

ERF 6680, 33 SIXTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF JS ROOS

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 in order to:
 - relax the rear building line from 2m to 1.5m, to accommodate a portion of the illegal bedroom on the ground floor;
 - relax the lateral building line from 2m to 1.5m, to accommodate portions of the two illegal bedrooms and toilet on the ground floor;
 - relax the lateral building line from 2m to 1.76m and the rear building line from 2m to 1.5m, to accommodate a portion of the proposed pergola on the ground floor; and
 - relax the lateral building line from 2m to 1.76m, to accommodate a portion of the concrete sun deck on the second floor.
- ❖ **determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law, in order to legalize the unauthorised building work on the property.

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) on or before **12 April 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 6680, SESDESTRAAT 33, VOËLKLIP, HERMANUS, OVERSTRAND MUNISIPALE AREA: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: MNRE PLAN ACTIVE STAD- EN STREEKSBEPLANNERS NAMENS JS ROOS

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:

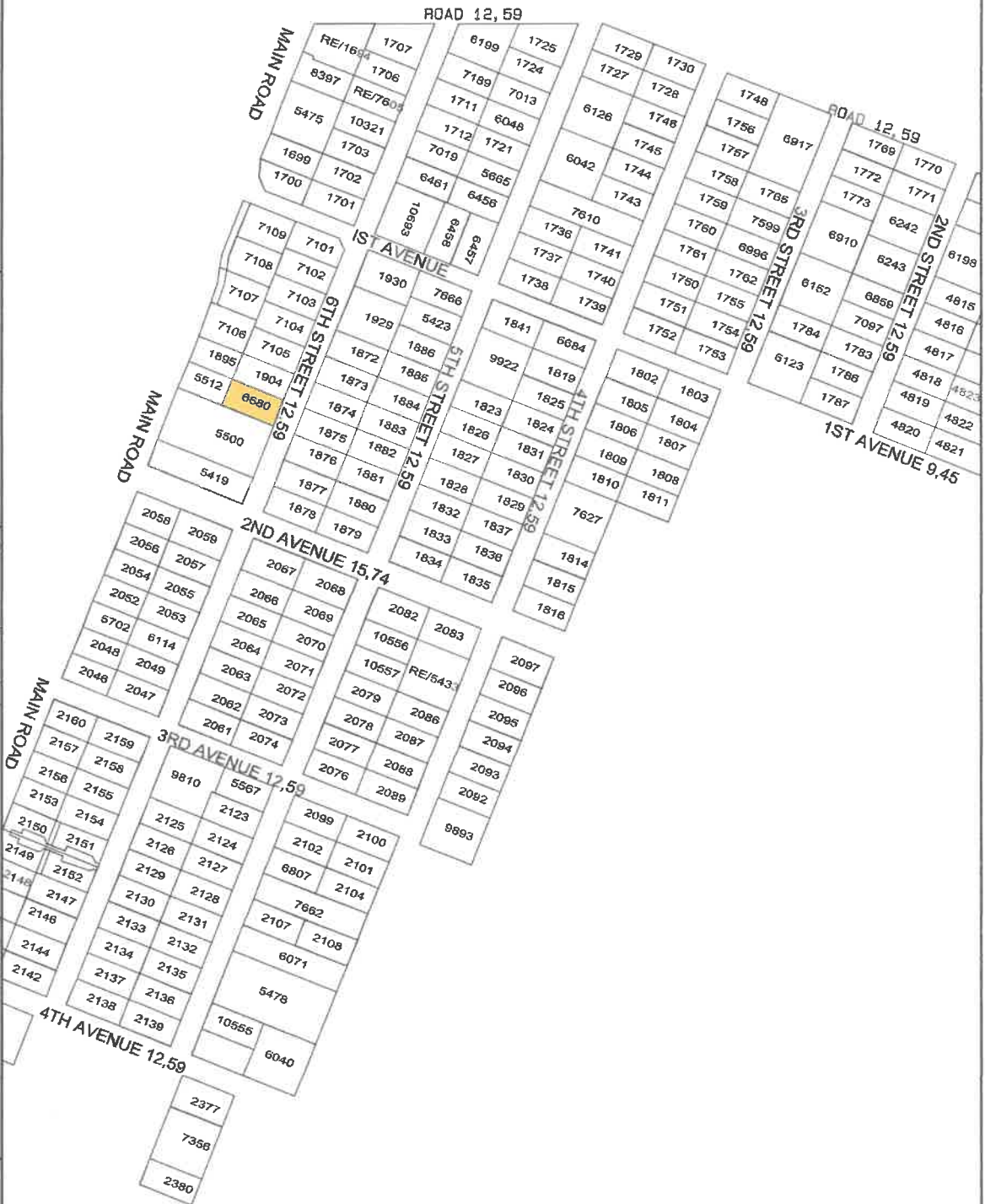
- ❖ **afwyking** ingevolge Artikel 16(2)(b) van die Verordening ten einde die:
 - agterboulyn vanaf 2m na 1.5m te verslap, om 'n gedeelte van die onwettige slaapkamer op die grondvloer te akkommodeer;
 - lateraleboulyn vanaf 2m na 1.5m te verslap, om gedeeltes van die twee onwettige slaapkamers en toilet op die grondvloer te akkommodeer;
 - lateraleboulyn vanaf 2m na 1.76m te verslap en die agterboulyn vanaf 2m tot 1.5m te verslap, om 'n gedeelte van die voorgestelde preeël op die grondvloer te akkommodeer; en
 - lateraleboulyn vanaf 2m na 1.76m te verslap, om 'n gedeelte van die beton sondek op die tweede verdieping te akkommodeer.
- ❖ **bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) van die Verordening, ten einde die ongemagtigde bouwerk op die eiendom 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 / (e) alida@overstrand.gov.za) voor of op **12 April 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 ESINGU-ERF 6680, 33 SIXTH STREET, VOËLKLIP, HERMANUS, KUMMANDLA KAMASIPALA WASE-OVERSTRAND: ISICELO SOKWAHLULA: NGABAMNUMZANA BAKWAPLAN ACTIVE TOWN NE-REGIONAL PLANNERS EGAMENI LIKA JS ROOS

