



## AMENDED NOTICE

### ERF 2384, 97 TENTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS WRAP PROJECT OFFICE ON BEHALF OF THE VOËLKLIP INVESTMENT TRUST

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

- ❖ **departure** in terms of Section 16(2)(b) of the By-Law, to:
  - relax the western lateral building line from 2m to 0.96m, to accommodate an existing addition of the dwelling;
  - relax the maximum height restriction from 8m to 8.27m, to accommodate the gable walls to be extended; and
  - relax the maximum height restriction from 8m to 9.1m, to accommodate a chimney.
- ❖ **determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law, for the determination of an administrative penalty.

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, 30 August 2024**, quoting your name, address and contact details, interest in the application and reasons for comment. Telephonic enquiries can be made to the **Town Planner, 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 2384, TIENDESTRAAT 97, VOËLKLIP, HERMANUS, OVERSTRAND MUNISIPALE AREA: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: MNRE WRAP PROJECT OFFICE NAMENS DIE VOËLKLIP INVESTMENT TRUST

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

- ❖ **afwyking** ingevolge Artikel 16(2)(b) van die Verordening, om:
  - die westelike lateraleboulyn vanaf 2m na 0.96m te verslap, om 'n bestaande toevoeging van die woning te akkommodeer;
  - die maksimum hoogtebeperking van 8m na 8.27m te verslap, om die gewelmure wat verleng moet word te akkommodeer; en
  - die maksimum hoogtebeperking van 8m na 9.1m te verslap, om 'n skoorsteen te akkommodeer.
- ❖ **bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) van die Verordening, vir die bepaling van 'n administratiewe boete.

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, 30 Augustus 2024**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan die **Stadsbeplanner, 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 2384, 97 TENTH STREET, VOËLKLIP, HERMANUS, KUMASIPALA WASE-OVERSTRAND: ISICELO SOKUNYENYISWA NOKUGQITYWA KWESOHLWAYO: WRAP PROJECT OFFICE EGAMENI THE VOËLKLIP INVESTMENT TRUST

Isaziso siyanikezelwa ngokweCandelo lama-48 loMthetho kaMasipala kaMasipala waseOverstrand kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, ka-2020 (uMthetho kaMasipala) sokuba isicelo sifunyenwe soku kulandelayo:

- ❖ **Ukutenxa ngokuhambelana** malunga Candelo 16(2)(b) malunga noku kulandelayo:
  - ukucuthwa komda wesakhiwo osecaleni osentshona ukusuka kwisi-2m ukuya ku-0.96m, ukulungiselela ukongezwa kwendawo yokuhlala;
  - ukuthomalalisa obona thintelo buphezulu bobude ukusuka kwi-8m ukuya kwi-8.27m, ukulungiselela iindonga zegayibhile eziza kwandiswa; kwaye
  - ukuthomalalisa obona thintelo buphezulu bobude ukusuka kwi-8m ukuya kwi-9.1m, ukulungiselela itshimini.
- ❖ **Ukumiselwa kwesohlwayo solawulo** ngokweCandelo le-16(2)(q) loMthetho kaMasipala.

Inkcukacha mayela nesindululo siyafumaneka ukuze sihlolwe phakathi evekini ngamaxesha omsebenzi ukusuka kwintsimbi ye08:00 ukuya kweye16:30 kwiSebe: Izicwangciso Zedolophu kwanombolo 16 Paterson Street, eHermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zamaCandelo 51 nelama-52 alo Mthetho uYilwayo yaye mazithunyelwe kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) ngomhla okanye ngaphambi wama- **uLwesihlanu 30 EyeThumpha, 2024** unike igama lakho, idilesi neenkukacha zonxibelelwano nawe, umdla wakho kwesi sicelo nezizathu zokunika izimvo.Xa ufuna ukubuza into malunga nesi saziso ungatsalela umnxeba Umcwangcisi **Wedolophu uMnu. 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 azibhalelizimvo zakhe.



