



ERF 1712, 3 HESS SE GANG, VERMONT: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: J DOUGLAS ON BEHALF OF S DE CANDIA

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

- **departure** in terms of Section 16(2)(b) to relax the rear building line from 3m to 2m to accommodate the proposed extension of the existing sunroom and to relax the same building line from 3m to 2,4m to legalize the existing braai area on first floor level, and
- **departure** from the Hess Se Gang Architectural Guidelines to accommodate the alterations to the existing dwelling.
- **determination of an administrative penalty** in terms of Section 16(2)(q) for unauthorised building line encroachments as mentioned above.

Full detail regarding the proposal is available for inspection during weekdays between 08:00 and 16:30 at the Department: Town and Spatial Planning at 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) loretta@overstrand.gov.za) on or before **8 November 2024**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to **Mr. H Olivier** 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 and Spatial Planning Department where a municipal official will assist them in order to formalize their comment.

ERF 1712, HESS SE GANG 3, VERMONT: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: J DOUGLAS NAMENS S DE CANDIA

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

- **afwyking** ingevolge Artikel 16(2)(b) om die agterboulyn vanaf 3m na 2m te verslap om die voorgestelde uitbreiding van die bestaande sonkamer te akkommodeer en om dieselfde boulyn vanaf 3m na 2,4m te verslap om die bestaande braai-area op eerste vloervlak te wettig, en
- **afwyking** van die Hess Se Gang Argitektoniese Riglyne om veranderinge aan die bestaande woning te akkommodeer.
- **bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) vir ongemagtigde boulynoorskredings soos hierbo genoem.

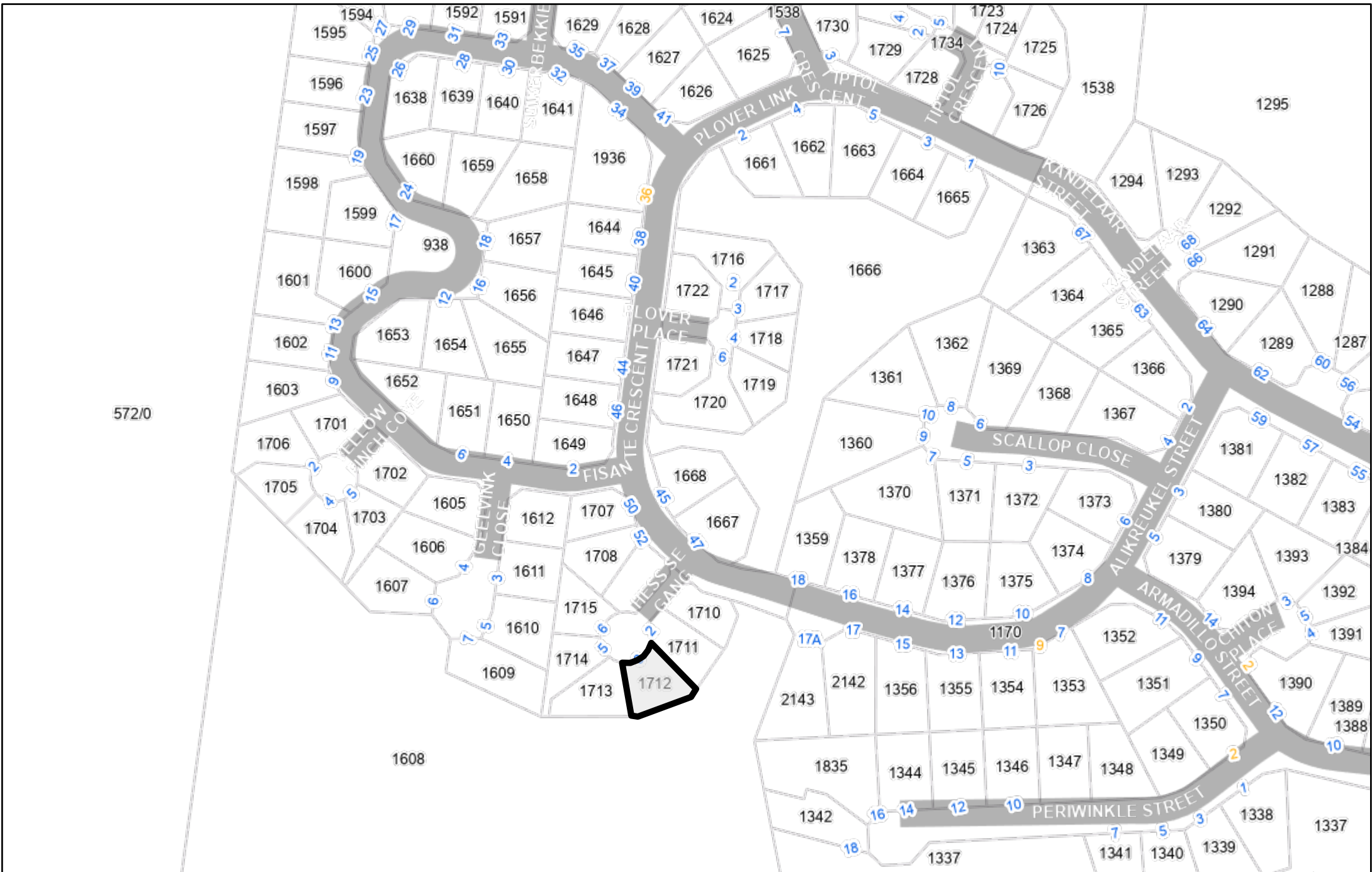
Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stads- en Streekbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) voor of op **8 November 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. H Olivier** at 028-313 8900. Die Munisipaliteit mag weer om die kommentaar te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stads- en Streekbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