Kukhutshwe isaziso esimayela nemiba yeSoloty lama-48 likaMasipala wase-Overstrand esingezihlomelo zoMthethwana Ongezicwangciso zoMhlaba kaMasipala ku2020 (UMthethwana, sicelo esi sithi kufunyenwe isicelo esingale miba ilandelayo:

- ❖ **ukwahlula ngokwemiba yeSoloty le16(2)(b) loMthethwana ukuze:**
 - kunyenyswe umgca wesakhiwo ongasemva ukusuka kwiimitha ezi-2m ukuya kwezimitha ezi-1.5m, ukulungiselela inxalenye yegumbi lokulala elingekho mthethweni kumgangatho osezantsi;
 - kunyenyswe umgca wesakhiwo omelene nesakhiwo ukusuka kwiimitha ezi-2m ukuya kwiimitha ezi-1.5m, ukulungiselela inxalenye yamagumbi amabini okulala angekho mthethweni kunye negumbi langasese/ithoyilethi elikumgangatho/ekumgangatho osezantsi;
 - kunyenyswe umgca omelene nomgca wesakhiwo ukusuka kwiimitha ezi-2m ukuya kwiimitha ezi-1.76m necala elingasemva wesakhiwo ukusuka kwiimitha ezi-2m ukuya kwezi-1.5m, ukulungiselela inxalenye yendawo eyenza umthunzi/iveranda esisiphakamiso kumgangatho osezantsi;
 - kunyenyswe umgca wesakhiwo ukusuka kwiimitha ezi-2m ukuya kwezi-1.76m, ukulungiselela inxalenye yedekhi yekonkrithi yokugcakamela ilanga kumgangatho wesibini.
 - ❖ **ingqikelelo yobhaliso lomdlwalo/lwepenalthi ngokwemiba yeSoloty le6(2)(q) loMthethwana, ukuze kubhaliswe ngokusemthethweni umsebenzi onganunyawiswanga oqhubeka kwesi sakhiwo.**
- linkcukacha ezingaphelelanga mayela nesi siphakamiso ziyafumaneka ukuze zihlowe kwiintsuku zaphakathi eveleni ukusukela kwintsimbi ye08:00 neye16:30 kwiSebe: Izicwangciso ngeDolophu, 16 Paterson Street, Hermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zeSoloty lama51 nelama52 loMthethwana kaMasipala (16 Paterson Street, Hermanus / (f) 0283132093/ (e) alida@overstrand.gov.za) ngomhla okanye ngaphambi komhla **12 uApreli 2024**, uchaze igama lakho, iadresi neenkukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zokuhlomla. Imibuzo ngefowuni ingathunyelwa ku**Mcwangcisi weDolophu, Mnu P Roux** kwa 028-313 8900. UMasipala angala ukwamkela izimvo ezifunyenwe emva komhla wokuvala. Nabani na ongakwazi ukubhala nokufunda angahambela kwiSebe Lezicwangciso zeDolophu apho igosa likamasipala liza kumnceda ukuze ahlomle ngokusemthethweni.