# 1. Locality Plan Erf 2384 - Hermanus

Plan prepared by: Veronica Jansen

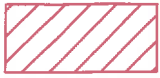
Tel: 028 313 1411

Email: admin@wrapgroup.co.za

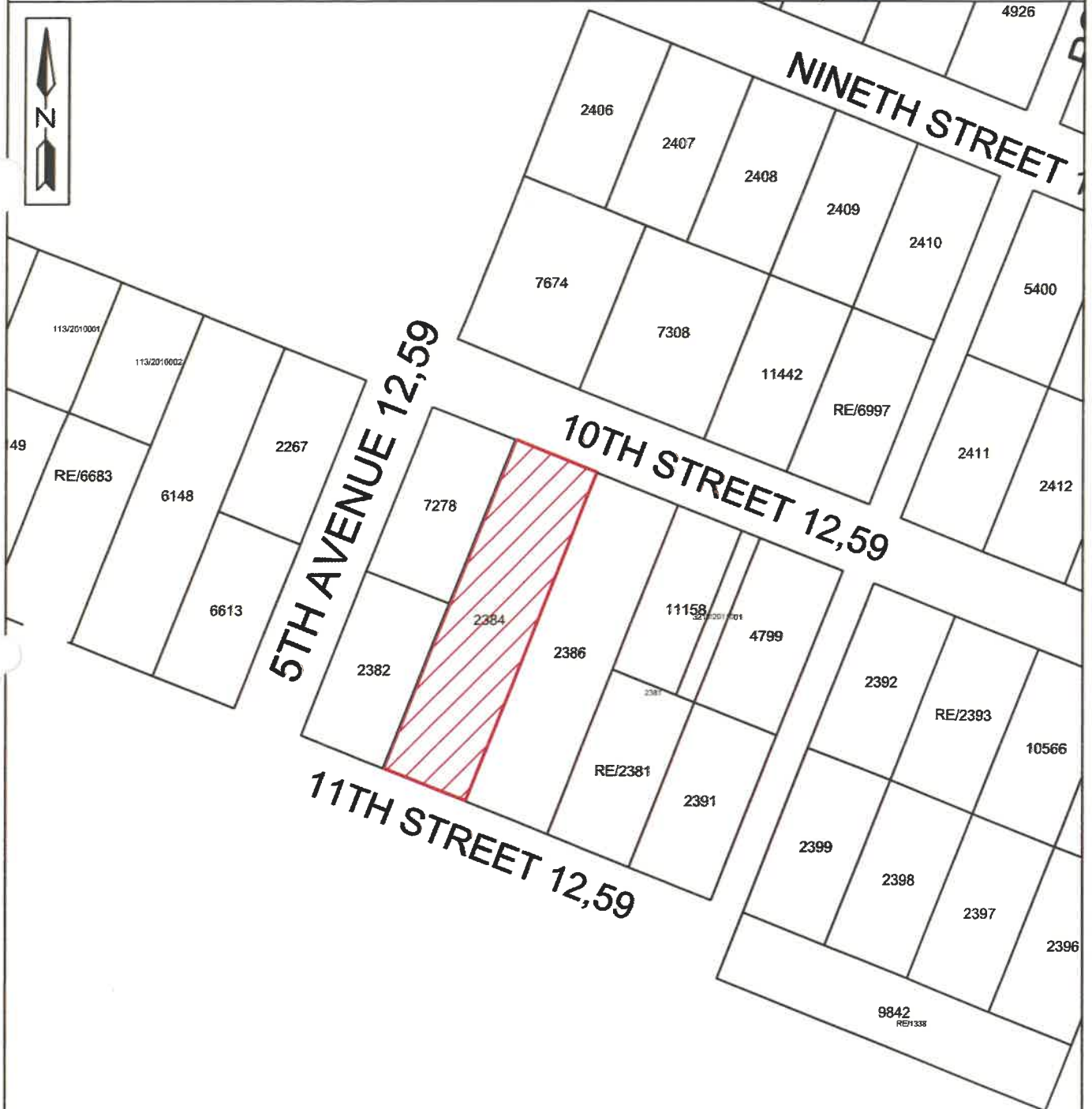
Unit B, Standard House,  
Corner of Royal and Dirkie Uys  
Street Hermanus, 7200



**Project Office**  
Town Planning & Project Management



Subject property



Scale 1 : 100



**1. ABBREVIATIONS**

<b>OM</b>	Overstrand Municipality
<b>OMLUS</b>	Overstrand Municipality Land Use Scheme, 2020
<b>BY-LAW</b>	Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020
<b>PSDF</b>	Western Cape Provincial Spatial Development Framework, 2014
<b>MSDF</b>	Overstrand Spatial Development Framework, 2020
<b>SR1</b>	Residential Zone 1: Single Residential

**2. PROPERTY DETAILS**

<b>Consultant</b>	WRAP Project Office
<b>Erf Number</b>	Erf 2384 Hermanus
<b>Extent</b>	991m <sup>2</sup>
<b>Zoning</b>	Residential Zone 1: Single Residential

**3. BACKGROUND AND INTENT**

The subject property, Erf 2384 Hermanus, is located at 97 Tenth Street, Voëlklip, refer to **Plan 1 - Locality Plan**. The owners appointed WRAP Project Office to submit a land use application on their behalf, refer to **Annexure A - Power of Attorney**.

