



ERF 5493, 208 MAIN ROAD, EASTCLIFF, HERMANUS: APPLICATION FOR DEPARTURE & DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS PLANACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF WATERKLOOF SUITE 3 (PTY) LTD

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:

- Relaxation of the north-western and western lateral building lines from 2m to 0m to accommodate the change of use of the existing garage to a laundry room and gardener's bathroom,
- relaxation of the western lateral building line from 2m to 1.155m (nearest point) and 1.18m (farthest point) to accommodate the as-built trafficable (accessible) balconies with glass balustrades, and
- relaxation of the eastern lateral building line from 2m to 0m to accommodate the retaining wall, canter lever planter and balustrade.

Determination of an administrative penalty in terms of Section 16(2)(q) of the By-Law to legalize the unauthorised building line encroachments.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, 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 / alida@overstrand.gov.za) on or before **19 July 2024**, quoting your name, address and contact details, interest in the application and reasons for comments. 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 5493, HOOFWEG 208, EASTCLIFF, HERMANUS: AANSOEK VIR AFWYKING & BEPALING VAN 'N ADMINISTRATIEWE BOETE: MNRE PLANACTIVE STADS- EN STREEKSBEPLANNERS NAMENS WATERKLOOF SUITE 3 (PTY) LTD

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:

- Verslapping van die noord-weslike & westelike laterale boulyne vanaf 2m na 0m om die verandering van gebruik van die bestaande motorhuis na waskamer en tuinier badkamer te akkommodeer,
- verslapping van die westelike laterale boulyn vanaf 2m na 1.155m (naaste punt) en 1.18m (verste punt) vir die akkomodasie van 'n soos-geboude verkeerbare (toeganklike balkonne met glasbalustrades, en
- verslapping van die oostelike laterale boulyn vanaf 2m tot 0m om die keermuur, canter lever planter en reling te akkommodeer.

Bepaling van 'n administratiewe boete

Aansoek ingevolge Artikel 16(2)(q) van die Verordening om ongemagtigde boulynoorskrydings te wettig.

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 / alida@overstrand.gov.za) voor of op **19 Julie 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, **Mr. 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 ESINGU-ERF 5493, 208 MAIN ROAD, EASTCLIFF, HERMANUS: ISICELO SOKWAHLULA & NENGQIKELELO YOMDLIWO WOBHALISO: NGABAKWAMESSRS PLANACTIVE TOWN AND REGIONAL PLANNERS EGAMENI LE WATERKLOOF SUITE 3 (PTY) LTD

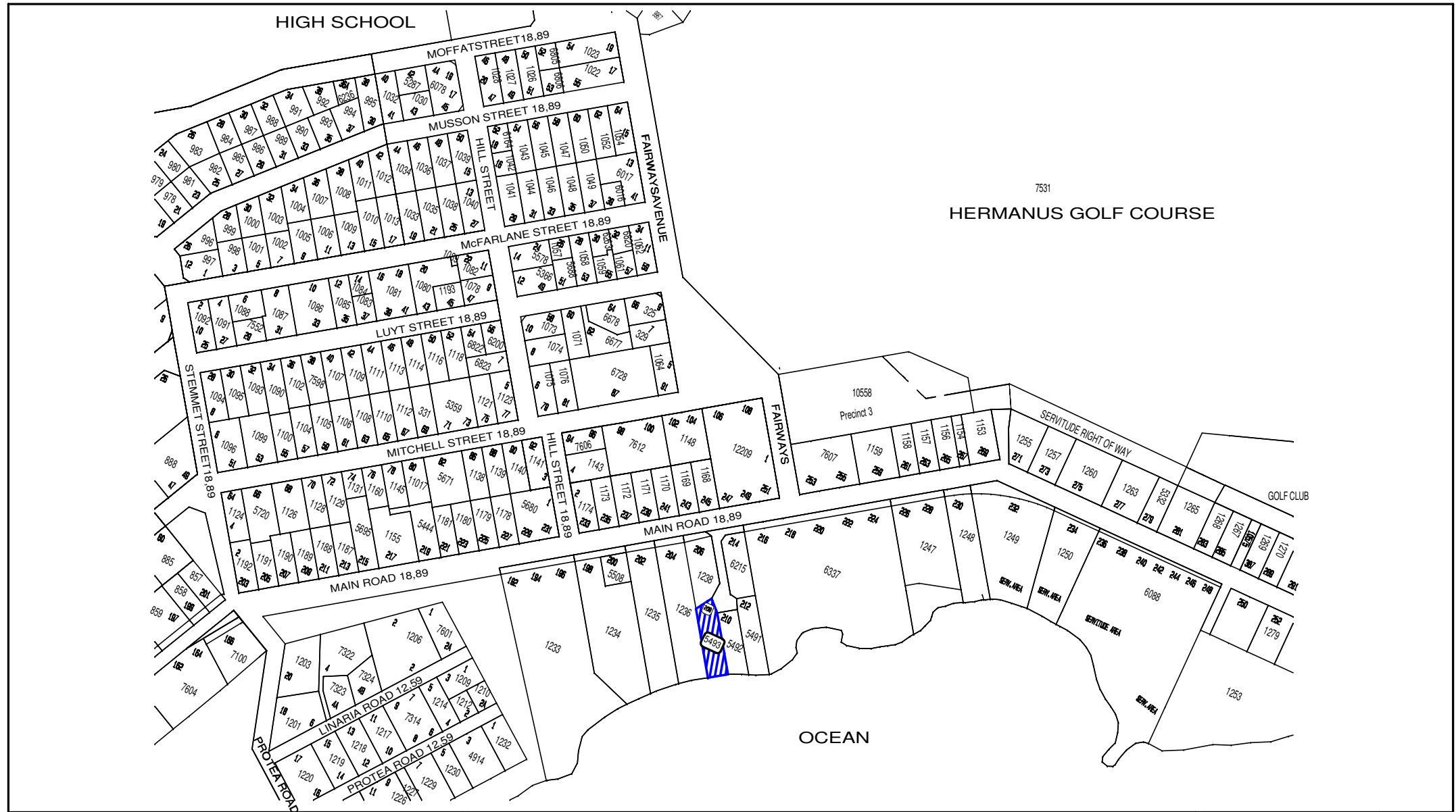
Kukhutshwe isaziso esimayela nemiba yeSoloty lama48 nguMasipala waseOverstrand ngokuHlomela uMthethwana kaMasipala ngeZicwangciso zokuSetyenziswa koMhlaba kaMasipala ku2020 (Umthethwana) isaziso eso sithi kufunyenwe isicelo esingale mba llandelayo:

Ukwahlula ngokwemiba yeSoloty le16(2)(b) loMthethwana:

- Ukunyeniswa kwemigca yesakhiwo kwicala elisemhla-ntshona nasentshona ukusuka kwiimitha ezi2m ukuya ku0m ukulungiselela utshintsho lokusetyenziswa kwegaraji esele ikhona ibe ligumbi lokuhlambela impahla negumbi lokuhlambela unogadi (umsebenzi oesbenza egadini),
- ukunyeniswa komgca omelene nesakhiwo ukusuka kwiimitha ezi2m ukuya 1.155m (kwipoyinti ekufutshane) kunye ne-1.18m (ipoyinti ekude) ukulungiselela indawo-eyakhelwe ukulungiselela uthutho(ukufikelela) kwiiveranda ezinenongqameko lweglasi olukhusela abawi bangawi, and
- ukunyeniswa komgca omelene nesakhiwo kwicala lasentshona ukusuka kwiimitha ezi-2m ukuya ku0m ukulungiselela ukugcina udonga, isithuthi sokuthutha abantu, iplantara nongqameko lweglasi.

Ingqikelelo yomdlwiwo wobhaliso ngoweSoloty le16(2)(q) loMthethwana ukumisela ngokusemthethweni iindawo eziphumela ngaphaya komgca wesakhiwo.

linkcukacha ezipheleleyo mayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini ukususela phakathi kwentsimbi ye08:00 neye16:30 kwiSebe: IziCwangciso ngeDolophu, Paterson Street, Hermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zeSoloty lama51 nelama52 loMthethwana kwaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / alida@overstrand.gov.za) ngomhla okanye ngaphambi **19 EyeKhala 2024**, uchaze igama lakho, idilesi neenkukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zakho zokuhlomla. Imibuzo ngefowuni ingathunyelwa kuMwangcisi weDolophu, **Mnu. P. Roux** kwa028-313 8900. UMasipala angala ukwamkela izimvo ezifike emva komhla wokuvala. Nabani ongakwazi ukufunda nokubhala angandwendwela kwiSebe LeziCwangciso ngeDolophu apho igosa likamasipala liza kumnceda ukuhlomla ngokusemthethweni.