**DETERMINATION OF AN
ADMINISTRATIVE PENALTY AND
PROPOSED BUILDING LINE
DEPARTURES**

ERF 6680 HERMANUS

**DIVISION: CALEDON
OVERSTRAND MUNICIPALITY**

MOTIVATION REPORT

1. BACKGROUND

Mr. J.S. Roos, the owner of Erf 6680 Hermanus has instructed the company Plan Active Town and Regional Planners, to apply for the determination of an administrative penalty and building line departures of the subject property.

An application was previously submitted for additions and alterations encroaching the prescribed building lines on the subject property, Erf 6680 Hermanus. After the public participation process was concluded, the applicant became aware that the owner had started with the proposed construction work without obtaining the required land use and building plan approvals. The intention is now to amend the submitted application to include an application for the determination of an administrative penalty for the unauthorized building work that encroaches the rear and lateral building lines.

The subject property is 496m² in extent and is held by Title Deed Number T6886/2023.



2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020, for departures from the building lines.
- 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.

3. DESIRABILITY

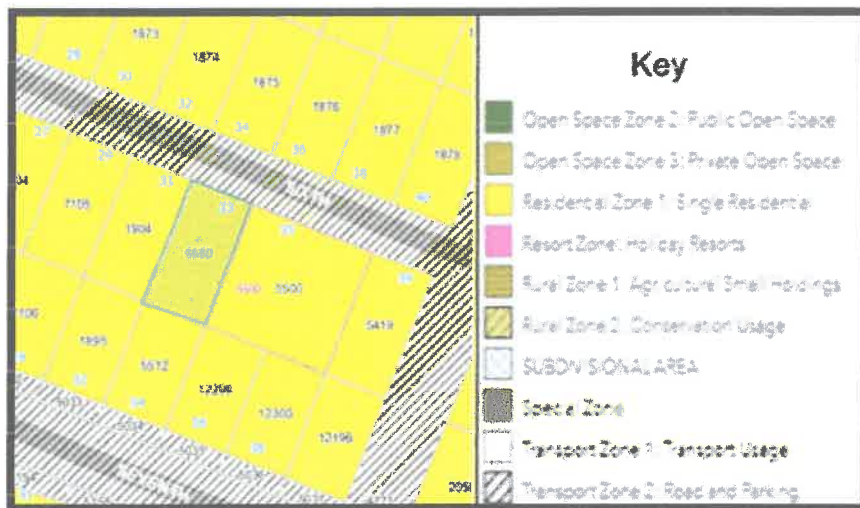
3.1 PROPERTY DESCRIPTION

The subject property is situated at 33 Sixth Street, Voëlklip, Hermanus. Erf 6680 Hermanus is 496m² in extent and is situated in a predominantly single residential area. Please refer to the enclosed locality plan and the aerial photograph below.



3.2 ZONING

Erf 6680 Hermanus is zoned Residential Zone 1 and is used as such. The surrounding properties are also zoned for single residential purposes and public roads. Please refer to the zoning map abstract below:



3.3 LAND USE

Erf 6680 Hermanus is used for residential purposes. A double storey dwelling with a double garage is established on the subject property.

Land uses that surround Erf 6680 Hermanus are single dwellings and public roads. It is therefore evident that the subject property is situated within a predominantly single residential area.

3.4 PROPOSAL

The following is proposed in terms of:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020, for departures from the building lines;
- 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.



3.4.1. Determination of an administrative penalty

When the original application was submitted for the proposed building line departures, the construction of the alterations and additions were in the planning stages. During the public participation process an objection was lodged that brought the attention to the fact that the owner had started with the construction of the proposed alterations and additions and that the project was near completion. The following unauthorised structures are now established on the subject property:

- **2 bedrooms;**
- **A concrete sundeck;**

An application was submitted for the departures from the prescribed building lines. The owner constructed the alteration and additions without the necessary land use and building plan approvals. The intention is now to amend the initial application to include a determination of an administrative penalty for the unauthorised building work.