ISIZA 1712, 3 HESS SE GANG, E-VERMONT: ISICELO SOPHAMBUKO NOKUMISELWA KWESOHLWAYO SOLAWULO: J DOUGLAS EGAMENI LIKA S DE CANDIA

Isaziso sinikezelwa ngokwemiqathango yeCandelo 48 loMthetho kaMasipala oLungisiweyo woMasipala wase-Overstrand ongoCwangciso lokuSetyenziswa koMhlaba kaMasipala, 2020 sokuba isicelo sifunyenwe soku kulandelayo:

- **uphambuko** kumqathango ngokweCandelo le-16(2)(b) lokunyenya umda wesakhiwo ongasemva ukusuka kwii-mitha eziyi 3m ukuya kwii-mitha eziyi 2m ukulungiselela ukwandiswa okucetywayo kwegumbi lelanga elikhoyo kunye nokucuthwa komda wesakhiwo ukusuka kwii-mitha eziyi 3m ukuya kwii-mitha 2.4m ukuze kube semthethweni indawo ekhoyo yokubraya inyama kumgangatho wokuqala,
- **uphambuko** kumqathango kwiZikhokelo ze-Hess Se Gang Architectural Guidelines ukulungiselela ukuguqulwa kwendawo yokuhlala ekhoyo, kwakunye
- **ukumiselwa kwesohlwayo solawulo** ngokwemiqaqo yeCandelo 16(2)(q) lokunyahashwa kwemiqaqo yesakhiwo ngokungekho mthethweni njengoko kukhankanyiwe ngasentla.

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ukuze zihlolwe ngeentsuku zokusebenza ngamaxesha okusebenza phakathi kwentsimbi yesi-08:00 neye-16:30 kwiSebe: UCwangciso lweDolophu, eHermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokuhambelana nezibonelelo zeCandelo lama-51 kunye nelama-52 alo Mthetho kaMasipala oxeliweyo kuMasipala (16 Paterson Street, eHermanus / loretta@overstrand.gov.za) ngomhla okanye ngaphambi komhla wama-**8 uNovemba 2024**, uchaze igama lakho, idilesi kunye neenkukacha zoqhagamshelwano, umda kwisicelo kunye nezizathu zezimvo. Imibuzo ngomnxeba ingenziwa kuMchwangciso weDolophu, **UMnzn. H Olivier** kule nombolo yomnxeba 028-313 8900. UMasipala unokwala ukwamkela izimvo ezifunyenwe emva komhla wokuvalwa. Nabani na ongakwaziyo ukufunda okanye ukubhala angandwendwela iSebe **loCwangciso lweDolophu** apho igosa likamasipala liya kuthi limncedise ukuze abhale ngokusesikweni izimvo zakhe.



ERF 1712 VERMONT

MOTIVATIONAL REPORT: APPLICATION FOR DEPARTURE AND
DETERMINATION OF ADMINISTRATIVE PENALTY FEE



ABSTRACT

Application for departure to accommodate the sunroom, braai area and architectural guidelines and determination of administrative penalty fee.

Application By: Jeane Douglas

Compiled for: Salvatore de Candia

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1. Background

The subject property Erf 1712 is situated in the residential neighbourhood of Vermont and is located along Hess Se Gang with an extent of 474m². According to the zoning map & Overstrand Municipal Land Use Scheme, 2020 the property is zoned as General Residential Zone I: General Residential (GRI). The property is developed with a four-bedroom dwelling house with a double garage, with access gained from Hess Se Gang. It must be noted that the property is also situated in a close, each property within the close is subject to architectural guidelines.

The property owner intends to develop the following:

1. To extend the existing sunroom located at the rear of the property;
2. Reduce the size of the existing balcony located on the first floor at the front of the house;
3. Add a new roof over the rest of the existing balcony; and
4. To legalize the existing braai-wall on the first floor located at the rear of the property.

Jeané Douglas is hereby duly appointed by the property owner (Salvatore De Candia) to submit a land use planning application for the proposed development.