The owners bought the property in 1995 and have been in process of renovating and improving the property to its full potential while also maintaining its original aesthetic appeal. The last approved building plans, attached as **Annexure C**, indicate the last renovations to the dwelling. Thereafter, a height certificate was required by building control, attached as **Annexure E**, which indicates that the gable walls were extended beyond the maximum allowable height of 8 meters. Due to the building regulations requiring both the gable walls as well as the chimney to be extended for fire safety purposes, this land use application is required.

To ensure compliance, the owners are required to obtain permanent departure approval for the improvements made, as well as the determination of an administrative penalty.

To ensure compliance with the OMLUS, approval of the following applications is required:

- Permanent departure from the side building line;
- Permanent departure from the maximum allowable height; and
- Determination of an administrative penalty.

**4. PROCEDURE TO ACHIEVE THE PROPERTY OWNER'S INTENT**

WRAP compiled this report to ensure the property owner's intent and visions to improve the property are met. The following is proposed:



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**4.1 Permanent Departure** from the 2m western side building line to 0,96m to allow the existing addition.

As mentioned in section 3 above, the property owners envisioned improving the existing property to its full potential while maintaining its original aesthetic appeal. The property owners are currently in the process of rectifying the contravention that was done prior to obtaining approval by submitting this application.

This departure is for aesthetic reasons only as illustrated in *Figure 1* and *Figure 2* below. It is important to note that the dwelling has been historically approved encroaching the building line and the proposed corner wall is a minor extension of the southern- and western wall to ensure both ends of the southern side of the building looks the same (symmetrical).

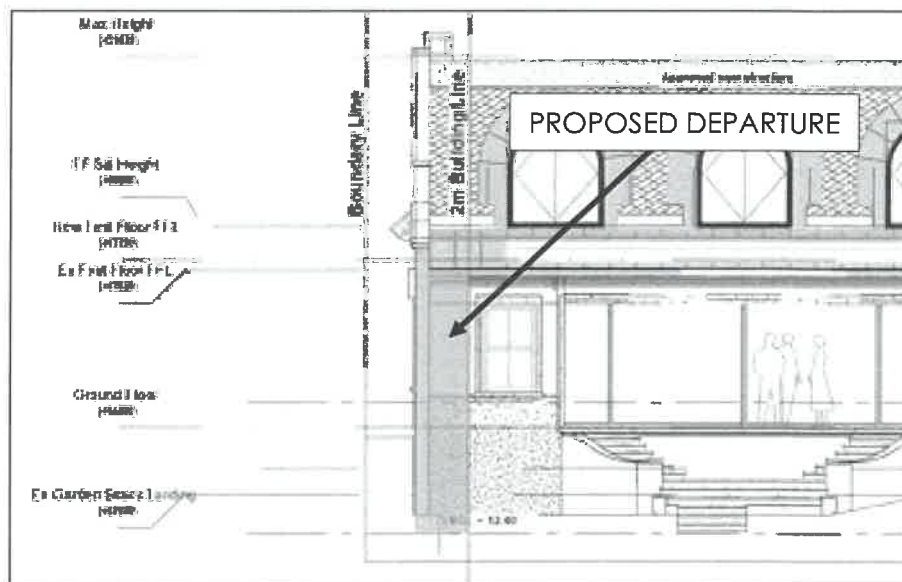


Figure 1: Building line departure for aesthetic appeal (southern side)