7531

HERMANUS GOLF COURSE

GOLF CLUB

OCEAN



Stads- en Streeksbeplanners
Town & Regional Planners

All distances approximate and subject to survey.

COPY RIGHT RESERVED

Property Description:

ERF 5493
HERMANUS

Plan Description:

LOCALITY MAP

Scale: NTS

Drawing Nr:
herm5493L.drw

Date:
FEBRUARY 2024



PROPOSED DETERMINATION OF AN ADMINISTRATIVE PENALTY & DEPARTURE

ERF 5493 HERMANUS

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

Plan Active Town & Regional Planners has been appointed by H.J. Hölscher, on behalf of Waterkloof Suite 3 Pty Ltd, the owner of erf 5493 Hermanus, to apply for the administrative penalty and departure of the subject property.

The property owner made and propose to make changes to the structures on the subject property. The changes include:

- Proposed conversion of the existing garage into a laundry room – encroachment of the western and north-western lateral building lines;
- To retain the as-built gardener's bathroom / WC attached to the proposed laundry room (previously indicated as "to be demolished" on the approved building plans) – encroachment of the western lateral building line;
- As-built retaining wall, balustrade and canter lever planter not in line with the approved building plans – encroachment of the eastern lateral building line;
- The approved balconies on second storey on the western side were made accessible over the 2m lateral building line which was not previously accessible;
- Proposed change of use of the approved storeroom to a study.

The application aims to address the encroachments by bringing them into compliance with regulations. It is noted that no new additions are proposed; rather,

the focus is on addressing the existing deviations from approved plans. This likely involves submitting revised plans to the relevant authorities for approval, demonstrating how the alterations will be rectified to comply with zoning and building regulations.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an **administrative penalty** for erf 5493 Hermanus;
- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for **the departure** of erf 5493 Hermanus.

3. NEED AND DESIRABILITY

3.1 PROPERTY DESCRIPTION

Erf 5493 Hermanus, located at 208 Main Road, Hermanus, is described as being 1374m² in extent and held by title deed no. T6397/2014.

The property gently slopes in a south south-easterly direction and is predominantly characterized by residential structures, including a double-storey dwelling with outbuildings.

According to the approved building plan, the total coverage of the approved dwelling and outbuildings is 26%, indicating the portion of the property that is occupied by these structures.



3.2 ZONING

Erf 5493 Hermanus has the following land use rights:

ERF NUMBER	ZONING
Erf 5493 Hermanus	Residential Zone 1: Single Residential

Surrounding properties are zoned for single residential, public road and public open space purposes.

3.3 LAND USE

Erf 5493 Hermanus currently hosts a double storey dwelling along with outbuildings such as a double garage, single garage and storeroom. These structures indicate that the property is utilized for single residential living purposes. A copy of the most recent approved building plans dated 12 April 2023 is attached.

The surrounding land uses adjacent to the subject property consist primarily of single residential dwellings, interspersed with public open spaces and public roads. This context suggests a typical residential neighbourhood setting, characterized by a mix of housing units and amenities commonly found in urban or suburban areas.

3.4 PROPOSAL

The following is proposed:

1. The determination of an **administrative penalty** for erf 5493 Hermanus to accommodate the gardener's bathroom / WC attached to the approved single garage (As Built) and the as-built retaining wall, planter and balustrade in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020;

2. The **departure** of erf 5493 Hermanus in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, to:
- relax the north-western and western lateral building lines from 2m to 0m to accommodate the change of use of the existing garage to a laundry room and the as-built gardener's WC (bathroom attached to the laundry room);
 - relax the western lateral building line from 2m to 1,155m (nearest point) and 1,18m (farthest point) to accommodate the changes made to the balconies on second storey level from approved non-trafficable balconies to as-built trafficable (accessible) balconies with glass balustrades;
 - relax the eastern lateral building line from 2m to 0m to accommodate the as-built retaining wall, canter lever planter and balustrade.

The property owner made and propose to make changes to the structures on the subject property. The changes include:

- Proposed conversion of the existing garage into a laundry room – encroachment of the western lateral building line;
- To retain the as-built gardener's bathroom / WC attached to the proposed laundry room (previously indicated as "to be demolished" on the approved building plans) – encroachment of the western lateral building line;
- As-built retaining wall, balustrade and canter lever planter not in line with the approved building plans – encroachment of the eastern lateral building line
- The approved balconies on second storey on the western side were made accessible over the 2m lateral building line which was not previously accessible;
- Proposed change of use of the approved storeroom to a study.

The unlawful changes involve retaining the as-built gardener's WC (bathroom) on the western erf boundary (previously indicated as "to be demolished" on the approved building plans) and the as-built retaining wall, canter lever planter and balustrade, all of which encroach upon the eastern lateral building line.

With the understanding that the storeroom to study and single garage to laundry



room conversions are yet to be made, the focus of the administrative penalty application is specifically on addressing the encroachments related to the as-built bathroom / WC attached to the single garage (proposed laundry room) and the construction of the retaining wall, canter lever planter and balustrade. Herewith the detail of the proposed application for consideration:

3.4.1 Rectification of contravention

In terms of Chapter 5, Section 90(1) a person who is in contravention of the Municipal Planning Amended By-Law (2020), and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned.

As the application is for the rectification of a contravention of the By-Law (As Built alterations and additions), an application is submitted for the determination of an administrative penalty fee in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020. However, the Municipal Planning Tribunal (MPT) has the authority not to impose such a fee.

In terms of Section 90(3) of the MPBL, the MPT must at least consider the following factors when determining an appropriate administrative penalty:

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

The current owner bought the subject property in 2014 with the single garage with gardener's WC attached to the garage on the western erf boundary already present. According to the neighbour (owner of erven 1236 and 1238 Hermanus) the single garage with WC has been on the subject property for more than 30 years. The single garage was indicated and approved on previous building plans. No approved building plans for the gardener's WC exist.

Our client submitted building plans for approval in 2023 and indicated that the WC structure attached to the single garage will be demolished. However, after discussing the proposed demolition with the neighbour (the owner of erven 1236 and

1238 Hermanus), she requested that the WC (bathroom structure) be retained since the wall on the common erf boundary serves as a privacy screen. To remove the structure would have a detrimental impact on the privacy of the neighbour since erf 5493 Hermanus will then overlook the neighbour's entertainment area. It was agreed that the gardener's WC will be beautified (painted) and retained for the aforementioned reasons. The roof of the as-built single garage and WC was also replaced on request of the neighbour. As a result, the neighbour consents to the proposed deviation being applied for – refer to the neighbour's consent letter dated 1 December 2023.

The WC structure was constructed by the previous landowner and not the current landowner. The current landowner merely painted the building and replaced the roof as per agreement with the neighbour.

In addition, the approved layout of the as-built retaining wall, canter level planter and balustrade on the eastern erf boundary deviates from the approved building plan and as a result does not meet the requirements for the consideration of these structures over the eastern lateral building line. There was an approval for the retaining wall positioned over the eastern lateral building line, but the layout differs from the approved plan (refer to the copies of the approved building plans). These structures are supporting, safety and decorative structures and therefore the client considered the impact of these changes / deviation from the approved plan on the eastern erf boundary to be insignificant. It was never the intention to dismiss the legislative processes.

Our client was under the impression that they will merely be required to submit a building plan to accommodate the alterations on the subject property. A building plan was submitted by Nicolette Lloyd Architects on 13 February 2024 and the building control department refused the building plan submission – refer to the letter from Liezl Lubbe (Overstrand Building Control Department) dated 26 February 2024 attached.

The total extent of the as-built gardener's WC to be retained is 6m² with almost the total extent positioned within the western lateral building line. The position and layout of the retaining wall, canter level planter and balustrade are indicated on the site development plan and the images to follow in Section 3.4.

The approved balconies on second storey on the western side were made accessible over the 2m lateral building line which was not previously accessible. The extent of the balconies remains unchanged, it is merely now trafficable where it was previously non-trafficable. The lateral building line encroachment of the balconies is addressed in the report.