See Appendix-C for the Power of Attorney and Appendix-D for the Site Development Plan

2. Application

The following is proposed:

1. Application is hereby submitted in terms Section 16 (2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the following:
 - Departure of the rear building line from 3m to 2m to accommodate the sunroom extension;
 - Departure of the rear building line from 3m to 2.4m to accommodate a braai area; and
 - Departure from the architectural guidelines (Design Manual Hess Se Gang) to accommodate the existing dwelling house.
2. Application is hereby submitted in terms of Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the existing braai-wall on the first floor located at the rear of the property.

5. Land Use Scheme Parameters

The property is zoned General Residential Zone 1: Town Housing (GR1) in terms of the Overstrand Municipality Land Use Scheme, 2020. The table below indicates the applicable parameters in terms of the zoning and the proposed departure.

	Scheme Parameters	Proposed Development	Departure Required
Coverage	60%	42,37%	No
Height	8m	Not applicable, the proposed	No
Street Building Line	1m	Not applicable, as the proposal does not encroach the street building line.	No
Rear Building Line	3m	2m to accommodate the proposed sunroom on the ground floor; and	Yes
		2.4m to accommodate the existing braai area.	Yes
Southern Side Building Line	1m	0m	Yes
Northern Side Building Line	1m	Not applicable, as the proposal does not encroach the street building line.	No

The property is situated within Hess Se Gang Close which has its own set of architectural design guidelines. The application is also to depart from the design guidelines since most of the houses within the “group Housing” in the close did not follow the architectural guidelines. This will be discussed alter in the report.

6. Title Deed

In terms of the Title Deed No T/ 7823/2019, Erf 1712 Vermont is registered in the name of Salvatore de Candia with no title deed conditions restricting the proposed development. The Title Deed is attached hereto as Appendix F.

7. Engineering Services

The subject property is connected to the existing Overstrand Municipality services network which includes electricity, water, sewage and solid waste.

8. Policies and Regulations

Overstrand Municipal Spatial Development Framework, 2020 (MSDF)

The Municipal Spatial Development Framework is a sectoral component of the IDP that, in terms of the MSA, is aimed at providing general direction to guide decision making on an ongoing basis, aiming at the creation of integrated, sustainable and habitable regions, cities, towns and residential areas.

The proposed application is located within the urban edge and is indicated as part of the “urban development area”. The proposed additions to the residential zoned property are therefore in line with this forward planning document.

Overstrand Municipality Spatial Growth Management Strategy, 2010 (OMSGMS)

The Growth Management Strategy promotes the longer-term sustainability of the municipal area and its sub-regions. The property falls within the planning unit 1 of Hermanus West; this section of Vermont is predominantly for residential use. Since the proposed additions are of a normal residential nature, the proposal is therefore in line with the OMSGMS strategy.

9. Planning Principles

Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA)

Section 7 of the "Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)" list 5 development principles based on which any development application must be evaluated.

The principles referred to are as follows:

1. Spatial Justice

Not applicable, the proposal will not contribute towards the perpetuation of apartheid spatial development imbalances.

2. Spatial Sustainability

Not applicable, the proposal is of a normal residential nature.

3. Spatial resilience

This proposal is not in conflict with any spatial planning policies or other regulations of the Overstrand Municipality.

4. Efficiency

This proposal intends to maximize the owner’s utilisation of the property.

5. Good administration

The Overstrand Municipality has a credible track record of good administration regarding the method of public participation which invites and accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications.

10. Determination of an Administrative Penalty

In terms of Section 90 of the Overstrand Municipality Amendment By-Law on Municipal land Use Planning 2020 the following is applicable: “A person who is in contravention of this By-Law, and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned.”

The administrative penalty applicable to the property is evaluated in terms of section 90 (3) (a-e), as follows:

(a) the nature, duration, gravity and extent of the contravention

The current property owner bought the property in 2019. At the time of sale, the current property owner assumed that the plans were in order when purchasing the property. However, when the property owner decided to develop the addition of a sunroom to the rear of the property on the ground floor, the architect discovered that a braai was built without the necessary planning approval since a part of the braai-wall was constructed over the applicable 3m building line. The property owner therefore proposes to rectify this unauthorised structure through the submission of this application.

(b) the conduct of the person (allegedly) involved in the contravention

The property owner took ownership of the property in 2019 when the structure had already been constructed by the previous property owner. The current property owner seeks to rectify the structure through the submission of this application.

(c) a report by a quantity surveyor in matters of unauthorised building/construction

No report by a quantity surveyor is submitted and the property owner has opted to utilize the municipal tariff of 2023/2024 in order to calculate the administrative penalty.

(d) whether the unlawful conduct was stopped

The current property owner took ownership of the property in 2019 which already had the existing unauthorised structures (braai wall) to the rear of the property. The current property owner is not aware of the date or year which the structure was erected and when looking at the google aerial photography, there is also no clear indication of when the structure was erected.