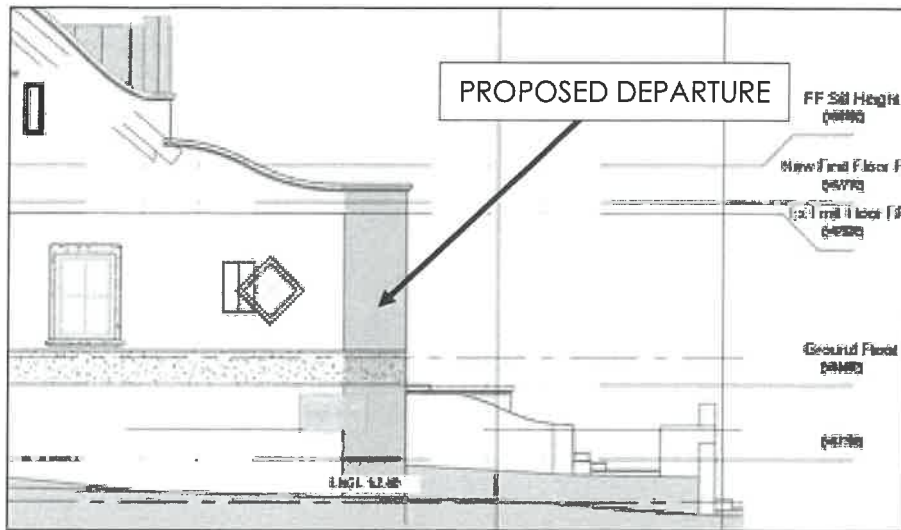


Figure 2: Building line departure for aesthetic appeal (western side)

In addition to the above, the surrounding properties have become accustomed to the position of the dwelling that was built in its current position. The extent of the corner wall is a minor extension which is not predicted to have a negative impact on the surrounding properties.

**4.2 Permanent departure** from the 8m maximum allowable height to 8,16m and 8,27m to allow the gable walls.

The departure from the maximum allowable height is necessitated by the need to comply with specific building regulations outlined in SANS10400 Part T Section 4.12.2b. This section stipulates that gable walls must extend 300mm above the thatch roof. Therefore, the owners have extended these gables as per their approved building plan attached as **Annexure D**. However, after obtaining a height certificate, it was discovered that the gable walls are exceeding the maximum allowable height of 8 meters.

Thatched roofs and gable walls are often integral components of traditional or heritage architecture, contributing to the aesthetic appeal and cultural significance of a property. Allowing the gable walls to extend slightly above the roofline preserves the authenticity and architectural integrity of the building, enhancing its visual appeal and historical value.

By permitting the gable walls to extend above the thatch roof within the specified limits, the risk of potential hazards such as water ingress, structural instability, or fire hazards is effectively mitigated. This departure ensures proper weatherproofing, prevents water accumulation, and maintains adequate ventilation, thereby safeguarding the occupants and the property against potential risks.

Lastly, the proposed departure from the maximum allowable height is minimal, with the extension limited to 0,16 (16cm) and 0,27m (27cm) above the prescribed limit. This minor deviation has negligible visual impact on the surrounding environment and neighbouring





properties, making it a reasonable departure to ensure compliance with regulatory requirements and architectural standards. Therefore, approving the departure is essential to ensure compliance with these regulations and to maintain the structural integrity and safety of the building.

**4.3 Permanent departure** from the 8m maximum height to 9,1m to allow the chimney in accordance with building regulations

Section 16.1.1(b)(i) of the OMLUS allows a chimney to exceed the height restriction by up to 1 meter, provided it is essential for the proper functioning and safety of the building. Section 16.1.1(b)(ii) of the OMLUS, however states that a chimney which encroaches upon the height restriction may not be more than 1,0m in width. The width of the chimney is 1,5m and the height is 1,1m above the 8m maximum allowable height and therefore the chimney requires the approval of a permanent departure from the maximum height.

In this case, additional height ensures that the chimney performs its vital role in safely expelling smoke and gases away from the thatch roof, reducing the risk of fire and ensuring the health and safety of the building occupants. The existing chimney would be allowed up to 9 meters, however, due to the width of the chimney, the entire chimney requires the approval of a permanent departure from the maximum height.

The proper height of a chimney is critical for ensuring efficient ventilation and effective dispersion of smoke and other combustion by-products. A chimney that is too short may lead to downdrafts and insufficient draft, causing smoke to re-enter the dwelling and posing significant health risks to the occupants. By extending the chimney height to 9.1 meters, the risk of these issues is minimized, ensuring a safe and comfortable living environment.

The extended height of the chimney is also aligned with the increased height of the gable walls, as discussed in Section 4.2 of this report. The gable walls were extended to comply with SANS10400 Part T Section 4.12.2(b), which requires gable walls to be 300mm above the thatch roof. As the gable walls are higher, the chimney must also be proportionally taller to maintain its functional integrity and ensure it operates effectively. This coordinated height adjustment between the gable walls and the chimney maintains the structural and functional harmony of the building.

