

ERF 8173, 22 SANDPIPER STREET, HEMEL & AARDE ESTATE, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: SMART SOLUTION ARCHITECTURE ON BEHALF OF J KER & J HUMAN

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 a departure in terms of Section 16(2)(b) to relax the following building lines:

- Rear building line from 3.0m to 0.0m, to accommodate the existing braai.
- Northern lateral building line from 2.0m to 0.0m to accommodate the existing braai.
- Southern lateral building line from 2.0m to 0.90m to accommodate a new timber staircase.

Application has also been received for a determination of an administrative penalty in terms of Section 16(2)(q) of the By-Law for the unauthorised building line encroachments as stipulated above.

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 must be in writing to reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / loretta@overstrand.gov.za) on or before **09 February 2024**, quoting your name, address and contact details, interest in the application and the reasons for comments. Telephonic enquiries can be made to the Town Planner, **Mr. H Boshoff** 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 8173, SANDPIPER STRAAT 22, HEMEL & AARDE ESTATE, HERMANUS, OVERSTRAND MUNISIPALE AREA: AANSOEK VIR AFWYKING & BEPALING VAN 'N ADMINISTRATIEWE BOETE: SMART SOLUTION ARCHITECTURE NAMENS J KER & J HUMAN

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 dat 'n aansoek om afwyking ontvang is ingevolge Artikel 16(2)(b) om die volgende boulyne te verslap:

- Agterboulyn vanaf 3.0m tot 0.0m om die bestaande geboude braai te akkommodeer.
- Noordelike laterale boulyn vanaf 2.0m tot 0.0m om die bestaande geboude braai te akkommodeer.
- Suidelike laterale boulyn vanaf 2.0m tot 0.90m om die nuwe houstrap te akkommodeer.

Aansoek is ook ontvang vir die bepaling van 'n administratiewe boete ingevolge Artikel 16(2)(q) van die Verordening vir ongemagtigde boulynoorskreidings soos hierbo uiteengesit.

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 wees en die Munisipaliteit bereik (Patersonstraat 16, Hermanus / (f) 0283132093 / loretta@overstrand.gov.za) voor of op **09 Februarie 2023**, met u naam, adres en kontakbesonderhede, belang in die aansoek, sowel as die redes vir kommentaar. Telefoniese navrae kan gerig word aan die Stadsbeplanner, **Mnr. H Boshoff** 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.

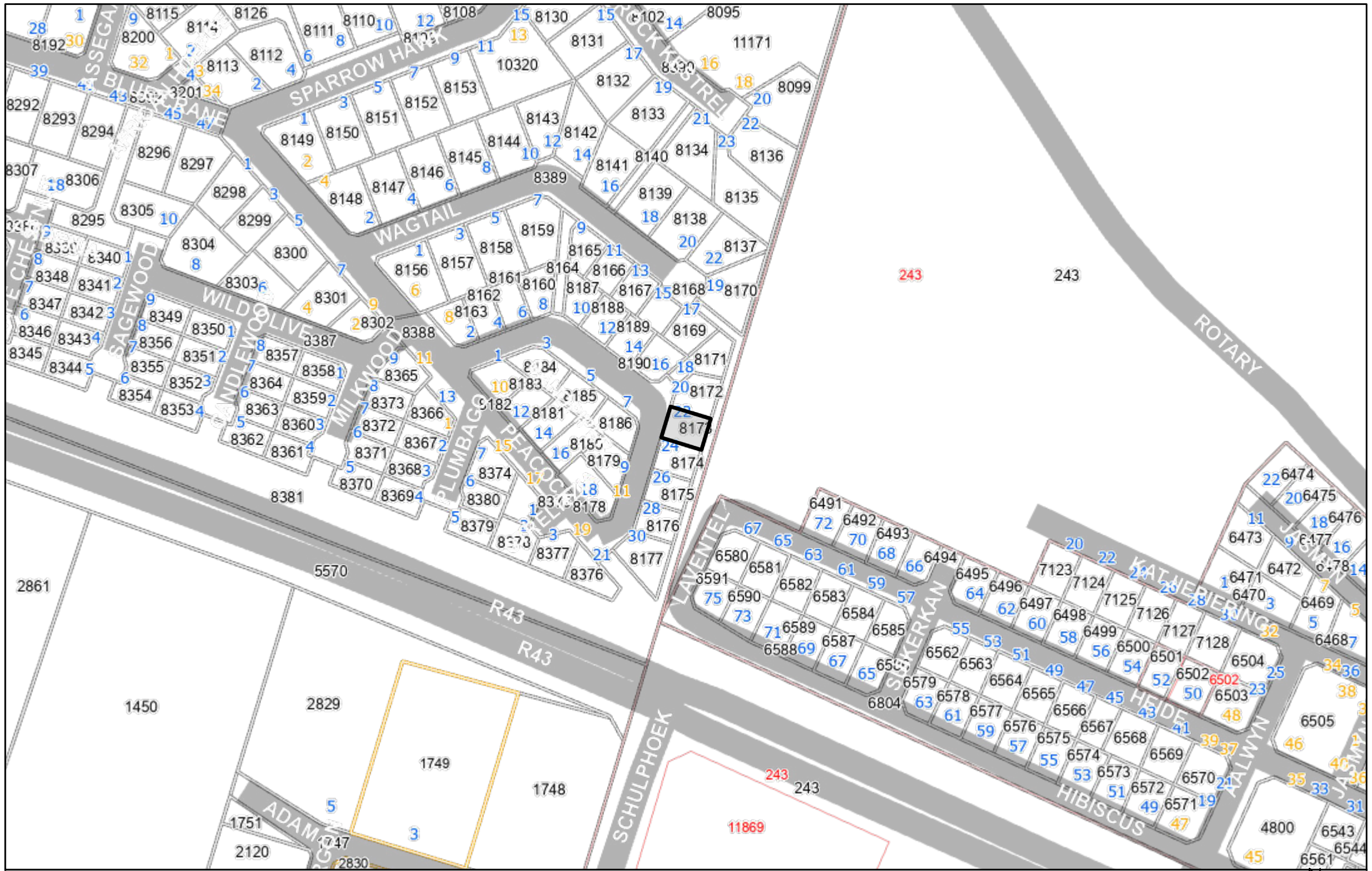
ISIZA 8173, 22 SANDPIPER STREET, HEMEL & AARDE ESTATE, HERMANUS, UMMANDLA WOMASIPALA WASE-OVERSTRAND: ISICELO SOPHAMBUKO NOKUMISELWA KWESOHLWAYO SOLAWULO: SMART SOLUTION ARCHITECTURE EGAMENI LIKA-J KER & J HUMAN