The position and nature of the As Built structures are unobtrusive in nature and do not impact negatively on the surrounding properties, as no complaint from surrounding property owners has been received up to date. A building line departure application to accommodate the As Built structures is included in this application.

- **The conduct of the person involved in the contravention**

The current owner has never contravened the land use planning By-law in the past. He addressed the matter related to the unlawful structures as soon as he was made aware of the fact and appointed the relevant consultants (architect and town planner) to assist him to obtain the necessary approvals.

- **Whether the unlawful conduct was stopped**

The owner would like to rectify the contravention by submitting the administration penalty application and subsequent departure application in order to legalise the as-built structures on the subject property.

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

If the Overstrand Municipality finds it necessary that an administrative penalty fee needs to be enforced for the unauthorised building work, we will submit a report from a quantity surveyor / building contractor with reference to the unauthorised building work construction fees. The reason being that if there is a chance that no penalty fee is imposed the report from a quantity surveyor will be unnecessary at this stage.

The current landowner did not construct the gardener's WC, but merely painted the structure and replaced the roof of the WC and approved single garage (±R200 000.).

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

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

- **Summary**

We appeal to the Overstrand Municipality to take into consideration the low impact the as-built structures and respective uses thereof have and will continue to have on the surrounding area (as further motivated in the building line relaxation application below). The as-built structures have a minimal impact on the neighbouring properties since the footprint of the structures will remain unchanged. All effort was taken to discuss the proposal with the neighbour most affected by the deviation and to ensure an aesthetically pleasing structure is retained. The neighbour consents to the proposal – refer to the consent letter dated 1 December 2023 attached.

It should also be considered that no complaints from surrounding property owners were submitted to date.

The owner never hesitated to immediately give instruction to the consultants to assist in the matter to rectify the contravention by submitting a complete (and fully motivated) departure application and submitting a determination of an administrative penalty application. We therefore respectfully request that a minimal / no penalty fee be imposed on the property owner for the reasons given above.



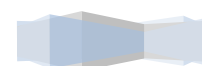
3.4.2 Departure

Firstly, it is proposed to retain the as-built gardener's WC attached to the approved single garage (the previous building plan indicated that the WC will be demolished). The as-built gardener's WC was constructed over the 2m western lateral Land Use Scheme building line by the previous landowner. The gardener's WC is attached to the approved single garage also positioned over the 2m western lateral building line. Due to development on the subject property over the years, the approved single garage is no longer able to provide sufficient access to a vehicle for storage purposes. Limited space exist in front of the approved garage and the area has since been used as a laundry yard. It is therefore proposed to change the use of the approved single garage on the western erf boundary to a laundry room with gardener's WC attached to the structure.

Since the use of the garage will change and since the gardener's WC attached to the garage will no longer be demolished, an application is submitted for a departure to:

- relax the western and north-western lateral building lines from 2m to 0m on first storey level to accommodate the proposed change of use from garage to laundry room and the as-built gardener's WC.

Refer to the site development plan and images below:



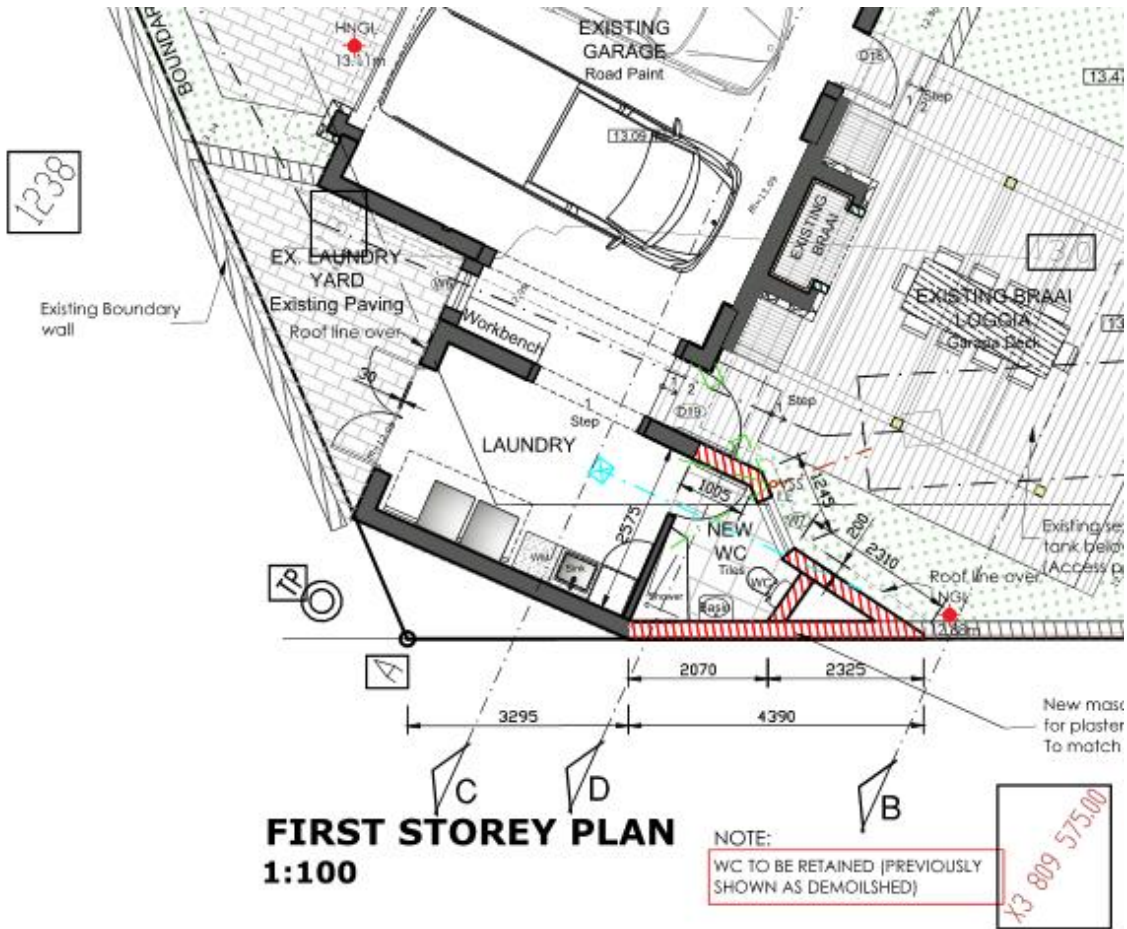


Image 1: Proposed change of use of approved single garage to laundry room and as-built gardener's WC