The encroachment of the chimney above the maximum allowed height of 8 meters is a minimal deviation that is unlikely to have a significant visual impact on the surrounding environment and neighbouring properties. The chimney's height is consistent with the overall design and aesthetics of the building, particularly given the traditional or heritage architectural style that often features prominent chimneys. This minor extension will not detract from the visual harmony of the area and will blend seamlessly with the existing architectural landscape.

The proposed departure to increase the chimney height to 9.1 meters is a necessary and reasonable adjustment to comply with safety regulations, ensure the functional integrity of the building, and maintain the aesthetic and architectural standards of the building. The extension is minimal and has negligible visual impact, making it a prudent and justified measure. This departure is essential for maintaining the safety, structural integrity,

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and value of the building while ensuring compliance with the relevant building regulations.

**4.4 Determination of an administrative penalty**

The owners of the property mistakenly proceeded with construction based solely on obtaining building plan approval, assuming it was sufficient for compliance with all relevant regulations. However, they overlooked the requirement for a height certificate, which would have indicated whether the gable walls and chimney exceeded the maximum allowable height. Additionally, the owners proceeded with constructing the addition without obtaining the necessary land use approval, resulting in encroachment beyond the building line.

The owners' actions stem from a genuine misunderstanding of the regulatory requirements rather than deliberate non-compliance. They relied on the building plan approval process and was unaware that the additional requirement for a height certificate would result in a land use application. Their failure to obtain land use approval for the existing addition is due to oversight rather than intentional disregard for regulations.

It's noteworthy that the unlawful construction was discovered within a relatively short timeframe, considering the December holidays. The owners did not persist in their non-compliance, once the issue was brought to their attention, indicating a willingness to rectify the situation and comply with OM regulations.

While the gable walls and chimney exceed the maximum allowable height and the existing addition encroaches on the building line, the extent of these encroachments appear relatively minor. There is no indication that these deviations pose significant negative impacts on the surrounding environment or neighbours.

Section 90(3) of the By-law requires the following information:

**The nature, duration, gravity and extent of the contravention**

Section 4.1 indicates the nature and gravity of the additions that were constructed without prior approval. The total extent of the encroachments is:

Height departure: Existing gable walls	±1,300m <sup>2</sup> & ±0,218m <sup>2</sup>
Height departure: Existing chimney	±1,650 m <sup>2</sup>
Building line departure: Existing addition	±1,275m <sup>2</sup>

Once the building plan was approved, the owners constructed the additions.

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

The owners were responsible for ensuring that there were no contraventions in terms of the by-law, but it is important to note that no malicious intent was found in their actions, and they aim to rectify the contravention by submitting this application.



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## MOTIVATION

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

Due to the small-scale nature of the encroachment no quantity surveyor was involved.

### **Whether the unlawful conduct was stopped**

The additions have already been constructed after building plan approval.

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

To the knowledge of this office, the property owners have not previously contravened the By-Law.

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## **5. LAND USE ENVIRONMENT**

The subject property is located in Voëklip, an established residential area in the Overstrand. The property is surrounded by other Residential Zone 1: Single Residential properties and Public Streets. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan).

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## **6. TITLE DEED**

Title deed T33990/1995 (refer to **Annexure B**) was perused and there are no restrictive conditions that prohibits the approval of the proposal being made.



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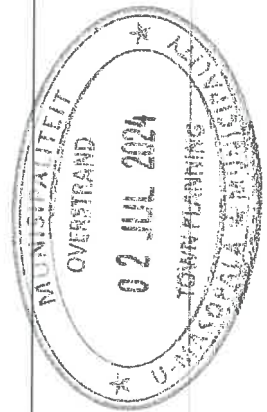


**MOTIVATION**

**7. ZONING**

The following zoning parameters were assessed in conjunction with the SR1 OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (q) of the OM By-Law:

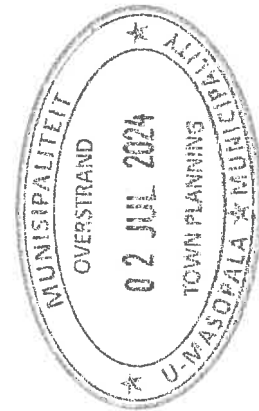
<b>RESIDENTIAL ZONE 1: SINGLE RESIDENTIAL</b>		
<b>Parameters</b>	<b>Proposal</b>	<b>Comply/ deviate</b>
<b>Primary use</b>	Crèche, <b>Dwelling House</b> , Guest Rooms, Home Occupation, Second Dwelling Unit and Self-Catering.	Comply
<b>Consent use</b>	Day Care Centre, Green House, Guest House, House Shop, Institution, Place of Instruction, Place of Worship, Residential Building, and Intensive Horticulture.	N/A
<b>Development parameters</b>		
<b>Coverage</b>	The maximum coverage for all buildings on the land unit is determined in accordance with the erf extent: 400m <sup>2</sup> and greater = 50%	Existing Structures = 400,22m <sup>2</sup> Coverage = 40,42% Comply
<b>Building lines</b>	(i) The street building line is determined in accordance with the extent of the erf: <ul style="list-style-type: none"> <li>• 400 m<sup>2</sup> and greater = 4m</li> </ul> (ii) The side and rear building lines are determined in accordance with the extent of the erf: <ul style="list-style-type: none"> <li>• Greater than 400 m<sup>2</sup> = 2m</li> </ul>	<ul style="list-style-type: none"> <li>• The street building lines are being adhered to.</li> <li>• Permanent Departure from the 2m western side building line to 0,96m to allow the existing addition.</li> </ul> <b>Deviate, applied for and motivated.</b>
<b>Height</b>	The maximum height of a building, measured from the base level to the top of the structure, is 8,0 m.	<ul style="list-style-type: none"> <li>• Permanent departure from the maximum height from 8m to 8,16 &amp; 8,27m to allow the extended gable walls on the eastern and western side in accordance with building regulations.</li> </ul> <b>Deviate, applied for and motivated.</b>





**MOTIVATION**

<b>Garages and carports</b>	Garages and carports may be constructed within building lines in accordance with Chapter 16.1.2.	<ul style="list-style-type: none"> <li>Permanent departure from the maximum height from 8m to 9,1m to allow the chimney in accordance with building regulations.</li> </ul> Existing approved garage.	Comply
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**8. SERVICES**

The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is herewith illustrated.

**Electricity, Water, Sewage and Solid Waste**

The subject property is connected to the existing networks in the area, which include electricity, water and sewage. The proposal of this application is not anticipated to impact on existing services.

Solid waste is collected every week by the OM.

**Access and Egress**

Access and egress to the property is gained from Tenth Street.

**9. NEED AND DESIRABILITY**

The need and desirability of the approval and implementation of this proposal in accordance with Section 66 (1) (c) of the OM By-Law can be illustrated as follow:

**Need and desirability.**

The need for the land use application was a result of addressing all the land use requirements and ensuring the property meets the requirements of the property owners. To achieve this, the property owners are required to apply for a permanent departure from the building line and height restriction.

Socio-economic impact	The permanent departure is not predicted to have a socio-economic impact.
Compatibility with surrounding uses	The proposal to ensure the property complies with the OMLUS and building regulations, is it not predicted that the proposal is out of line with the surrounding area.
Impact on the external engineering services	Refer to Section 8 of this report.
Impact on safety, health and wellbeing of the surrounding community	It is not predicted that the proposal will have an impact on safety, health, and wellbeing of the surrounding community. However, the building regulations are implemented to all building work for the safety of the occupants and the surrounding community.
Impact on heritage	The subject property is not listed in the OM Heritage Register.
Impact on the biophysical environment	It is not predicted that the proposal will have an impact on the biophysical environment.
Traffic impacts, parking, access and other transport related considerations	The proposal will not have an impact on traffic, parking or access.



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**Impact on views, sunlight and character of the area**

The subject property is located in a residential setting and the extended gable walls are complimenting the existing structure. The height increase of 0,27m (27cm) is not predicted to have any impact on the surrounding properties and their views or sunlight. As motivated above, the increase in height of the gable walls is for the regulatory compliance requirement only.

**Economic impact**

The proposal is not expected to have a short- or long-term economic impact.

**Opportunity cost**

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or foregoing of valued land use rights of interested and affected parties when an application is approved. The proposal is not predicted to have a negative impact on surrounding properties.

**Environmental impact**

The subject property is located within an environmentally important area. Refer to Section 10 of this report.