Isaziso sinikwe ngokwemiqathango yeCandelo 48, loMthetho oLungisiweyo kaMasipala wase-Overstrand ongoCwangciso lokuSetyenziswa koMhlaba kaMasipala, 2020 sokuba isicelo sifunyenwe sokuphambuka ngokuhambelana neCandelo 16(2)(b) sokunyenysiswa kwemida yesakhiwo elandelayo:

- Umda ongasemva wesakhiwo ukususela kwi-3.0m ukuya kwi-0.0m, kulungiselelwa indawo yokojiwa kwenyama esele ikho.
- Umda osecaleni elingasentla lesakhiwo ukususela kwi-2.0m ukuya kwi-0.0m kulungiselelwa indawo yokojiwa kwenyama esele ikho.
- Umda osecaleni elingasezantsi lesakhiwo ukususela kwi-2.0m ukuya kwi-0.90m kulungiselelwa amanqwanqwa omthi amatsha.

Isicelo sifunyenwe ngokunjalo sokumiselwa kwesohlwayo solawulo ngokwemiqathango yeCandelo 16(2)(q) loMthetho kaMasipala wopkungenelwa komda wesakhiwo okungagunyaziswanga njengoko kuchaziwe ngasentla.

linkcukacha ezipheleleyo malunga ziyafumaneka ngesi sindululo ukuze zihlolwe ngeentsuku zomsebenzi phakathi kweyure-08:00 ne-16:30 kwiSebe: Town Planning, Paterson Street, Hermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zamaCandelo 51 nelama-52 alo Mthetho kamasipala zithunyelwe kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ngolu suku okanye ngaphambi komhla **09 eyoMdumba 2023**, unike igama lakho, idilesi neenkukacha zonxibelelwano nawe, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Xa ufuna ukubuza into malunga nesi saziso ungafonela **kuMchwangcisi weDolophu uMnu. H Boshoff** kule nombolo yomnxeba 028-313 8900. UMasipala angala ukuzamkela izimvo ezifike emva komhla wokuvalwa. Nabani na ongakwaziyo ukufunda okanye ukubhala makaye kwiSebe loYilo lweDolophu apho igosa likamasipala liya kumncedisa azibhale izimvo zakhe





18.07.2023 (REV 00)

OVERSTRAND MUNICIPALITY
16 PATERSON STREET
PO BOX 20
HERMANUS
7200

TO WHOM IT MAY CONCERN:

LETTER OF MOTIVATION

Pre-consultations	n/a
Property location:	Erf 8173 22 Sandpiper Street, Hemel & Aarde Estate Sandbaai 7200
Property size:	374.00m ²
Coverage permitted:	50.00%
Proposed coverage:	44.85% (167.73m ²)
Property zoning:	Single Residential (SR1)
Title Deed number & date:	T 011872/23

A) PROPOSED DEVELOPMENT:

With reference to drawings (**dd: 16-08-2023-Rev 00**) attached to this application:

- I 0479/A3/01 - Locality Map
- I 0479/A3/02 - Locality Plan
- I 0479/A1/03 - Floor Plan Layouts
- I 0479/A1/04 - Site and Roof Layout, Elevations and Sections
- I 0479/A3/05 - Braai Layout
- I 0479/A3/06 - New Stairs

Background:

The dwelling was purchased by James Ker and Johanna Human in April 2023 as is, without any knowledge of the existing braai on the property having been built illegally. Seeing as though the braai was built back-to-back against the neighboring property's braai, it can be assumed and concluded that the previous owners of the dwelling agreed to this occurrence. We have recently completed and submitted building plans for this property where the illegally built braai was shown to be demolished, and the plans were approved (#46058). However, after the clients have given it some thought and spent time on the property, it has become clear that the optimal positioning for a proposed braai would be where it is currently placed. We would thus like to apply for the legalization of the braai in its current position.

Furthermore, access towards the rear of the building and its courtyard from the Southern side of the structure was never taken in to consideration when it was built. This may have

been due to the topography of the site and the immense fall in its layout. We would thus like to apply for this access in the form of a timber staircase on the Southern side of the building to ensure that one can move around the whole building and improve its safety features.

Records of previous building plans submitted and approved for Erf 8173, Hermanus.

1. Approved plan number: 46058, dated 25.07.2023.

B) CHARACTER OF THE ENVIRONMENT:

Erf 8173 is a residential property situated within an estate (Hemel & Aarde Estate).

Street building line	4.0m
Lateral building lines	2.0m
Rear building line	3.0m
Height restriction	8.0m from base level
Coverage permitted	50%
Title Deed restrictions:	n/a

The adjoining and surrounding dwellings are single and double storey dwellings, with no heritage significance and have average erf sizes of 370m² - 900m².

With the imposed 50% coverage permitted (for single residential properties) on most of the properties, the area is seen as a low-density area.

C) DESIRABILITY OF THE PROPOSED UTILISATION

The proposed alterations and additions to the existing dwelling have no negative impact on any of the adjoining and surrounding properties. The braai was built back-to-back against the neighboring property's braai, so it can be concluded that the previous owners agreed to the braai's being built in this way.

Please refer to the areas as marked on the drawings attached to the application.

- **Legalize unauthorized building work.**

The dwelling was purchased without knowledge of the existing braai being illegally built. After having spent time on the property, it is concluded that the existing placement of the braai is the optimal position for a braai on the property, and the clients would thus like to have it legalized as is.

- **New proposed alterations and additions.**

To improve safety and accessibility around the existing dwelling, a new staircase is proposed on the southern side of the building. This will allow accessibility around the whole building and give access to the rear courtyard from the South.

D) INVESTIGATIONS CARRIED OUT IN TERMS OF OTHER LAWS WHICH ARE RELEVANT TO THE CONSIDERATION OF THE APPLICANT.

If the application is found favorable, building plans are to be submitted to The Hemel & Aarde Estate HOA for consideration/approval prior to building plan submission to

Overstrand Building Control. No other laws/regulations, other than the current Overstrand Zoning Scheme 2020, National building regulations and SANS10400 regulations are applicable to the current application.

E) THE IMPACT OF THE PROPOSED LAND DEVELOPMENT ON MUNICIPAL ENGINEERING SERVICES.

- No additional services will be required.
- No alterations to existing services supplied by the municipality to the dwelling are required.
- Proposed Alterations/additions have no impact on existing municipal services or future planning services.

F) CONSIDERATION OF FORWARD PLANNING AND LAND USE DOCUMENTS

The current application has no influence on forward planning for the property and/or surrounding properties.