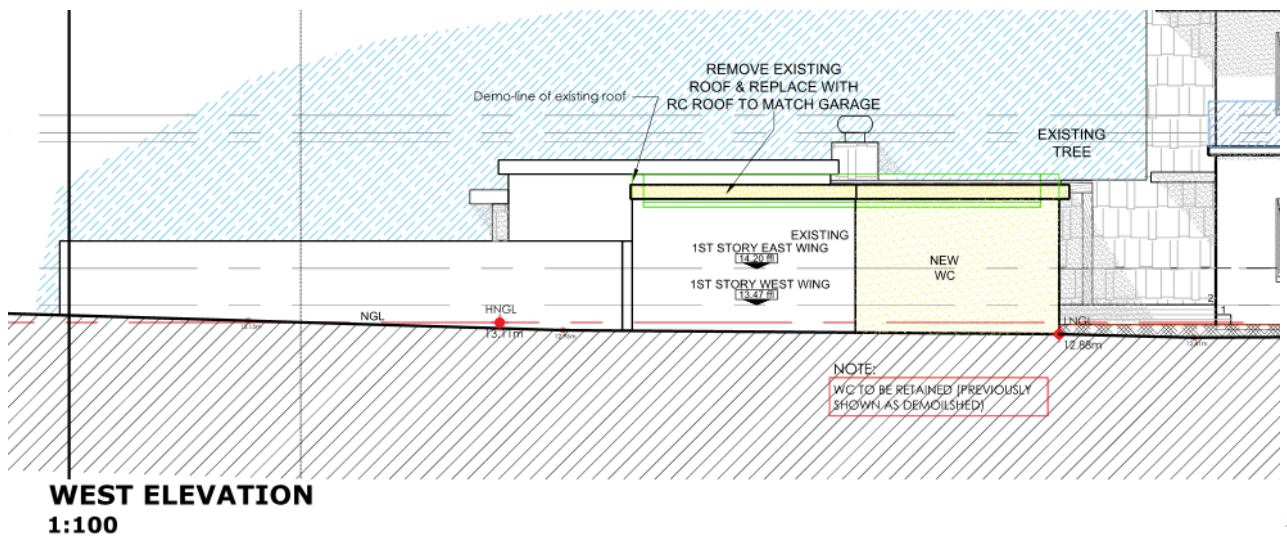


Image 2: West elevation of proposed laundry room and gardener's WC

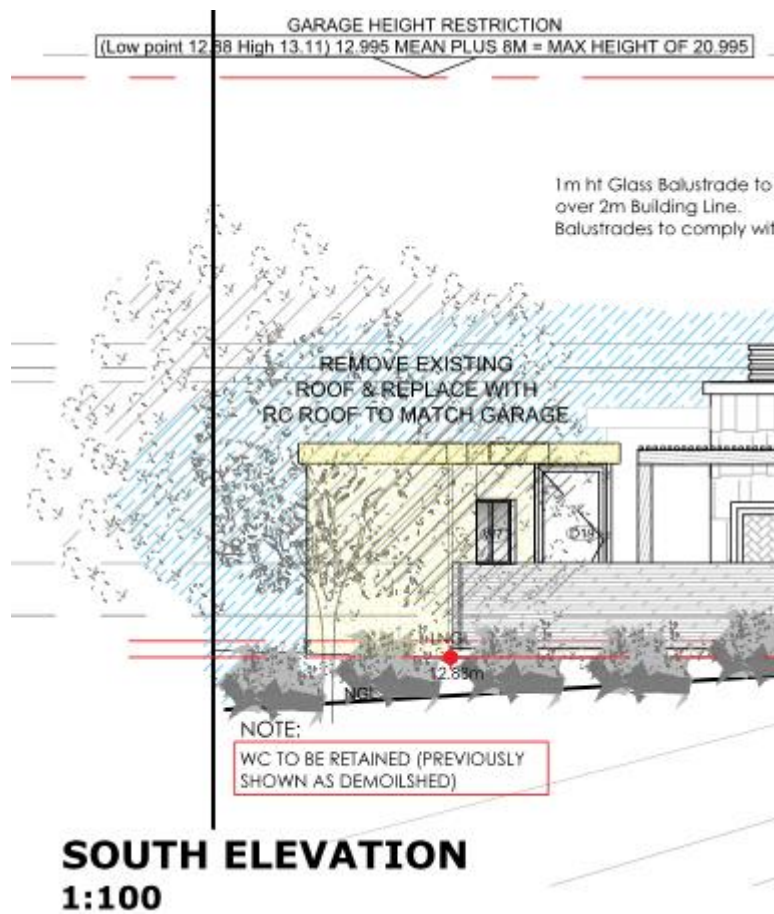


Image 3: South elevation of proposed laundry room and gardener's WC

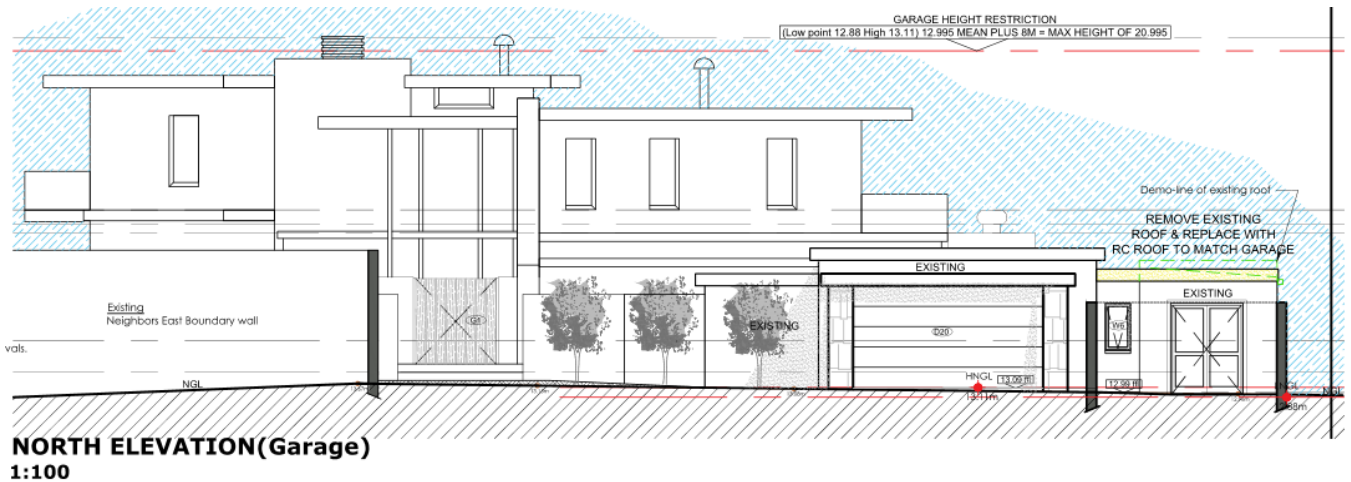


Image 4: North elevation of proposed laundry room and gardener's WC

The proposed laundry room will be ±13m² in extent (same footprint as the approved single garage). The gardener's WC will be 6m² in extent. As shown in the images above it is a single storey structure and not a habitable space. In addition, there are

no windows in the proposed laundry room or gardener’s WC facing the western erf boundary. The neighbour (owner of erven 1236 and 1238 Hermanus) gave her consent for the proposed departure application (copy attached).

Secondly, the layout of the as-built retaining wall, canter lever planter and balustrade on the eastern erf boundary deviates from the approved building plan’s layout and as a result does not meet the requirements for the consideration of these structures over the eastern lateral building line. There was an approval for the retaining wall positioned over the eastern lateral building line, but the layout differs from the approved plan and did not include the canter lever planter and balustrade. An application is submitted for a departure to:

- relax the eastern lateral building wall line from 2m to 0m to accommodate the as-built retaining wall, canter lever planter and balustrade.

Refer to the images below:

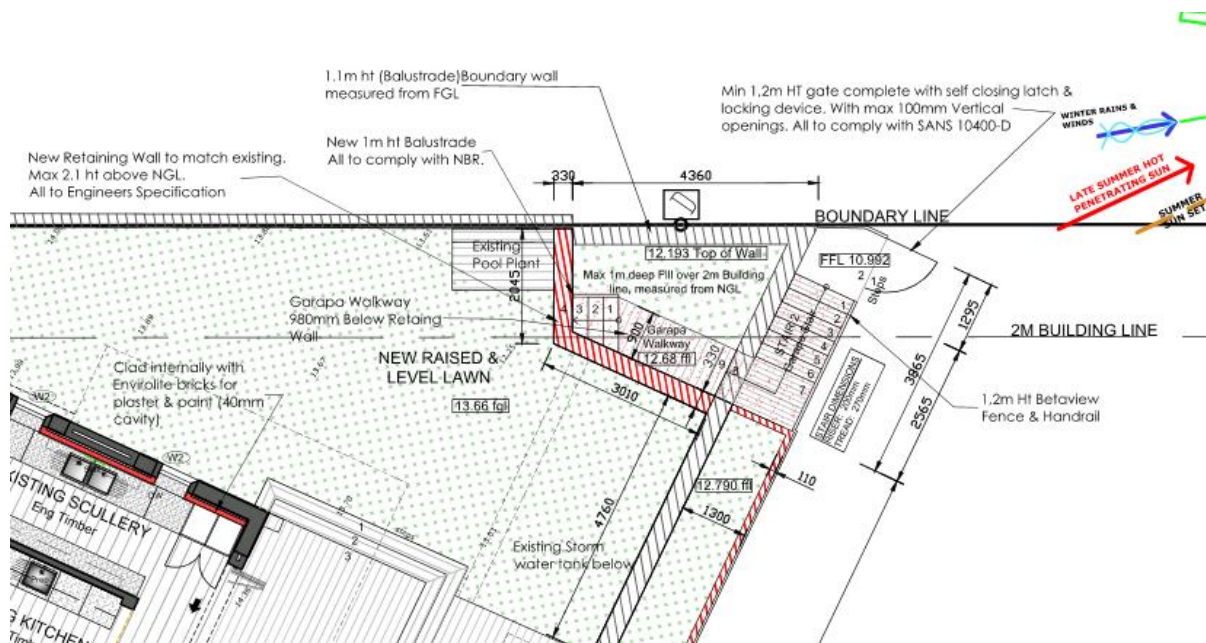


Image 5: First storey plan – retaining wall, canter lever planter and balustrade

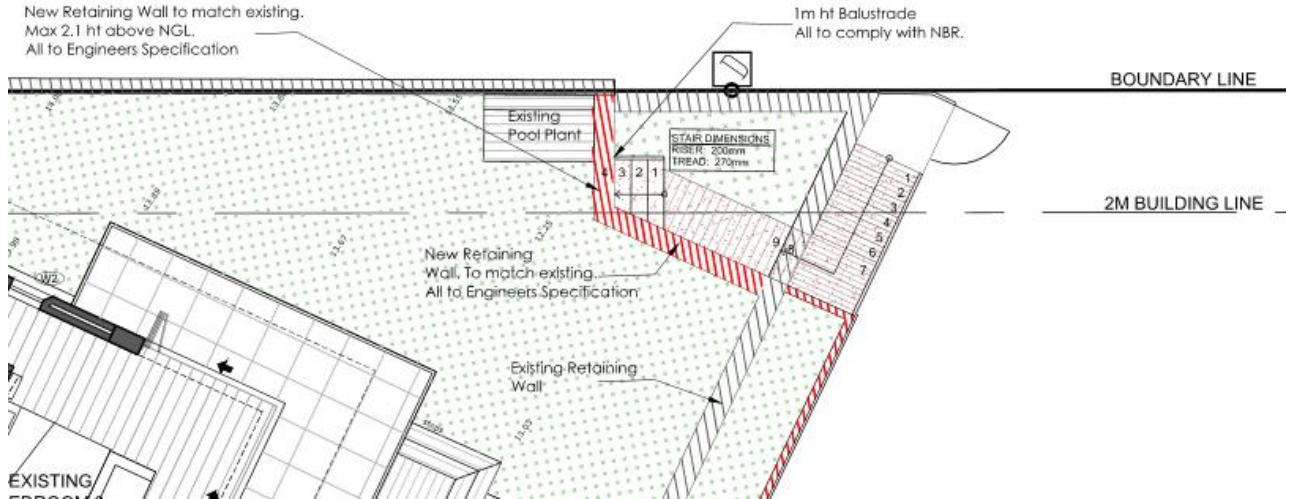


Image 6: Second storey plan - retaining wall, canter lever planter and balustrade