In terms of **Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020**, an application is made for the determination of an administrative penalty for unauthorised land uses. In terms of **Chapter 10, Section 90(1)**, "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".

In terms of **Chapter 10, Section 90(3)**, of the Overstrand Municipality's Amended By-Law on Municipal Land Use Planning, 2020 the applicant must to the satisfaction of the municipality, provide the following:

3.4.1.1 CRITERIA FOR DETERMINATION OF AN ADMINISTRATIVE PENALTY

The Nature, duration, gravity, and extent of the contravention

The property owner proceeded with the unauthorised building work on the subject property before the land use application process was concluded. An application was lodged for building line departures for the proposed alterations and additions, but the



application is now amended to include the determination of an administrative penalty for the unauthorised building work that took place during the application process. The intention of the owner is to address the unauthorised building work in order to obtain building plan approval for the As Built structures situated on the subject property.

The extent of the unauthorised encroachment building work is as follows:

Structure	Extent of unauthorised building work
Portion of the existing bedrooms	±6.7.m ²
Concrete sun deck	±1.7m ²
Total Extent of unauthorised building work	±8.40m²

The owner of the subject property intends to provide his full co-operation to the Overstrand Municipality to address the unauthorised building work as he takes full responsibility, as he was in the wrong to proceed with the construction of the unauthorised building work without the necessary approvals. The amended application will make provision for the determination of an administrative penalty for the illegal structures and building line departures simultaneously in order to address the unauthorised building work and building line encroachments situated on the subject property.

The position and nature of the unauthorised building work are unobtrusive in nature and do not impact negatively on the surrounding properties. With the existing structures a 1.5m building line is still accommodated and only a small portion of the unauthorised building work encroaches the prescribed building lines.

Two bedrooms





Sun deck



The conduct of the person involved in the contravention.

The unauthorised building work was erected by the owner before the land use application was concluded. The owner takes full responsibility for the unauthorised building work and therefore an amended application is submitted which includes the determination of an administrative penalty.

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, a report from a quantity surveyor with reference to the unauthorised building work can be submitted.

According to the Overstrand Tariffs list for the 2023/2024, Formal structures – habitable space (erven larger than 150m²) per sqm is calculated at R19 107.00 (VAT inclusive).

The extent of the unauthorised encroachments can be calculated as follows:



Two bedrooms and sun deck:

$$6.7\text{m}^2 + 1.7\text{m}^2 = 8.40\text{m}^2$$

Total building cost = ±R160 498.80 as per the Overstrand Municipality Tariffs list for the 2023/2024.

Whether the unlawful conduct was stopped

The owner is in the process of rectifying the contravention by applying for the determination of an administration penalty and building line departures. The structures were erected by the owner of the subject property before the land use application process was concluded. All building work is completed.

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, the owner has never previously contravened this By-Law or any other previous planning law except for the contravention addressed in the current application.

We appeal to the Overstrand Municipality to take into consideration the low impact the unauthorised building work has on the surrounding area and the fact that it is only portions of the structures that encroach the building lines.

It should also be taken into consideration the low impact that the unauthorised structures have on the neighbouring properties in relation to existing land use rights. It is also important to note that the Zoning Scheme Regulations and the Overstrand Municipality's Amended Bylaw on Municipal Land Use Planning, 2020 will still be used to guide future development on the subject property. We therefore respectfully request that a minimum penalty fee be imposed on the property owner for the reasons given above.

3.4.1. Building line departures

Erf 6680 Hermanus is 496m² in extent. The Overstrand Scheme Regulations stipulate that a **4m street building line** and a **2m lateral and rear building line** apply to



Residential Zone 1: Single Residential properties larger than 400m² in extent as tabled below:

Net erf area	Street building line
Less than 150 m ²	1,0 m
Less than 400 m ²	2,0 m
400 m ² and greater	4,0 m

Net erf area	Side and rear building lines
Less than 150 m ²	At least 1,0 m one side and 0 m on the other side. Rear = 1,0 m.
Up to 400 m ²	1,0 m
Greater than 400 m ²	2,0 m

The owner of Erf 6680 Hermanus constructed the following additions to the existing dwelling situated on the subject property:

Ground floor

- 2 bedrooms;
- Pergola (**not** constructed yet).
- 2 new windows replacing the old existing windows in the toilet and family room.

First floor

- 1 new window replacing the old window in the existing bathroom.