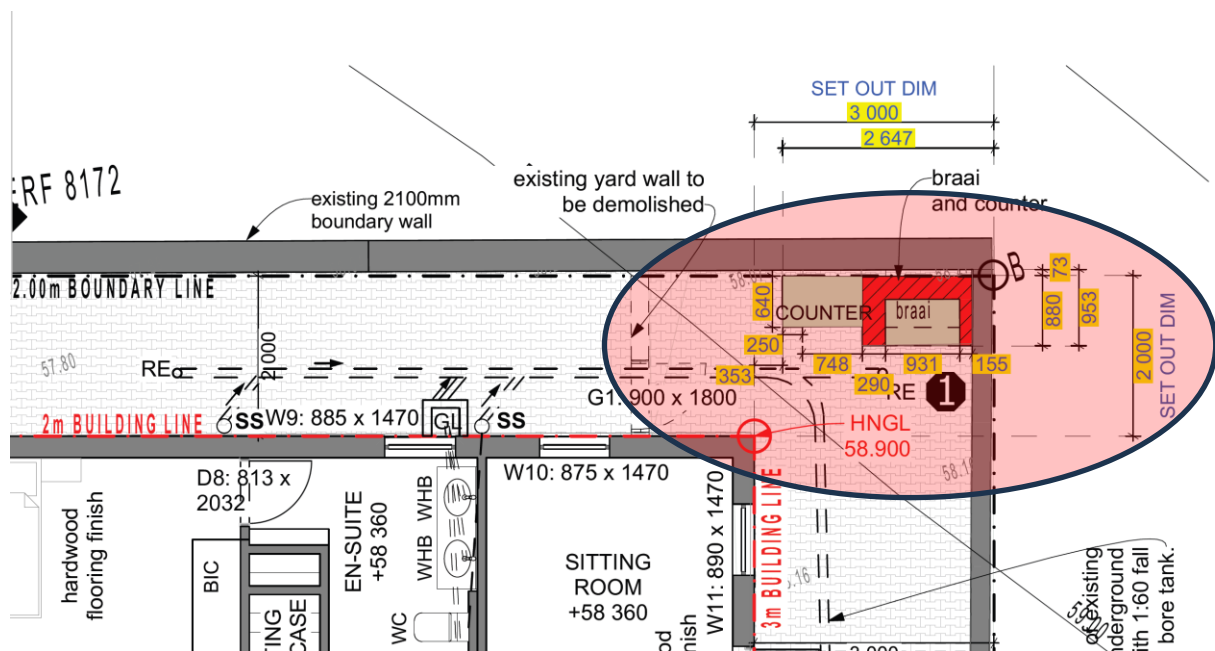
G) PLANNING PRINCIPLES

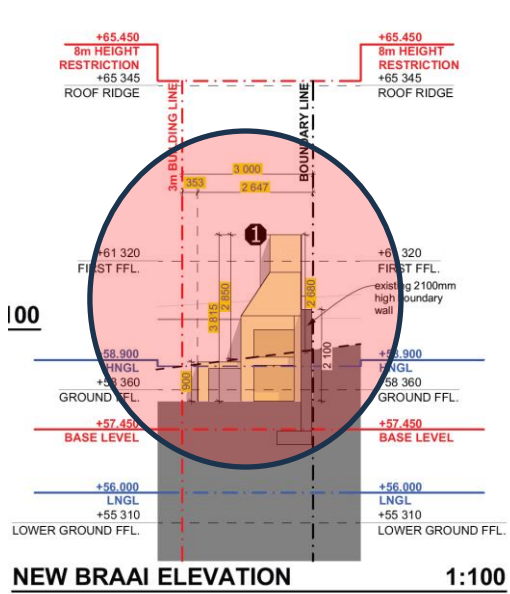
Not applicable to current application.

I / we would like to obtain approval and permission as required from Overstrand Town Planning Department to proceed with submission to Building Control Department for building plan approval for the building work as per drawings attached.