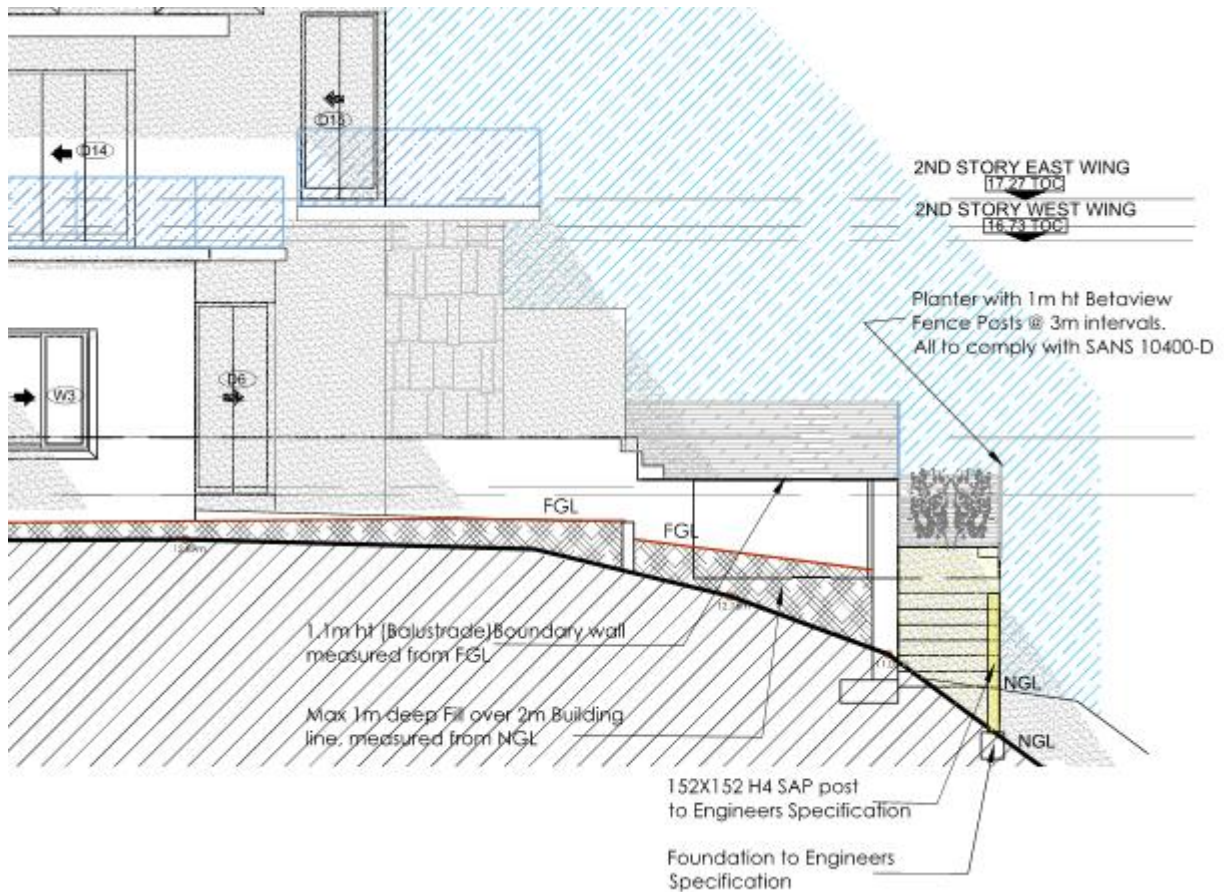


Image 7: West elevation of retaining wall, canter lever planter & balustrade



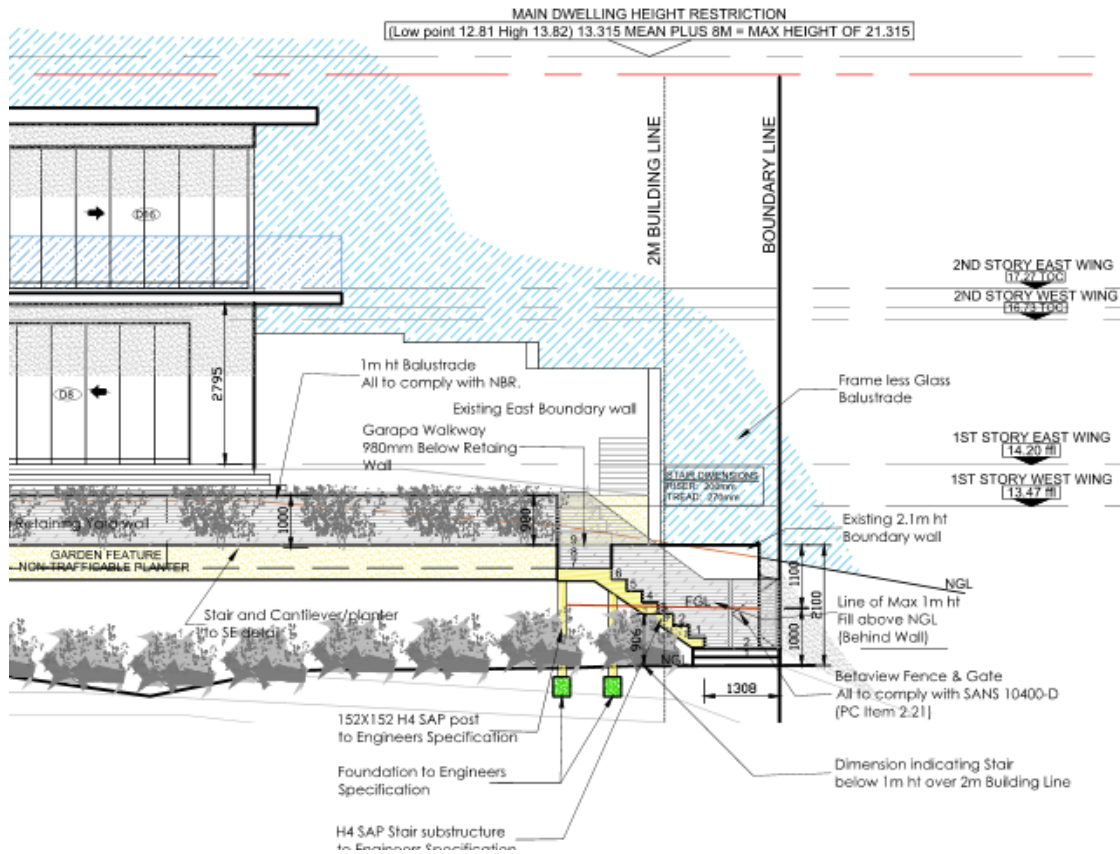


Image 8: South elevation of retaining wall, center lever planter & balustrade

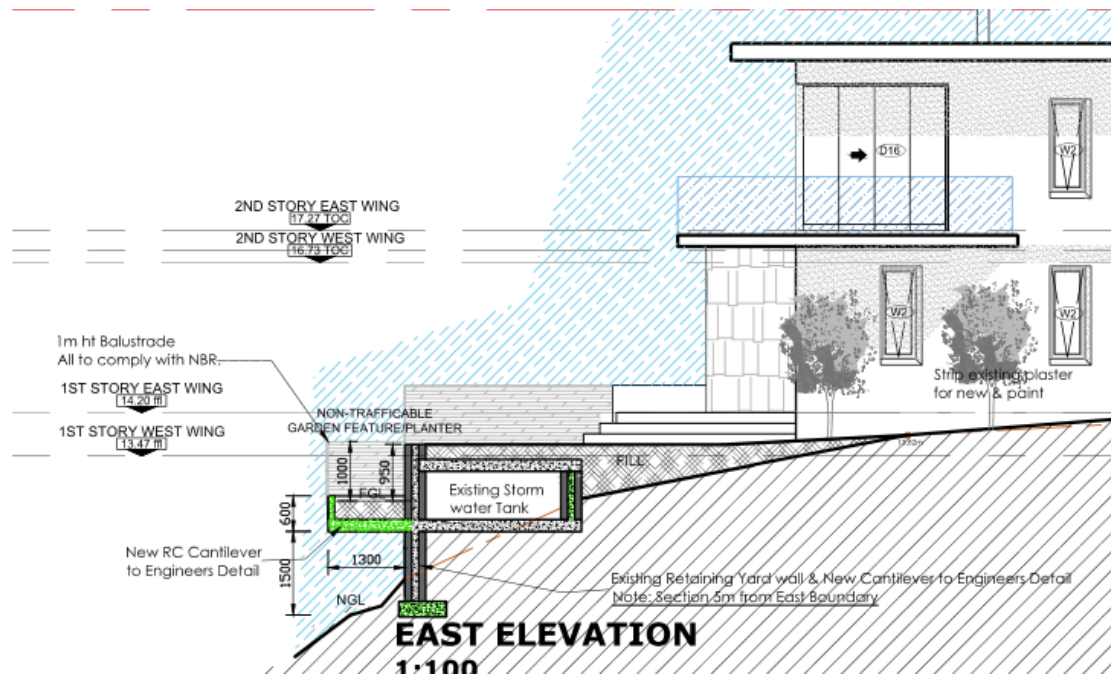


Image 9: East elevation of retaining wall, center lever planter & balustrade

Thirdly, the approved balconies on second storey on the western side were made accessible over the 2m lateral building line which was not previously accessible. It is therefore proposed to relax the building line as follows:

- relax the western lateral building line from 2m to 1,155m (nearest point) and 1,18m (farthest point) to accommodate the changes made to the balconies on second storey level from approved non-trafficable balconies to as-built trafficable (accessible) balconies with glass balustrades.

Refer to the approved building plan extract and proposed site development plan (second storey layout) below:

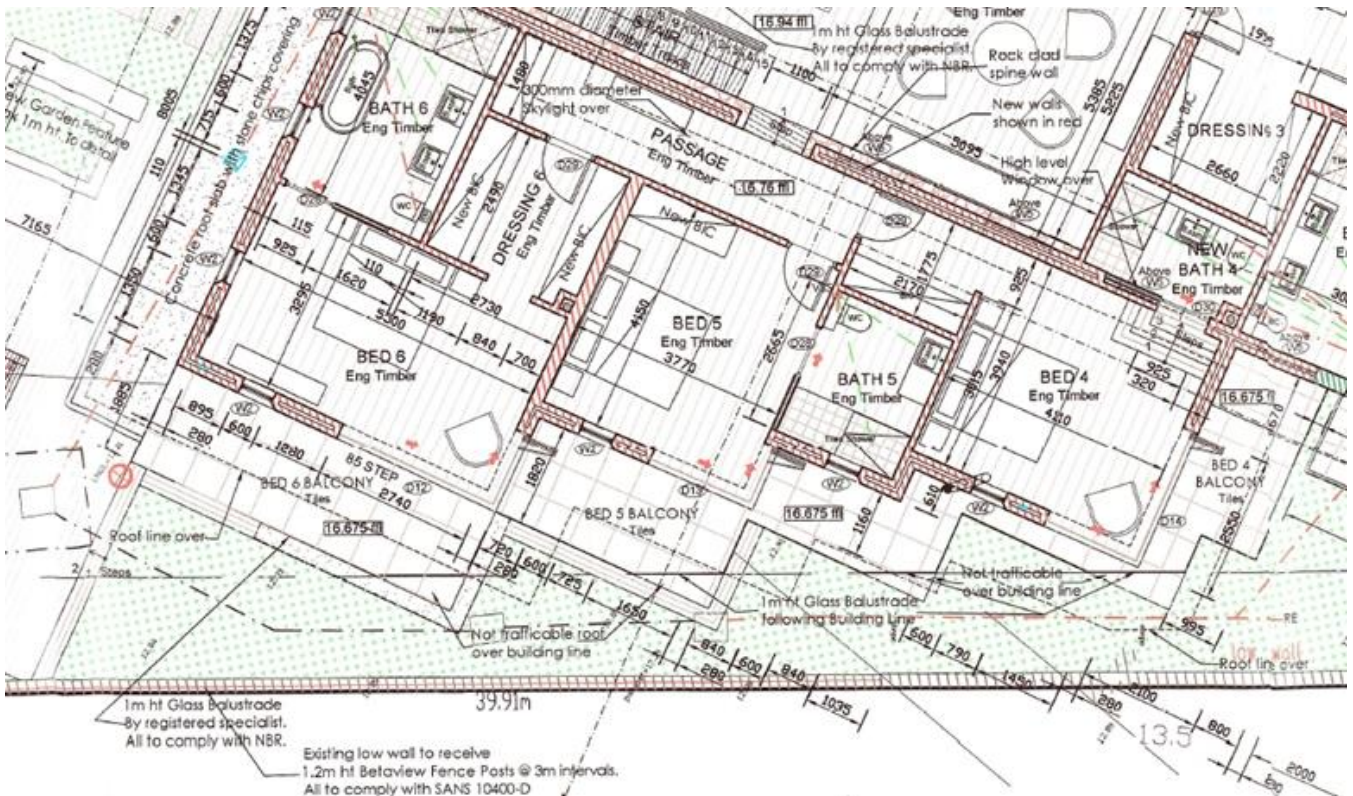
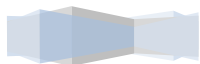


Image 10: Approved building plan indicating non-trafficable roof of balconies over the western lateral building line.