(e) whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law

According to the knowledge of the property owner, they have not previously contravened this By-Law or any other By-Law.

With the above-mentioned stated, the property owner seeks to retain the braai-wall and rectify the unauthorised structure by applying for the departure over the 3m rear building line. It must be noted that the encroachment is not for the braai itself, but the encroachment is for a portion of a braai wall which makes room for the preparation tabletop. It is therefore requested that the determination of an administrative penalty for this minor structure be waived.

11. Need and Desirability

This proposal is to accommodate the following:

- The conversion of the part of the balcony to a roofed structure on the first floor located at the front of the house (does not require scheme departure but a departure from the design guidelines).
- The existing braai-wall and tabletop located over the 3m rear building line.
- The addition of a sunroom on the upper-level ground floor over the 3m rear building line.
- General departure from the design guidelines to accommodate the existing house.

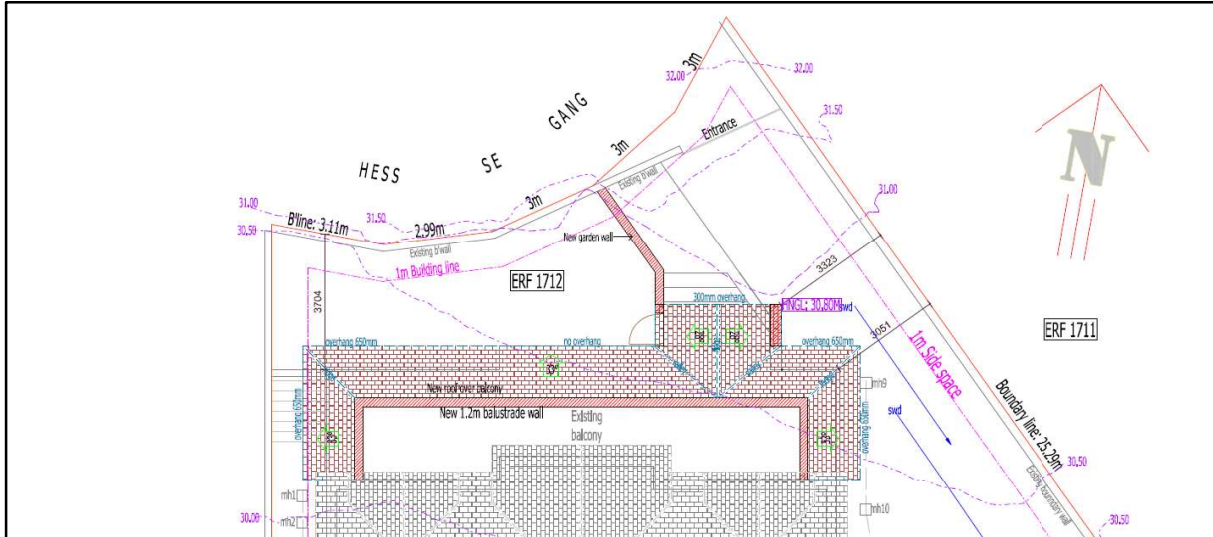


Figure 3: Departure from the Design Guidelines

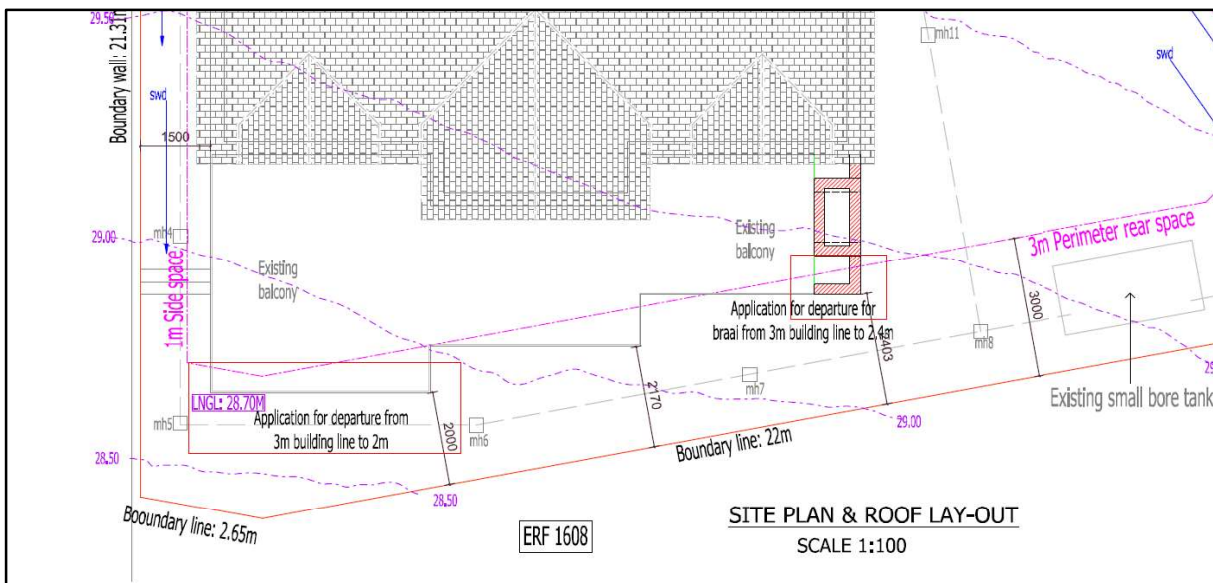


Figure 4: Encroachments of the 3m Rear Building Line

Figure 4 above indicates the two structures that encroach the 3m rear building line. The first structure to the bottom left of the figure is the proposed addition of a sunroom. This sunroom will be situated on the ground floor (upper level) and position 2m from the erf boundary. The proposed sunroom will only extend towards the rear of the property and follow the existing building footprint line on the western lateral side. There will not be any impact on the neighbouring property owner (Erf 1713 Vermont) since the sunroom is not extended towards the lateral boundary but directed towards the rear of the property.