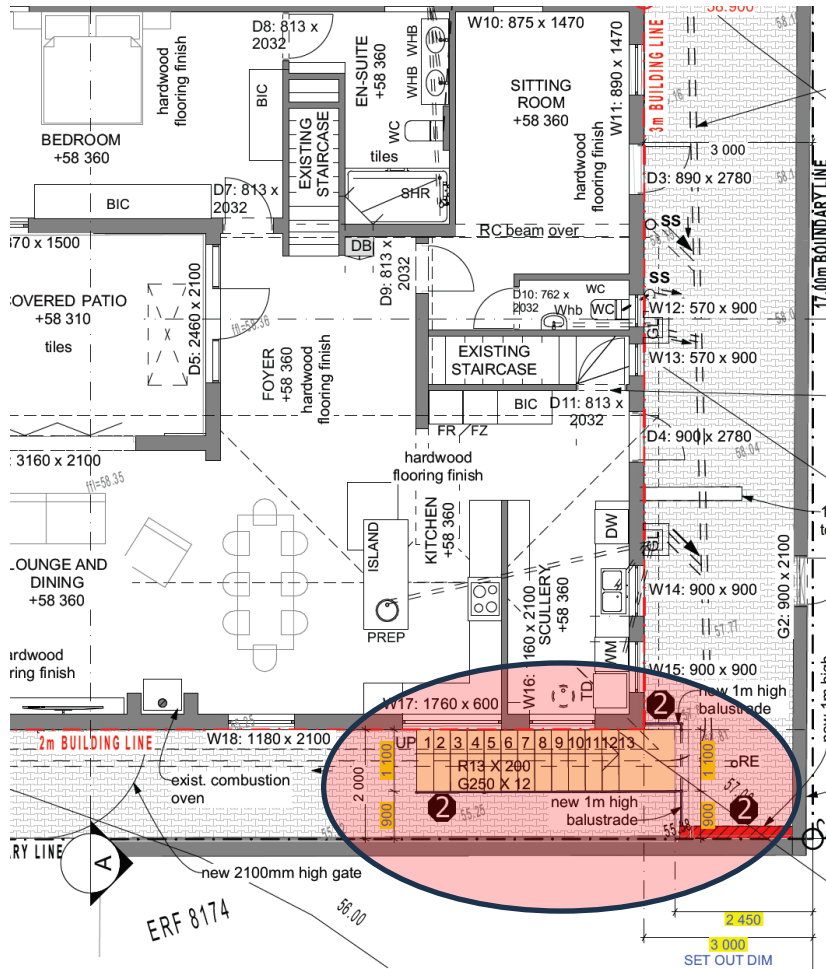
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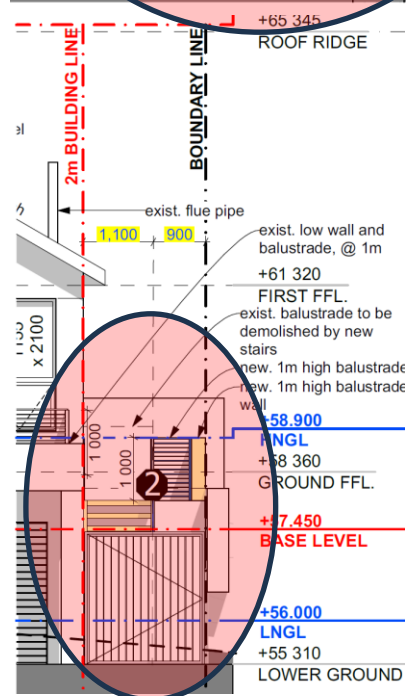
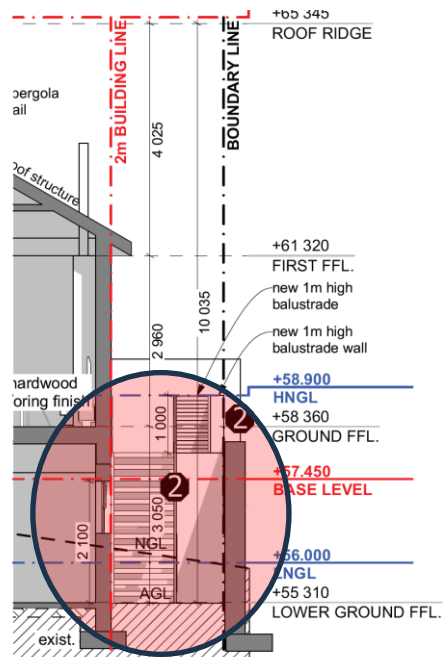
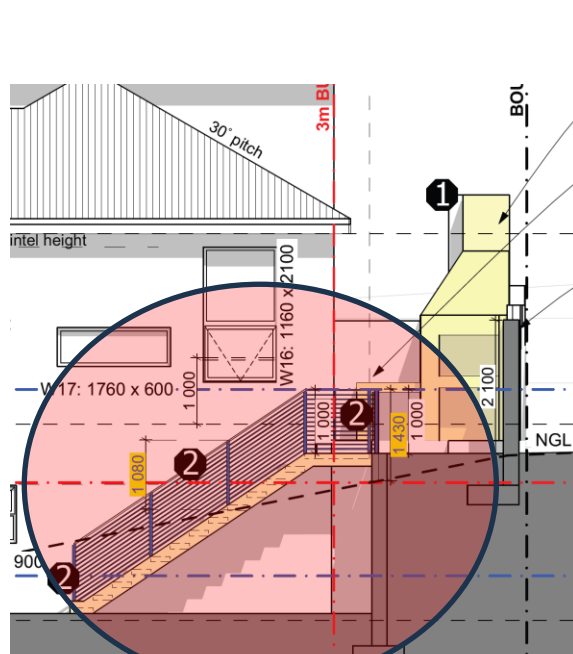
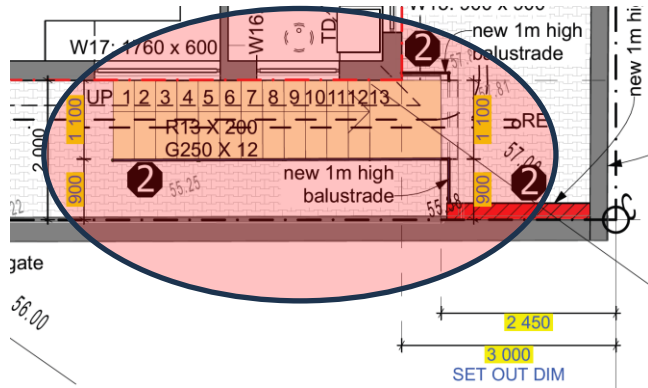
1. **Permanent relaxation** on the 3.0m rear building line from **3.0m to 0.0m** AND **2.0m North lateral Building line from 2.0m to 0.0m** to legalize the existing unauthorized braai.