**10. POLICIES AND REGULATIONS**

**10.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)**

A portion of the property is located within the Protected Area Buffer EMOZ. The purpose thereof is to protect the integrity of National, Provincial and Municipal Nature Reserves from negative external pressures/impacts while reducing pressure on core areas and to assist in preserving their value to the eco-cultural tourism economy of the Overstrand through alignment of appropriate land use and regulation.

To ensure compliance with the guidelines set out in the EMOZ the application was evaluated in terms of the provisions of Schedule A & B of the Environmental Management Overlay Zone 2020:

SCHEDULE A PROHIBITED ACTIVITIES IN OVERSTRAND ENVIRONMENTAL MANAGEMENT OVERLAY ZONES		
Prohibited Activity	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Agricultural practices within this EMOZ which may cause water logging and siltation.	X	N/A
Planting or harbouring of declared emerging weeds on properties within and adjacent to this EMOZ.	X	N/A
Development or agriculture on slopes steeper than 1:4.	X	N/A



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Establishment of Informal settlements or Temporary Relocation Areas.	X	N/A
No land user within this EMOZ may utilise the vegetation in a vlei, marsh or within the flood area of watercourse in a manner that may cause the deterioration or damage to the natural agricultural resources.	X	N/A
Placement of religious symbols or memorabilia.	X	N/A
Harvesting /collection of kelp / seaweed in municipal designated "no-take" zones.	X	N/A
Harvesting, collection, moving, loading drying of kelp /seaweed, with a valid Seaweed Harvesting Permit or an exemption in terms of Section 81 or the MLRRA issued by the DAFF.	X	N/A
Stockpiling, drying, processing or loading of marine resources beyond areas designated, demarcated and signposted by the Municipal Council for such purposes.	X	N/A
Modification of the littoral active zone / functional dune systems in absence of approved management plans.	X	N/A
Feeding, disturbing / pursuit of fauna.	X	N/A
Disturbance, modification or destruction of the environment or species within special management areas designated, demarcated and signposted by the Municipal Council from time to time.	X	N/A
Defacing/damaging / removing of any notice, sign, barrier building or other infrastructure.	X	N/A
Playing or tampering with any rope, float, buoy, vessel, shelter or similar life - saving device.		N/A
Staying overnight.	X	Residential property.
The discharging of domestic effluent / grey water into all natural systems.	X	N/A
Tampering with security / surveillance infrastructure.	X	N/A
Defacing of rocky outcrops and placement of memorial plaques, religious symbols or structures on natural features.	X	N/A
Graffiti, vandalism or damaging of municipal infrastructure.	X	N/A
Littering	X	N/A
Disposal of cigarette butts, ash or other hazardous materials in any place or manner other than a receptacle designated for such items	X	N/A
Dog walking / exercising of dogs in non-designated zones.	X	N/A



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<b>SCHEDULE B            ACTIVITIES ONLY PERMITTED WITH COUNCIL CONSENT IN OVERSTRAND ENVIRONMENTAL            OVERLAY ZONES</b>		
<b>A) Activities Only Permitted With            Council Consent</b>	<b>Applicable            Environmental            Management            Overlay Zone            (EMOZ)</b>	<b>Applicable to the            application or not</b>
	<b>Protected Area            Buffer</b>	
Permission for the utilization of access routes to permitted kelp / seaweed harvesting sites.		N/A
Removal or destruction of vegetation which is protected and/or of conservation concern.	X	N/A
Dune maintenance on private land as per approved dune maintenance management plans.		N/A
Excavation and destruction or removal of substrate (soil, substrate, rock, shellgrit, dune sediment, mineral deposits).	X	N/A
Discharging of pool backwashing or untreated grey water or the channelling of storm water into open spaces without the necessary approval from the Municipality.	X	N/A
<b>B) Permit Upon Approval By            Delegated Authority and / Receipt of Tariff</b>	<b>Applicable            Environmental            Management            Overlay Zone            (EMOZ)</b>	<b>Applicable to the            application or not</b>
	<b>Protected Area            Buffer</b>	
Installation of conservancy tanks or biological treatment plants within 50 metres from the edge of a watercourse / wetland.	X	N/A
Access from private properties to open spaces, including the removal of vegetation and the establishment of paths, structures and infrastructure.	X	The property has access to the open space.
Commercial filming.	X	N/A
Construction or placement of any temporary object, building, shelter, path or structure.	X	N/A
Use of engine or motor driven vehicles, remotely piloted aircraft or any other means of transport or other conveyances beyond designated, demarcated and signposted areas.	X	N/A
Launching of vessels at registered launch sites.		N/A
<b>C) Council Authorisation Pending Consent Use            Application / Lease Agreement / Applicable            Tariffs as applicable</b>	<b>Applicable            Environmental            Management</b>	<b>Applicable to the            application or not</b>



