRST FLOOR PLAN



**Reference building**

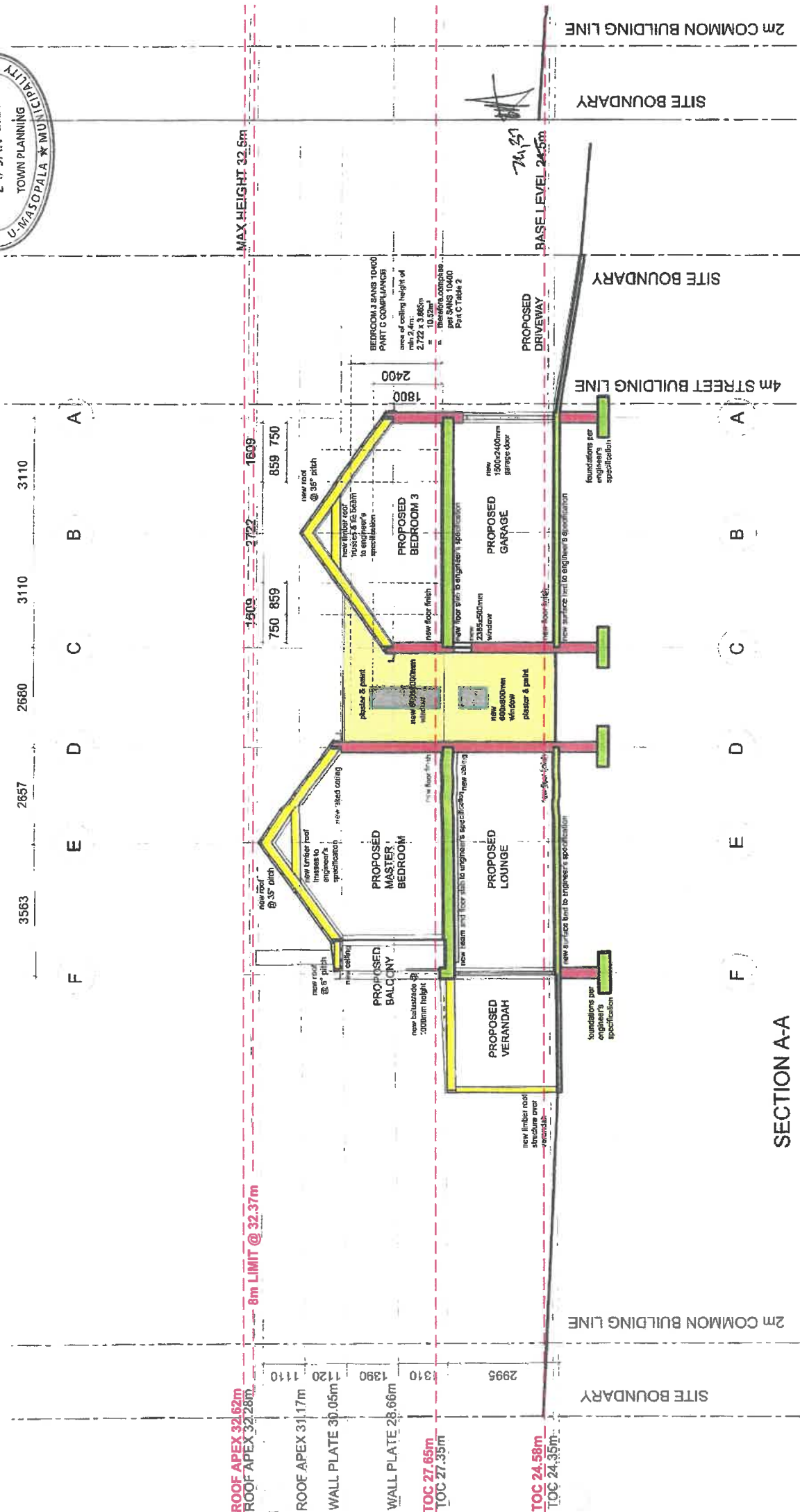
Shading: no shading

REFERENCE BUILDING	R Value
Ground slab	0.347
External walls	0.35
Roof assembly	3.7
Fenestration	U value=0.84 SHGC=0.81 NB: per LRA in the wood case glazing values for 6mm clear glass, allowing for aluminium frames
Floors	Floors: No under floor heating systems in the new ground slab.