Second floor

- Concrete sun deck.

The building line departures can be summarised as follows:

- Relaxation of the rear building line from **2m** to **1.5m** to accommodate a portion of the illegal bedroom on the ground floor;
- Relaxation of the lateral building line from **2m** to **1.5m** to accommodate portions of the two illegal bedrooms and toilet on the ground floor;



- Relaxation of the lateral building line from **2m** to **1.76m** and the relaxation of the rear building line from **2m** to **1.5m** to accommodate a portion of the proposed pergola on the ground floor;
- Relaxation of the lateral building line from **2m** to **1.76m** to accommodate a portion of the concrete sun deck on the second floor.

The **two bedrooms and toilet** are situated in the southern corner of the subject property, 1.5m from the eastern lateral boundary and 1.5m from the rear boundary. With the proposed bedrooms and toilet encroaching the 2-meter rear and lateral building lines, a 1.5m building line is still provided. There is one window on the side of the building encroaching the rear building line, but the intention is to erect a boundary wall which will help protect the privacy of the property owners as well as the neighbouring property owner of Erf 5512 Hermanus. Two windows are situated on the side of the bedrooms encroaching the lateral building line on the eastern side. The bedrooms and toilet do not have any impact on the neighbouring property values or the current residential character.

The **pergola** is proposed in the southwestern portion of the subject property. The proposed pergola will encroach the rear and lateral building line but not onto any common boundary lines. The proposed pergola will be situated 1.5m from the rear boundary and 1.76m from the lateral boundary to be in line with the existing house. The proposed pergola is approximately 3m in height. The pergola will not be covered or enclosed.

On the second floor of the existing dwelling, a **concrete sun deck** was constructed of which a small portion encroaches the 2-meter lateral building line. The concrete deck encroaches the 2-meter building line by **240mm**. With the wall on the edge of the deck, movement is still restricted to 2-meters from the boundary line.



On the **ground floor**, two existing windows were replaced with two new windows (**W16 and W17**) that are situated within the existing wall encroaching the lateral building line. The new windows are located in the toilet and family room. The window in the bathroom on the first floor is also replaced (W19). The old windows were replaced with the same size windows but are of better quality. The impact of the new windows will thus remain the same, as the size of the windows did not change.



size but are more modern windows. The building line departures have minimal impact on the surrounding properties.

3.5 ACCESS

Vehicular and pedestrian access to Erf 6680 Hermanus and the existing dwelling and garage are gained from Sixth Street.

Vehicular and pedestrian access from Sixth Street, Voëlklip will be retained.

3.6 SERVICES.

All services on the subject property already exist. Additional services are not required and therefore the proposed applications will not have a negative impact on existing services that are provided by the Overstrand Municipality.

3.7 TITLE DEED

There are no restrictive Title Deed conditions in Title Deed No. T6886/2023 that need to be addressed in order for the building line departures of Erf 6680 Hermanus to be approved.

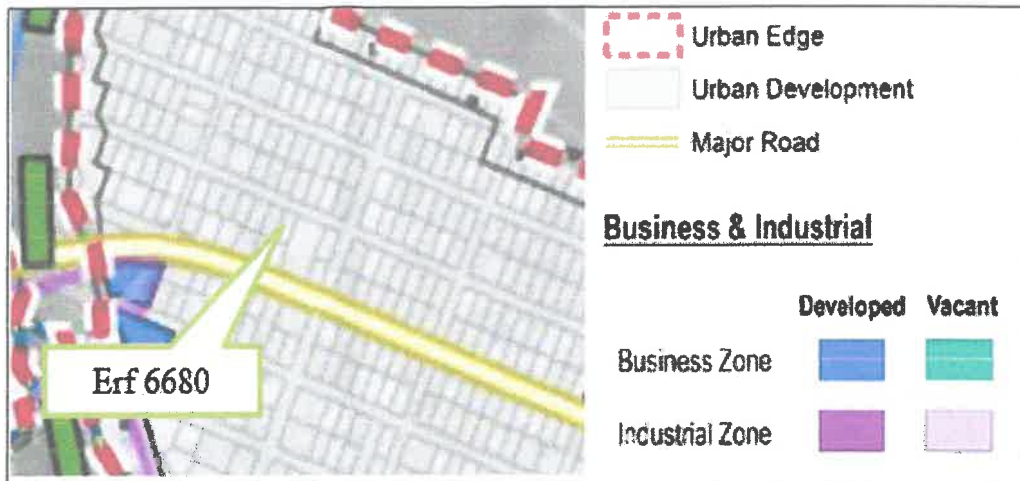
There is no bond registered against Erf 6680 Hermanus.