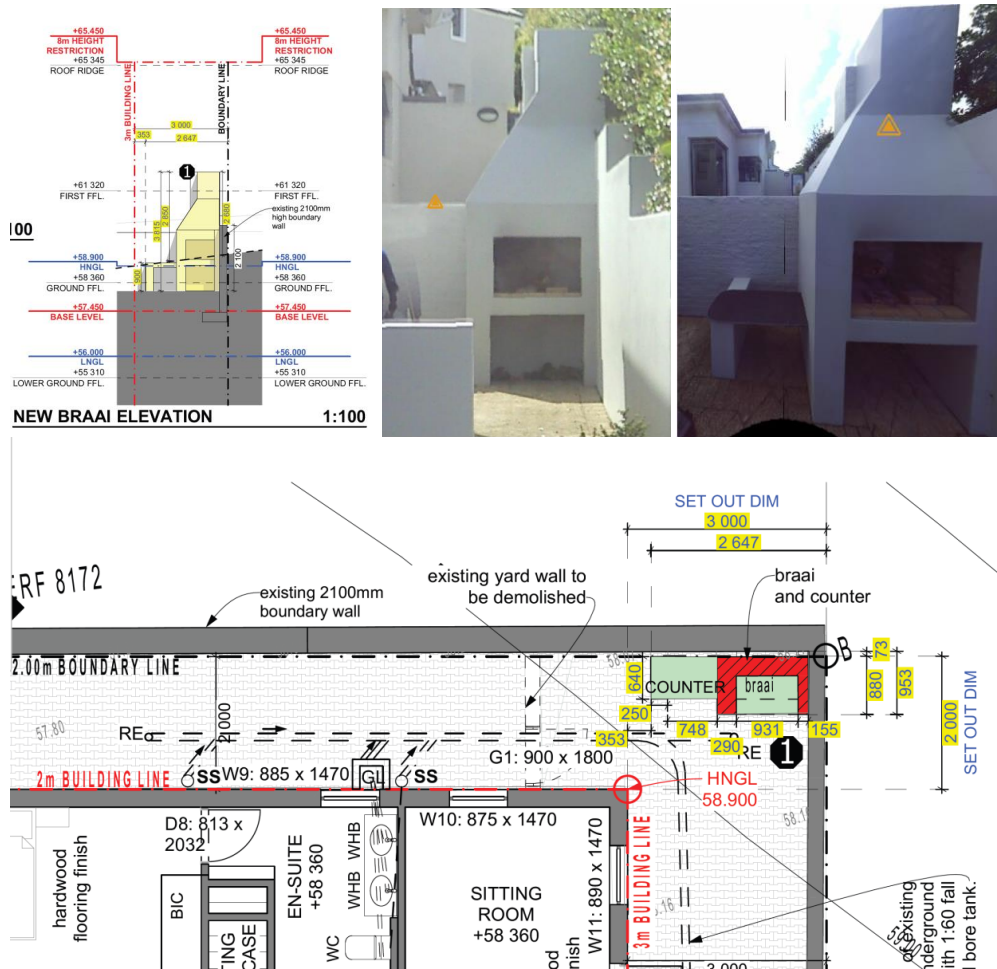


2. Permanent relaxation on the 2.0m South lateral building line from 2.0m to 0.90 m to accommodate the new proposed timber staircase.





3. Application for administrative penalty on Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 – Article 90, clause (3):



(a) Nature, duration, gravity, and extent of the contravention;

1. Unauthorized building work.

The existing braai on the property was built over the 2m lateral building line, as well as the 3m rear building line (as shown on the drawings). This was all done by the previous owner/s during 2010-2018 and was done without the current owner's knowledge.