The second structure that encroaches the 3m rear building line indicated in figure 3 is a portion of the braai. Keep note that the braai itself does not encroach the 3m rear building line, however part of the braai-wall which includes a preparation tabletop encroaches the 3m rear building to 2.4m from the erf boundary line. This encroachment has no impact on the adjacent property owners (Erf 1713 and Erf 1711 Vermont) as it is not located near to the 1m lateral building line on either side of the property.

With the above-mentioned stated the structures only encroach the applicable 3m rear building line and have no impact therefore have no impact on the immediate surrounding neighbours.

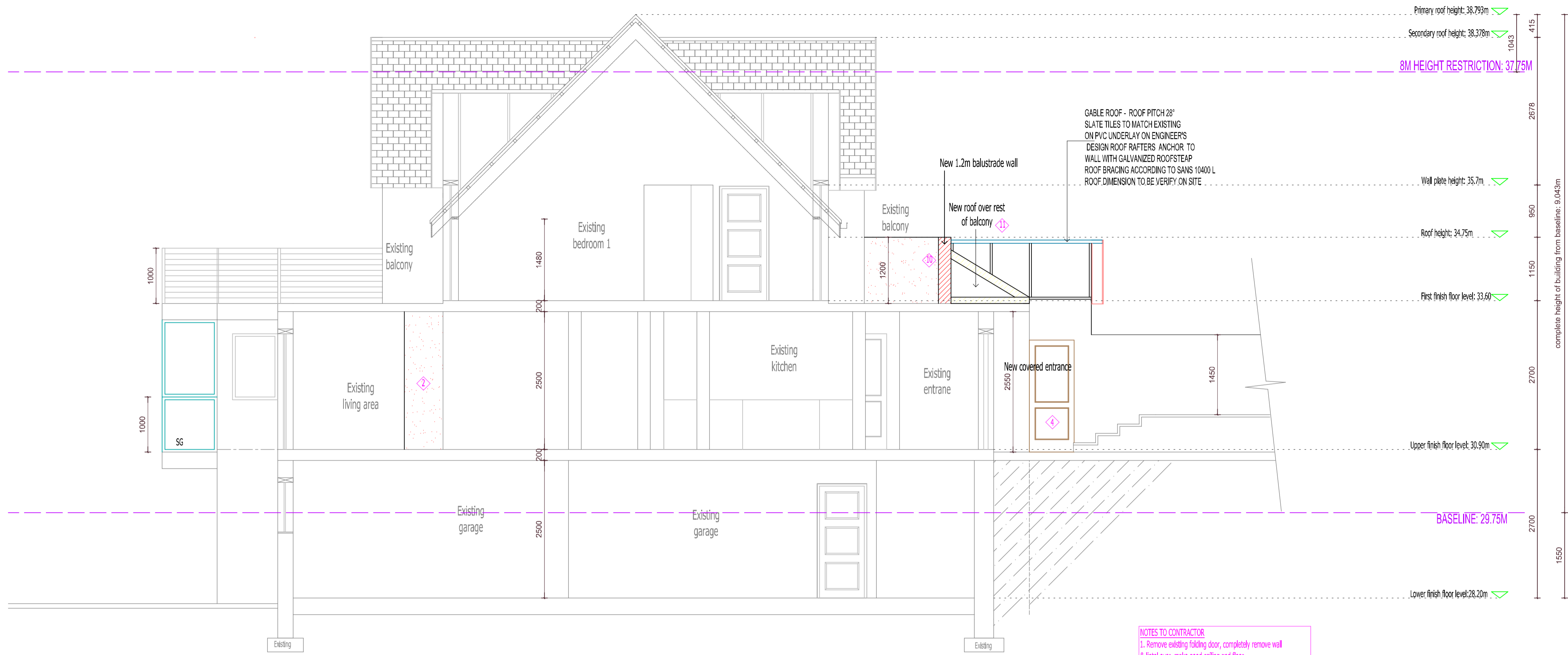
Furthermore, the property is zoned General Residential Zone 1: Town Housing (GR1) and is subject to architectural guidelines. However, there is no homeowner's association or constitution for the group housing of Hess Se Gang Close. Additionally, the proposed structures as well as the existing structures do not comply with the existing architectural guidelines, therefore the proposal is also to depart from the design guidelines of Hess Se Gang "Group Housing". The reason the municipality should consider the departure for Erf 1712 Vermont to depart from the architectural guidelines is due to none of the houses in their current state comply with the design guidelines of Hess Se Gang close. Each house has strayed from the design guidelines by either going through a departure or attaining neighbours' consent.