3.8 FORWARD PLANNING

Overstrand Municipal Wide Spatial Development Framework (2020).

In terms of the Overstrand Wide Spatial Development Framework the subject property is earmarked for urban development purposes. The residential zoning and land use of Erf 6680 Hermanus will be retained after the proposed application has been concluded.





Overstrand Growth Management Strategy (2010)

With reference to the Overstrand Growth Management Strategy the subject erf falls within Planning Unit 6 that consists of the existing pristine high income, low density northern section of the Voëlklip residential area above Main Road.

Incremental development through subdivision to allow second and third dwelling units is proposed for an assumed 20% of this planning unit.

Our application is for a determination of an administration penalty and building line departures and subsequently the Growth Management Strategy does not apply to this application.

3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.9.1 HERITAGE VALUE

Erf 6680 Hermanus is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). The property is not earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009).

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.



According to the **Overstrand Municipal GIS system** the area where the subject property is situated is categorised as 3B Heritage area as seen in the abstract below. The proposed departures will not have any impact on the area as the property is already developed and has the same characteristics as surrounding developed residential erven.



In light of the above mentioned it is evident that the building line departures will not have a negative impact on the heritage value of the subject property or the greater area of Voëlklip, Hermanus.

3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The building line departures do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

3.10 PLANNING PRINCIPLES

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

Spatial Justice: The main goal of this application is for the owner of Erf 6680 Hermanus to legalise extensions and alterations to the current dwelling that will

enhance the value of the property without having a detrimental impact on the neighbouring landowners. Due to the placement of the existing dwelling on the subject erf and the layout of the internal uses of the dwelling, the owner did not have any other choice than to partially encroach the lateral and rear building lines. The coverage of the dwelling and proposed extensions is 47.35% that is less than the prescribed allowable 50%.

Spatial sustainability: The building line departures are in line with the current character of the established residential area. The proposal does not have any impact on the conservation worthy areas of Voëlklip. Spatially the land use of Erf 6680 Hermanus is in line with the residential character of the area and as mentioned above the lateral and rear building lines are partially encroached and the coverage will be below the prescribed 50%.

Efficiency: The proposed application for building line departures promotes the logical optimisation of the use of space of the subject erf within a developed residential area.

Spatial Resilience in the context of land use planning refers to the need to promote the development of sustainable livelihoods for the poor (i.e. communities that are most likely to suffer the impacts of economic and environmental shocks). Spatial resilience also refers to the requirement for flexibility in spatial plans, policies and land use management systems to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks. The spatial plans, policies and land use management systems should enable the communities to be able to resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner, which includes the preservation and restoration of essential basic infrastructure and functions, but also adaptation in order to ensure increased resilience in terms of future shocks (United Nations Office for Disaster Risk Reduction, 2009). In our opinion the principle of Spatial Resilience is not applicable to this application.

Good administration: Our Company 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 By-law on Municipal Land Use Planning, 2020.