Construction cost = R10,000.00

Total construction cost for unauthorized building work = R 10,000.00

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

The previous owners of the property built the braai where it is currently standing over the building lines. It is built back-to-back against the neighboring property's braai, so it can be assumed that the previous owners of the properties decided on this together. The current owners purchased the property as is in April 2023 and had no prior knowledge of the braai's illegality.

(c) A report by a quantity surveyor in matters of authorized building/construction;

n/a – Construction cost as given above (2(a)) has been calculated according to current construction costs with similar specifications.

(d) Whether the unlawful conduct was stopped; and

1. No, the building works were done between, (2010- 2018)
2. No, our client purchased the structures as is, they were only made aware of the unauthorized building on the position of the existing structures after they had received the survey done by land surveyor. They had no knowledge of the braai's illegality.

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

Unknown, as our clients purchased the dwelling and existing braai as is.

Since the building has been purchased this way, without any prior knowledge of the structure's legality, we would like to apply for the legalization of the existing braai. We, on behalf of the clients, would kindly like to apply for an **exemption** on any administrative penalties related to unauthorized building work and the deviation on the existing footprint / structure positions.

On behalf of our client, we hope you find the application favorable.

Yours truly,

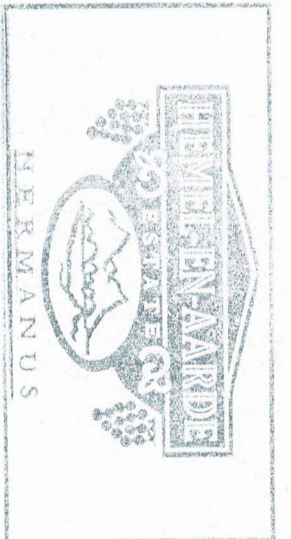
A square logo containing a stylized house icon with a chimney, followed by a handwritten signature in black ink.

D Swart / T: 028 125 0019 / C: 0796941728

dian@ssarc.co.za / www.ssarc.co.za



LOCALITY MAP



HOME OWNERS ASSOCIATION
APPROVED
 SIGNED
 DATE
 CONDITIONS

[Signature]
 2023-08-21

MUNICIPAL APPROVAL STAMP

MUNICIPAL REQUIREMENTS AND THOSE OF OTHER AUTHORITIES MUST BE ADHERED TO. CONTRACTORS AND SUB-CONTRACTORS ARE TO CHECK ALL DIMENSIONS AND LEVELS ON THE BUILDING SITE BEFORE COMMENCING WORK. FIGURED DIMENSIONS TO BE TAKEN IN PREFERENCE TO SCALED MEASUREMENTS AND LARGE SCALE DETAILS. SUPERSIDE SMALL SCALE DRAWINGS. THE DESIGN ON THIS DRAWING IS THE PROPERTY OF SMART SOLUTION ARCHITECTURE AND ARCHITECTURAL CONSULTANTS AND COPYRIGHT THEREOF IS RESERVED BY THEM.

VARIATIONS:	REV NO:	DATE:	DESCRIPTION:
	00	16.08.2023	DEPARTURE APPLICATION

DRAWING STAGE:
COUNCIL SUBMISSION
DEPARTURE APPLICATION
SKETCH PROPOSAL
TENDER DRAWING
WORKING DRAWING

SITE RESTRICTIONS:
STREET BUILDING LINE
LATERAL BUILDING LINE
REAR BUILDING LINE
HEIGHT RESTRICTION
TITLE DEED BUILDING LINES (see drawings)
ZONE APPLICABLE:

SINGLE RESIDENTIAL (SR1)	<input checked="" type="checkbox"/>
TOWN HOUSING - ZONE 1 (GR1)	<input type="checkbox"/>
TOWN HOUSING - ZONE 2 (GR2)	<input type="checkbox"/>
FLATS - ZONE 3 (GR3 and DR4)	<input type="checkbox"/>
LESS FORMAL DEVELOPMENT (LFD)	<input type="checkbox"/>