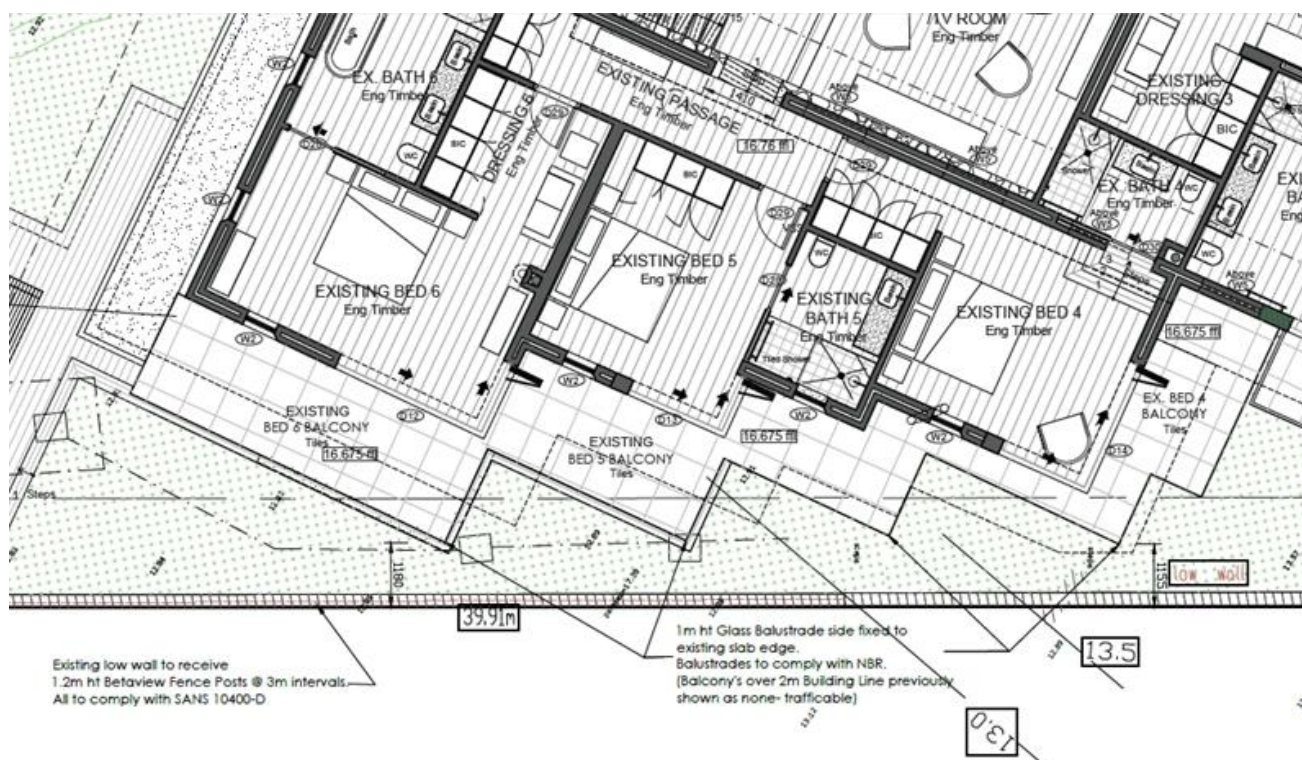


Image 11: Proposed site development plan (second storey layout) indicating as-built accessible (trafficable) balconies over the 2m western lateral building line

The proposed change of use of the storeroom to a study area within the land use requirements (a building line deviation does not apply).

The following should be noted when considering the As Built structures:

- No new additions are proposed.
- No structures encroach the street building line.
- All alterations and change of use were / will be done within the existing structures.
- The visual impact is considered minimal. All structures already exist. Although the proposed laundry room and as-built gardener's WC are visible to neighbouring properties, the landowner and neighbour agreed to retaining and beautifying the structure (as-built – no new additions / alterations proposed).
- The balconies (in terms of extent and layout) were constructed as per the approved building plan; however, it was made accessible during construction instead of being non-trafficable / inaccessible as per the approved building plan.
- All other land use requirements (height; coverage) are met.
- The materials used are aesthetically pleasing and merges well with the

approved structures.

- The as-built structures and the respective uses thereof are an integral part of the property thus to demolish the structures to make it compliant to the respective building lines, will diminish the aesthetic value and property value.

Refer to the attached site development plan inclusive of the roof layout, floor layout, elevations and sections.

The proposed application is designed to integrate seamlessly into the existing neighbourhood without negatively impacting the character or property values of surrounding properties. The positioning of the existing structures on the subject property do not encroach upon or disrupt passing traffic or public activity.

Moreover, the low impact use of these structures further minimizes any potential disturbances to the surrounding environment. Overall, the proposed development is thoughtfully planned to ensure minimal disruption to the neighbourhood while still meeting the needs of the property owner. It is submitted that the massing and height of the existing structures are compatible with the character of the area, regardless of the departure being applied for.

The zoning of erf 5493 Hermanus will remain unchanged (Residential Zone I: Single Residential) as well as the primary land use (single residential purposes). The height of all the structures on the subject property complies with the permissible height requirements for SR1 zoned properties. All buildings and uses thereof that encroach the applicable building lines as indicated on the site development plan already exist and the application addresses existing structures and where applicable, change of use of structures that encroach the building lines. Consequently, the proposed departure will not have a greater visual impact on the surrounding properties. The impact on the adjacent property owners and the passers-by will therefore be marginally higher than if these structures did not exist.

The area schedule and coverage for the subject property are as follows:



AREAS	
First Storey	
Existing Main Dwelling:	266m ²
Existing Garage & Outbuilding :	71 m ²
Existing Pergola (Braai Logia):	21.5m ²
New Gardeners WC:	6m²
Second Storey	
Existing Main Dwelling:	217.5m ²
Existing Balcony's:	64.5m ²
Area of Site	1374m ²
Coverage	27%

The total coverage of 27% does not exceed the maximum permissible coverage of 50% for SR1 zoned properties.

It is submitted that the existing structures are compatible with the character of the area, do not impact negatively on the rights of anyone else and that no good reason exists for not approving this application. When considering the proposed building line deviations, the point of departure is the need to discourage the phenomenon of urban sprawl and to encourage densification and more compact towns and cities, all of which relate to more responsible resource use or sustainable development.

The proposed departure of erf 5493 Hermanus is not in contrast to the existing land use tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

3.5 THE POTENTIAL OF THE PROPERTY

The subject property is situated within a residential area where the zoning and primary land use will remain the same. The allowed land uses are limited to low-impact activities such as bed-and-breakfast establishments, day cares, second dwellings and home occupations. The proposed departure from regulations will not obstruct potential future land use applications for erf 5493 in Hermanus.



The subject property has existing structures that deviate from the current regulations. However, since there haven't been any complaints from neighbours regarding these structures, it suggests they are likely in harmony with the surrounding environment. Additionally, it's noted that all existing structures comply with the maximum height requirement of 8m for SR1 zoned properties, as shown on the site development plan. This indicates that the proposed deviations align with the existing conditions and regulations of the area.

These points are crucial in assessing the potential of the site:

- **Visual Impact:** Since the structures are already built and no new additions are proposed, the visual impact will be minimal. This suggests that the existing structures blend well with the surroundings.
- **Massing and Scale:** The massing and scale of the existing structures are in harmony with the area, indicating that they don't stand out or disrupt the neighbourhood aesthetic.
- **Compliance with land use parameters:** Apart from the deviations being applied for regarding building line departures, all other land use parameters are met, indicating overall compliance with zoning regulations.
- **The existing structures are an integral part of the property.** Demolishing them to comply with building line regulations could diminish the value of the property, indicating that maintaining the structures is preferable for the property's value and integrity.

Considering these factors, it appears that the existing structures are well-suited to the site and contribute positively to its value and character.

3.6 ECONOMIC IMPACT

The proposed departure is intended to accommodate the existing structures and their current and proposed uses. By allowing these deviations, the owner can legalize the existing as-built structures and change the use of the garage to a laundry room. This not only brings the property into compliance but also enhances its potential resale value.

Approving the existing structures saves the client the expense of demolishing them, which is beneficial from a cost-saving perspective. Additionally, the proposed building line deviations could have a positive impact on the local economy, albeit low, by potentially stimulating property market activity or facilitating the improvement of existing properties without the need for extensive renovations.

Overall, these considerations suggest that approving the proposed departures would be beneficial both for the property owner and the local economy.

3.7 SOCIAL IMPACT

The proposed departure will not disrupt the social status quo of the area, indicating that it aligns with the existing character and fabric of the neighbourhood. By allowing the owner to retain the existing structures and proposed new uses for approved structures, the building line deviations accommodate the property's current configuration and intended future use of approved structures.

Furthermore, it's anticipated that there will be no adverse impact on the social wellbeing of the surrounding community. This suggests that the existing developed property is in harmony with the area's character and does not infringe upon the rights or well-being of others.

Overall, these points reinforce the notion that the proposed departure is reasonable and compatible with the surrounding community, with no negative repercussions anticipated.

3.8 COMPATIBILITY WITH SURROUNDING LAND USES

It's clear that the proposed application aligns well with the existing characteristics of the low-density residential area where the subject property is situated. The intention to maintain the current zoning and land use ensures compatibility with surrounding properties, which primarily consist of single and double-storey dwellings used for permanent or holiday residences.

The scale of the structures on erf 5493 Hermanus complements neighbouring dwellings, blending harmoniously with the surrounding built environment. Legalizing the existing as-built structures, even with encroachments on building lines, is expected to enhance the property's value, thus positively impacting the area.