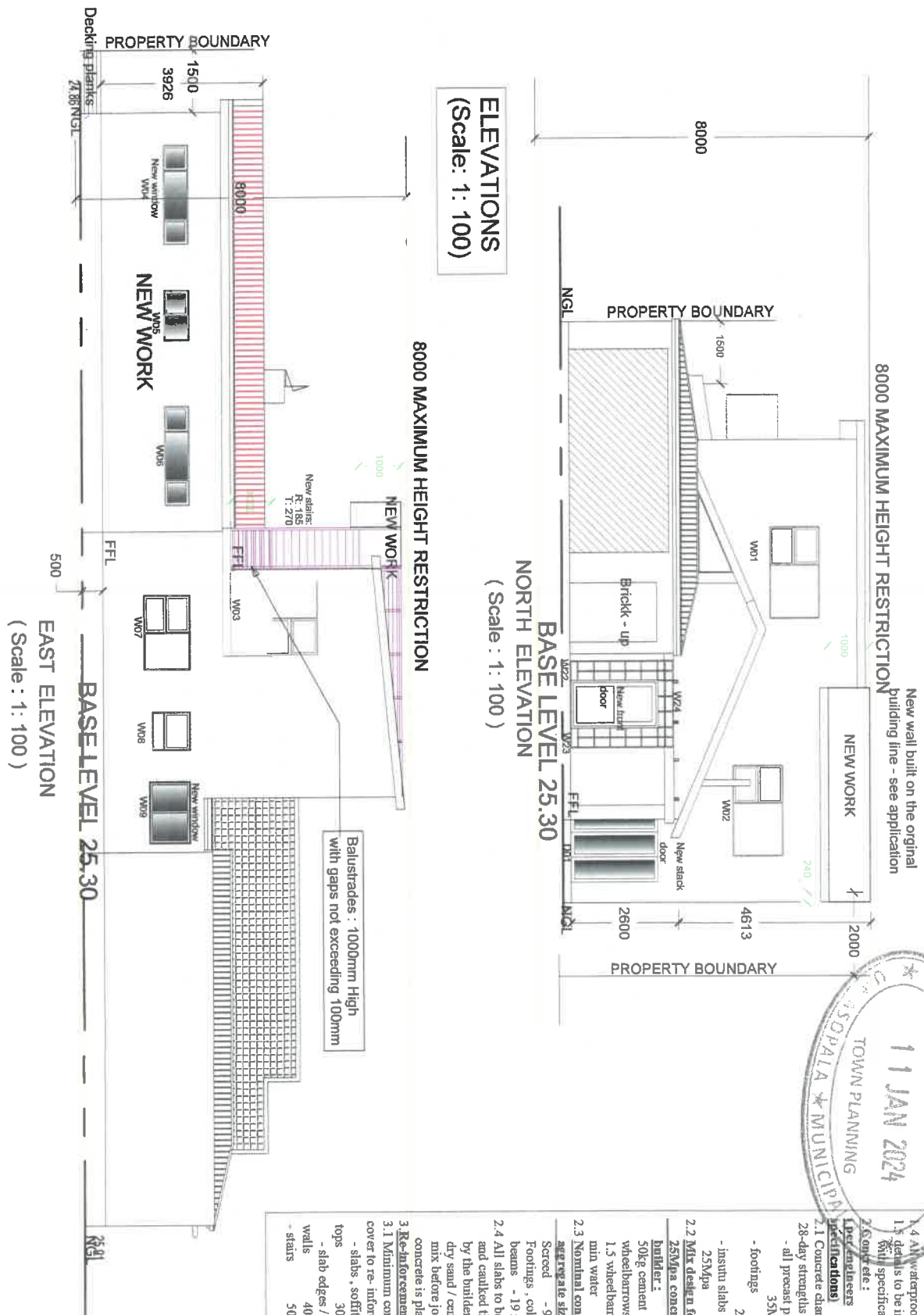
4. RECOMMENDATION

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

- The building line departures of Erf 6680 Hermanus fall within the existing land use tendencies in the area;
- The proposal is still compatible with the existing character of the area;
- The proposal has no impact on services;
- The proposed application will not have a negative impact on the current land values of the surrounding erven;
- The proposed applications do not have any negative impact on the adjoining property owners;
- The proposed application is in line with Spatial Planning Land Use Management Act, 2013 (SPLUMA) and the Land Use Planning Act, 2014 (LUPA).

With regards to the above-mentioned applications, it would be appreciated if Council would consider the application favourably for the building line departures of Erf 6680 Hermanus and that a minimum administrative penalty fee be imposed.





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OVERSTRAND

11 JAN 2024

TOWN PLANNING

TOWN PLANNING
ASOPALA & MUNICIPAL

SPECIFICATION

NOTES:

1. General:

- 1.1 All dimensions and
1.2 levels to be checked
1.3 on site.

- 4 Allow waterproofing details to be in accordance with specifications

Specifications

2.1 Concrete at

- 20-day strengths
- all precast panels
35Mpa

- 25Mpa
-insutu slabs , screed , beams
25Mpa

- ## 2.2 Mix design for all 25Mpa concrete by

- 50kg cement
wheelbarrows stone
1.5 wheelbarrow sand
min water

- ### 2.3 Nominal concrete aggregate size:

- 2.4 All slabs to be leveled

- 2.4 All slabs to be leveled and caulked tight by the builder a semi-dry sand / cement mix before joint filling concrete is placed.

- 3.1 Minimum concrete cover to re-inforcement :
- | | |
|----------------------------|------|
| - slabs, soffits and tops | 30mm |
| - slab edges / brick walls | 40mm |
| - stairs | 50mm |

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