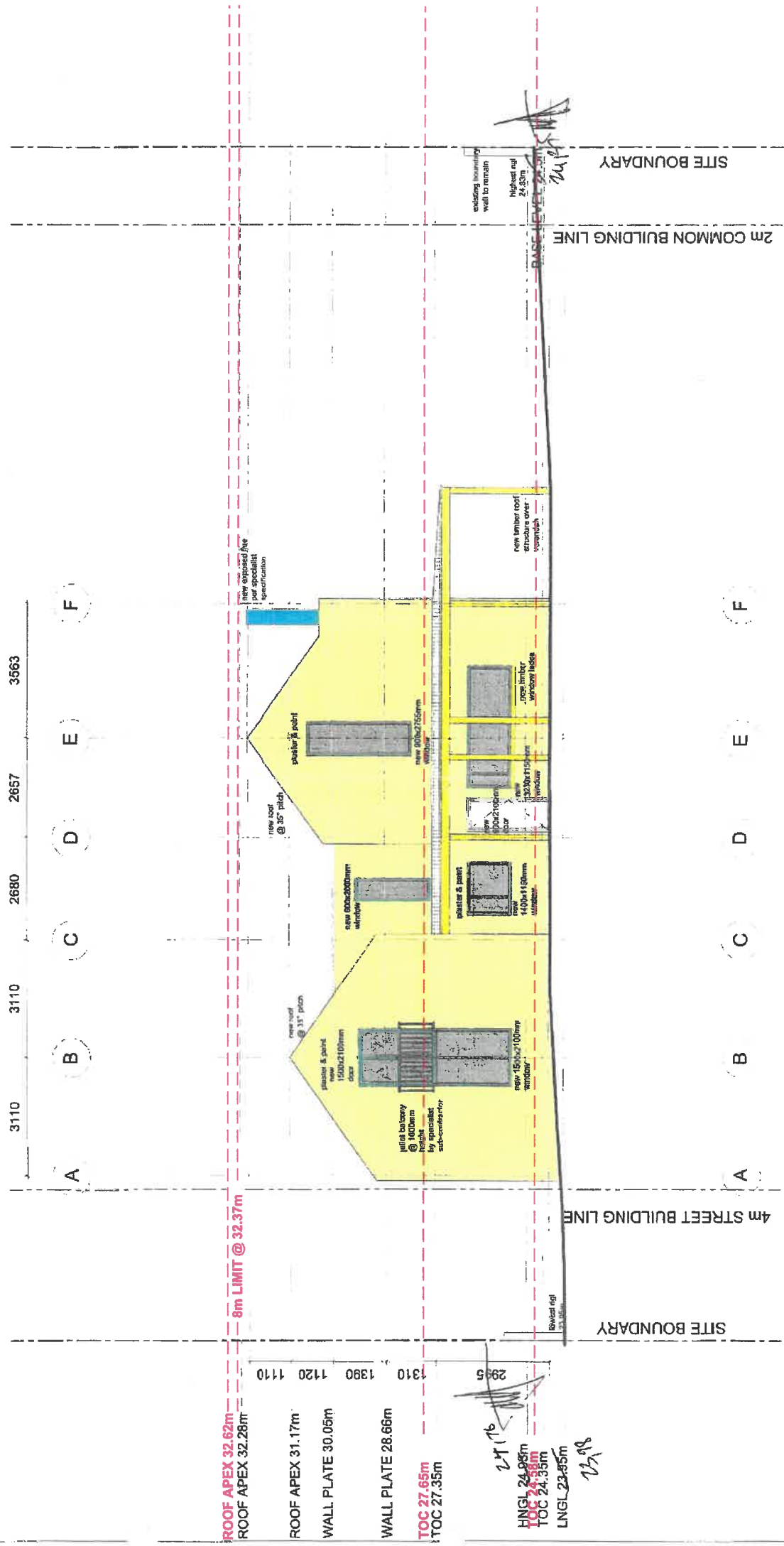
**SANS 10400-XA.4.4**

Building envelope construction

PROPOSED BUILDING	R Value
Ground floor	0.400
External wall	0.726
Roof Assembly 1	2.556
Roof Assembly 2	3.007
Fenestration	Set glazing U value=0.84 SHGC=0.81 NB: per LRA in the wood case glazing values for 6mm clear glass, allowing for aluminium frames







ROOF APEX 32.62m  
8m LIMIT @ 32.37m  
ROOF APEX 32.28m

ROOF APEX 31.17m  
WALL PLATE 30.05m  
WALL PLATE 28.66m

TOC 27.65m  
TOC 27.35m

24.16  
HGL 24.95m  
TOC 24.58m  
LNG 24.35m  
LNG 23.95m  
23.98

EAST ELEVATION