With the above-mentioned stated, the proposals are normal residential additions that should be viewed desirable from a town planning perspective and should be considered for approval.

12. Recommendations

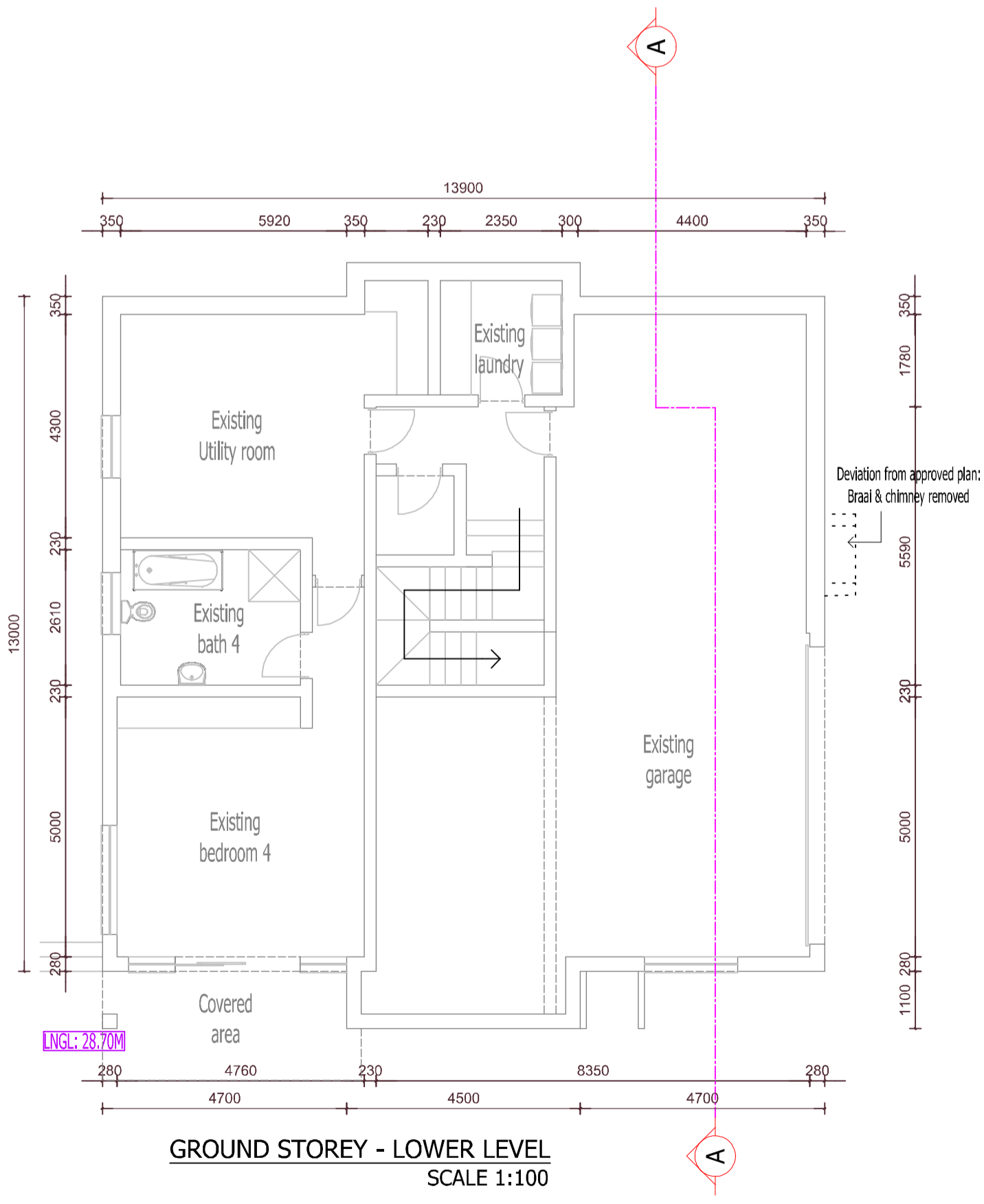
Based on the abovementioned motivation, it is recommended that the following be approved:

1. Application is hereby submitted in terms Section 16 (2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the following:
 - Departure of the rear building line from 3m to 2m to accommodate the sunroom extension;
 - Departure of the rear building line from 3m to 2.4m to accommodate a braai area; and
 - Departure from the architectural guidelines (Design Manual Hess Se Gang) to accommodate the existing dwelling house.
2. Application is hereby submitted in terms of Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the existing braai-wall situated on the first floor located at the rear of the property.