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## MOTIVATION

	Overlay Zone (EMOZ)	
	Protected Area Buffer	
Buildings / Structures associated with: Taking of water, storing of water, impeding or diverting flow, stream flow reduction, altering the bed, banks, course characteristics, outflow structures or discharge pipes.	X	N/A
Buildings / Structures associated with: Taking of water, storing of water, impeding or diverting flow, stream flow reduction, altering the bed, banks, course characteristics, outflow structures or discharge pipes.	X	N/A
Application for the designation of industrial sites and activities associated with the seaweed harvesting, collection, drying, transport and processing fishery.	X	N/A
Encroachment of private buildings, structures, infrastructure, access routes.	X	Additions to the dwelling was made as per <b>Annexure C</b> Architect Building Plans.
Commercial Harvesting/collection and removal of any natural resource.	X	N/A
Construction or placement of any permanent object, building, shelter, pathway or structure.	X	Additions to the dwelling was made as per <b>Annexure C</b> Architect Building Plans.

It is not predicted that the proposed departures will have a negative impact on the EMOZ.

### 10.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The property is located within the 'Coastal Strip' HPOZ, the purpose of which is to ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:

- To protect the natural, environmental and scenic qualities along the coastal strip;
- To protect lateral views between the mountain and coastline by ensuring the continuation of existing view lines and by controlling the massing and form of buildings adjacent to the coastal strip;
- To protect and enhance the nature of the transition zone between the built fabric along the coastal strip, including the first line of erven facing the coast, the coastal walkway and the coastline.

The proposal of the permanent departures is not expected to have a negative effect on the HPOZ as the additions to the structure was done taking into consideration the historic appeal of the structure.



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### 10.3 Spatial Planning Policies

This proposal is not in conflict with any provisions of the Western Cape Provincial Spatial Development Framework, 2014 or the Overstrand Spatial Development Framework, 2020.

## 11. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains 5 uncompromisable planning principles by which each development application must be guided by. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

### Spatial justice

Spatial justice refers to planning proposals that do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal to rectify past contraventions is not predicted to influence past spatial injustices.

### Spatial sustainability

Spatial sustainability refers to planning proposals which result in communities that are viable. The proposed departures intend to ensure the subject property is utilised to its maximum capabilities.

### Efficiency

This proposal is intended to maximise the usage of the subject property.

### Spatial resilience

This proposal is not in conflict with any spatial planning policies or other OM regulations which is a hallmark of resilience.

### Good administration

The OM has a credible track record of good administration regarding the method of public participation. Public participation forms an integral part of the land use planning process.

The public participation process provides people who may be affected by the proposal with an opportunity to provide comment and to raise issues of concern about the proposal or make possible suggestions that may result in an enhanced outcome of which both parties benefit. Comments will be reviewed and considered after which it will be addressed accordingly.



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## EVALUATION & RECOMMENDATION

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### 12. EVALUATION

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The purpose of submitting this application is to enable the owner to rectify the contraventions that occurred and to ensure that the property has the necessary approvals to be compliant with the OMLUS and building regulations. Beyond mere rectification, this application seeks to strike a balance between functional necessity, ensuring adequate fire compliant gable walls, and enhancing the aesthetic appeal of the property's structure.

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### 13. RECOMMENDATION

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Based on the abovementioned motivation, it is recommended that the following be approved:

- 13.1 Permanent Departure** from the 2m western side building line to 0,96m to allow the existing addition in terms of Section 16(2)(B) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;
- 13.2 Permanent Departure** from the 8m maximum height to 8,27m to allow the gable walls to be extended in accordance with building regulations in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;
- 13.3 Permanent departure** from the 8m maximum height to 9,1m to allow the chimney in accordance with building regulations in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020; and
- 13.4 Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.



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## ANNEXURE C: ARCHITECT BUILDING PLANS

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3. Aerial Plan  
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Plan prepared by: Veronica Jansen

All distances are approximate  
and subject to a survey

Tel: 028 313 1411

Email: [admin@wrapgroup.co.za](mailto:admin@wrapgroup.co.za)

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