Several factors contribute to the compatibility of the proposal with the neighbourhood:

- The use of good quality materials in the construction of existing structures.
- The height of both the as built and approved structures remain consistent.
- Absence of complaints from neighbours regarding the existing encroachments, coupled with the absence of proposed additions to these structures.
- Recognition that the as built structures contribute positively to the value of the property.

Considering these factors, it's evident that the proposed development respects the character of the area.

3.9 IMPACT ON EXTERNAL ENGINEERING SERVICES

All services on the subject property already exist. The as-built structures will have no impact on the scale and usage of the existing available services since no additional loading of the existing civil infrastructure is anticipated.

3.10 IMPACT ON SAFETY, HEALTH AND WELLBEING OF SURROUNDING COMMUNITY

The proposed departure will have no impact on the general safety and wellbeing of the surrounding community. It is anticipated that a maximum of one family will continue to occupy the subject property.

Since the proposed departure is not associated with a noxious trade with polluting air emissions the impact on the health of the community will be kept to a minimum.

3.11 IMPACT ON HERITAGE

The application does not involve changing the character of a site larger than 5 000m². Consequently, the proposed application for the departure does not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

Erf 5493 Hermanus is situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). The subject property is positioned in a Heritage Management Overlay Zone (HMOZ, 2020) and forms part of the Coastal Strip. The purpose of the Coastal Strip HPOZ is to ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:

- *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;*
- *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 ensure the retention of the relatively fine-grain form of development characteristic of the Overstrand holiday home vernacular evident along the coastal strip; and*
- *To ensure the retention of the existing structures identified as having intrinsic and contextual significance.*

This application only proposes to legalise the existing gardener's WC and the as-built retaining wall, canter lever planter and balustrade and accommodate the change of use of the approved garage to laundry room and storeroom to study. Aesthetically the overall development of erf 5493 Hermanus contributes and will continue to contribute towards the pattern of the area. The subject property is already developed and the structures to encroach the western, north-western and eastern lateral building lines are considered ancillary buildings / structures and uses to the existing approved use and structures. The proposal has no impact on the transition zone between the built fabric and coastal strip, has no impact on natural, environmental or scenic qualities along the coastal strip and the proposal has no impact on the views

between mountain and coastline (massing and form of new buildings is compatible with existing structures and the area).

The subject property is not associated with any important persons or groups or important events and activities. The subject property has no association with the history of slavery and is not used for living heritage.

In the light of the above mentioned it is evident that the proposed departure will not have a negative impact on the heritage value of the Eastcliff or Greater Hermanus area.

3.12 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

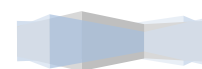
The proposed departure does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

The subject property is not situated within the Overstrand Municipality's Zoning Scheme Environmental Management Overlay Zone (2020).

3.13 TRAFFIC IMPACT, PARKING AND ACCESS

Access to erf 5493 Hermanus will remain unchanged and will be from the existing cul-de-sac road that connects to Main Road as indicated on the site development plan and locality plan. No new access points are proposed.

The Overstrand Municipality Land Use Scheme (2020) stipulates that a minimum of two parking bays are required for a dwelling house. The subject property is developed with a double garage (approved). Provision is therefore made for two parking bays on site. The dwelling on erf 5493 Hermanus therefore complies with the minimum parking requirements for SR1 zoned properties.



The subject property will still be used primarily for single residential purposes and therefore the impact on the traffic flow in the area will remain unchanged.

3.14 TITLE DEED

Title Deed no. T6397/2014 has no restrictive title deed conditions that need to be addressed with this application. A conveyancer's certificate is not included with this application since the title deed is straight forward.

There is a bond registered against the subject property. The bondholder's consent dated 12 March 2024 is attached.

3.15 FORWARD PLANNING AND LAND USE DOCUMENTS

The ***Overstrand Spatial Development Framework (2020)*** earmarks the area where erf 5493 Hermanus is situated, for urban development purposes. The zoning and use of the subject property will remain unchanged (Residential Zone 1: Single Residential). As a result, the impact of the proposed departure on the spatial integrity of the area will be minimal and is therefore consistent with the Overstrand SDF (2020).

The ***Overstrand Municipal Growth Management Strategy (OMGMS, 2010)*** specifies that erf 5493 Hermanus forms part of Planning Unit no. 8. This planning unit stipulates that the density status quo for the area should remain (7,6du/ha). Refer to the OMGMS Proposal Plan: Hermanus East, attached. The existing status quo will remain since additional portions / units are not proposed with this application. No deviation from this policy will be required to accommodate the building line deviations. The impact on the overall density of the Eastcliff area will therefore be kept to a minimum since the proposed application still promotes a low-density residential area.

The proposal will promote land development in a location that is sustainable. The proposed departure is to an improved erf within an established residential area and will not impact on urban sprawl or upon a sensitive environment.

The impact on the overall density of this part of Eastcliff will therefore be kept to a minimum since the proposed application still promotes a low-density residential area.

From the above it is evident that the proposed development adheres and complies with the relevant municipal spatial planning policies.

3.16 PLANNING PRINCIPLES

The planning principle of spatial resilience does not apply to this application.

Spatial justice: The proposed land use application ties in with the existing character of the area and will not have a negative impact on the surrounding neighbours. The impact on the biophysical environment will be low as the subject property has been in existence since 1973.

The proposed application will not promote spatial development imbalances. This application is for an erf as per the establishment of the existing Hermanus Township. The proposed application is in character with the existing area where similar applications have been approved in the past and therefore, the approval of the proposed application will not be spatially biased.

Spatial sustainability: The proposed departure will have no impact on the visual elements of the subject property and surroundings since all the structures that encroach the building lines already exist. It is submitted that the proposed application is compatible with the character of the area (as motivated in previous sections of this report). The encroachment of the building lines has no impact on the massing of the buildings and the impact on the streetscape or passers-by. The As-Built unlawful

structures merge well with the approved structures. The impact on the biophysical environment will also be kept to a minimum since the structures already exist.

Factors such as the good quality materials used, the overall layout of the structures on the subject property, the scale of the surrounding built environment, the low impact on the streetscape, the existence of the structures on the subject property, etc. allow for the consideration and approval of the proposed deviations without having an adverse impact on the spatial sustainability of the area. To accommodate the As Built structures to an improved erf within an established residential area will not impact on urban sprawl, or upon a sensitive environment.

The application is considered spatially sustainable as the existing property will be more optimally utilised without affecting natural vegetation. The property will remain compatible with the character of the area and do not impact negatively on the rights of any adjacent property owner.

Efficiency: The subject property is easily accessible and conveniently located in Hermanus and adjacent to major routes. The massing and height of the property is in line with the relevant zoning scheme regulations. It proves to be resourceful to approve the As Built structures with the proposed uses thereof to the subject property since it is compatible with the existing built environment and the way the additions were done is aesthetically pleasing.

It proves to be efficient to accommodate the existing structures and its proposed uses by approving the proposed departure of erf 5493 Hermanus instead of demolishing the structures and as a result negatively impact on the whole look and feel of the subject property.

The proposed departure proves to be efficient since it discourages the phenomenon of urban sprawl, encourages densification and more compact towns and cities, all of which relates to more responsible resource and infrastructure use and sustainable development. Furthermore, the proposal is efficient in that it optimizes existing



resources and infrastructure and continues the existing suburban development typology.

Good administration: Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020.

4. RECOMMENDATION

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

- All services on the subject property already exist and no additional loading of the existing infrastructure is anticipated;
- The densification status quo of the area will remain unchanged;
- The zoning and primary land use of the subject property will remain unchanged;
- The deviations from the applicable scheme regulations' building lines are to accommodate as-built structures and the existing and proposed (where applicable) uses thereof only;
- The proposal is compatible with the existing built character of the area;
- The neighbour gave her consent for the proposed departure;
- Impact on the traffic will be kept to a minimum;
- There are no heritage aspects that will negatively impact the application;
- There are no environmental aspects that will negatively impact the application and the application will not have a negative impact on any environmental factors;
- The proposal is compatible with the spatial planning strategies for the area;
- The application is fully compliant with the applicable planning principles described in the LUPA (2014) and SPLUMA (2013);
- We request that a penalty fee not be imposed.

The application can be supported for your favourable evaluation. The opinion is held that this application will have no negative impact on the land values, privacy, built environment and character of the area.