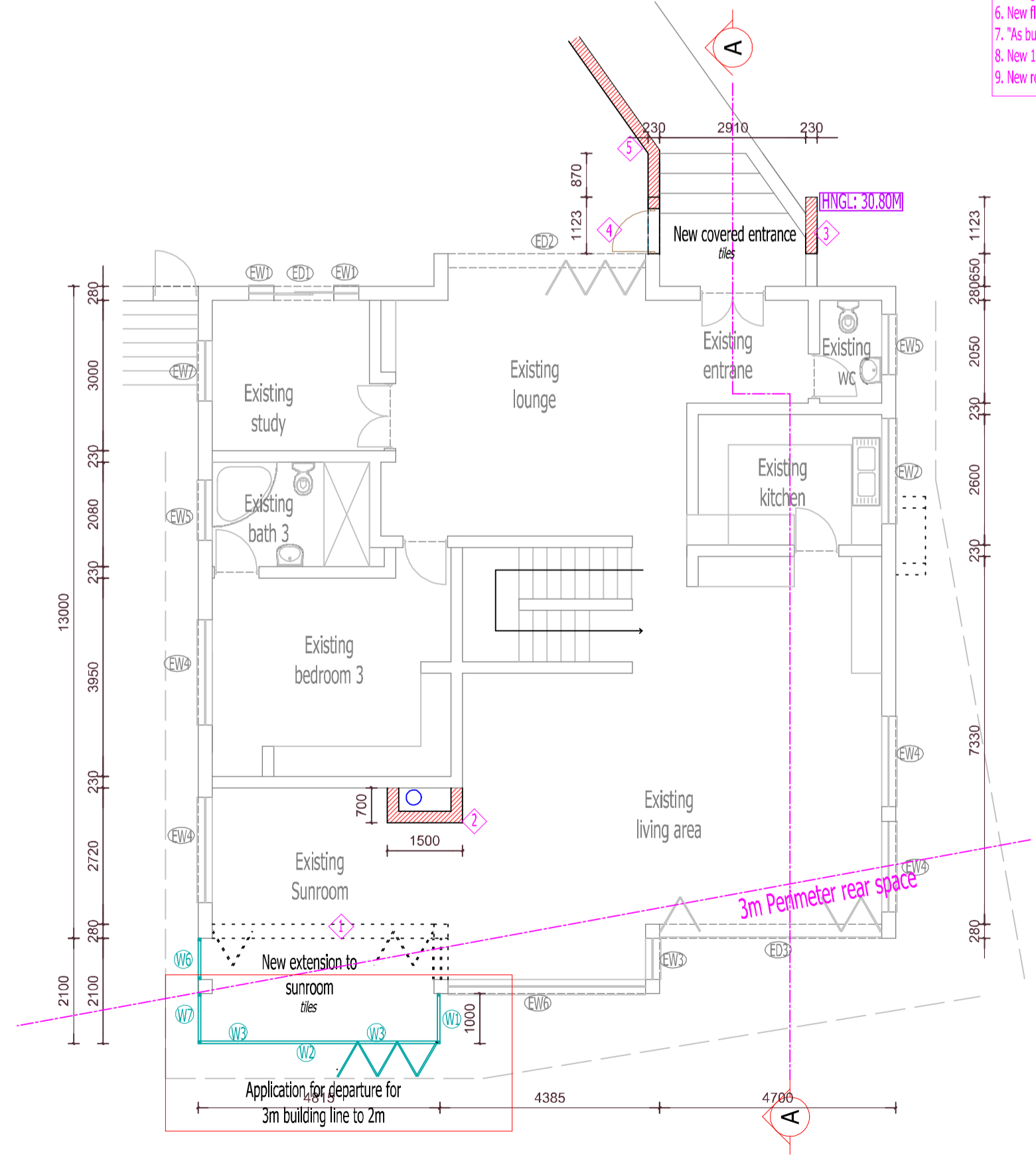


SECTION A-A
SCALE 1:50

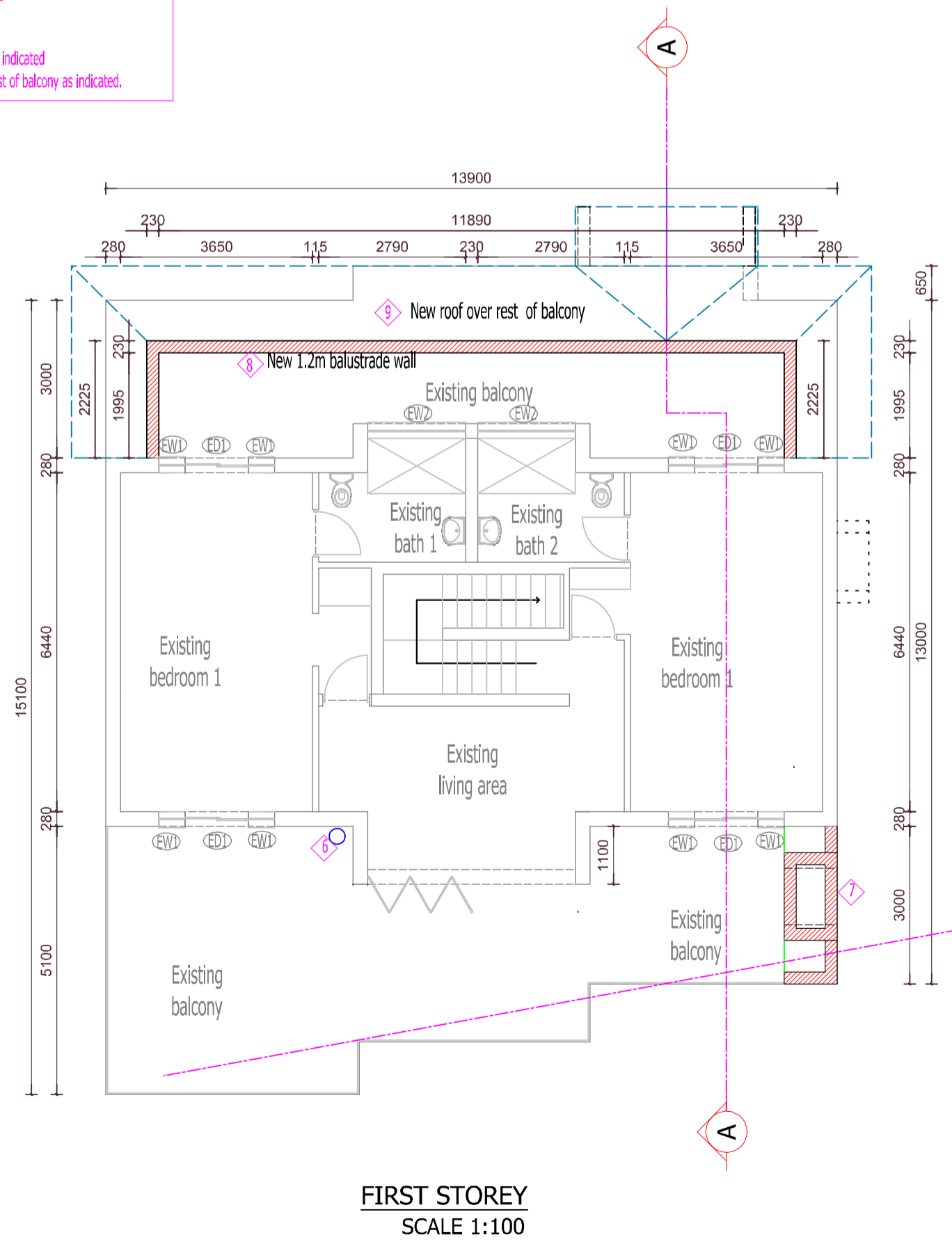
- NOTES TO CONTRACTOR**
1. Remove existing folding door, completely remove wall & fitted over, make good ceiling and floor
 2. New break & flue as indicated
 3. Extend existing wall as indicated
 4. Extend existing wall as indicated, fit new door as indicated
 5. New garden wall on existing garden wall as indicated
 6. New flue for break
 7. "As built" break as indicated
 8. New 1.2m balustrade wall as indicated
 9. New roof to be fitted over rest of balcony as indicated.



GROUND STOREY - LOWER LEVEL
SCALE 1:100



GROUND STOREY - UPPER LEVEL
SCALE 1:100



FIRST STOREY
SCALE 1:100

PROJECT
NEW ADDITIONS & ALTERATIONS
ON ERF 1712, NO 3 HESS SE GANG
VERMONT

CLIENT
S DE CANDIA

DRAWING :
LOWER GROUND STOREY LAY-OUT
UPPER GROUND STOREY LAY-OUT
FIRST STOREY LAY-OUT
SECTION A-A

DATE	15/04/2024	PLAN NO:	VER1712/2024
REVISED		SHEET NO	1 OF 2

PROFESSIONAL ARCHITECTURAL
DRAUGHTSPERSON

RONIKA CHAMIER

11:34 AM (Africa/Johannesburg) on 21 Apr 2023

Call : 082 044 8229
chamcad51@gmail.com
19 Fourth Avenue
Botriver

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