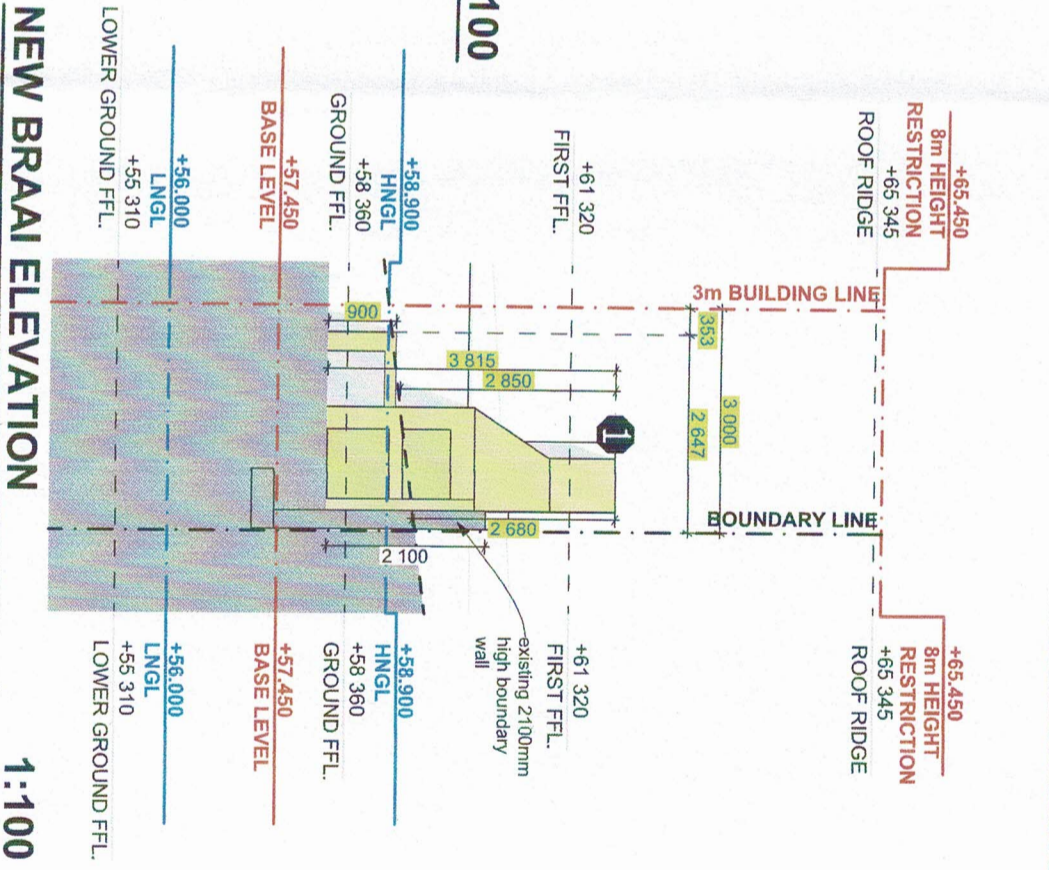
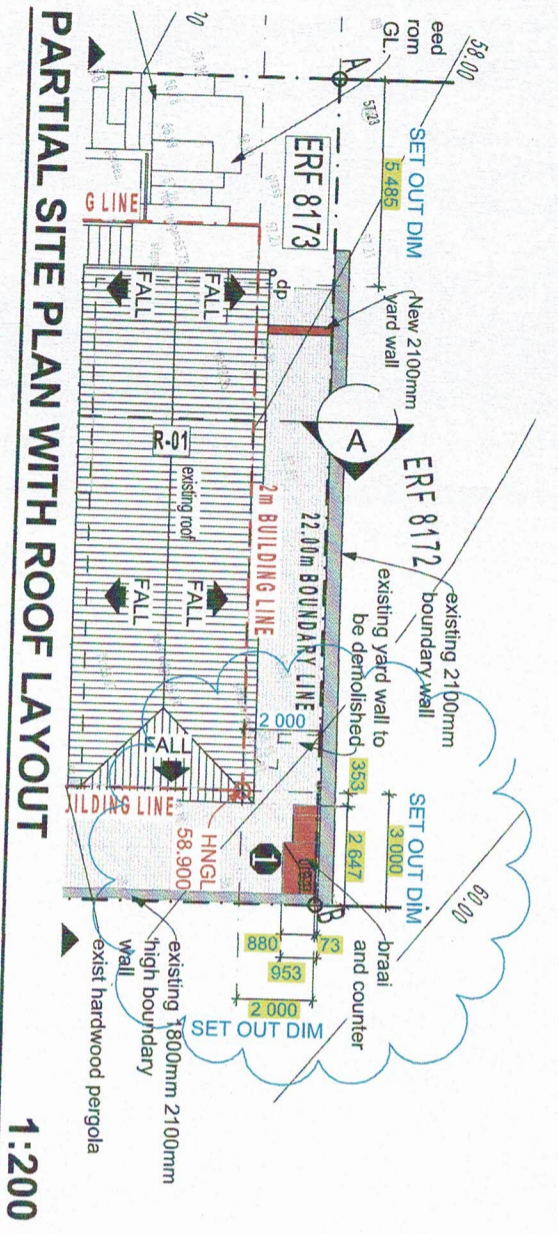
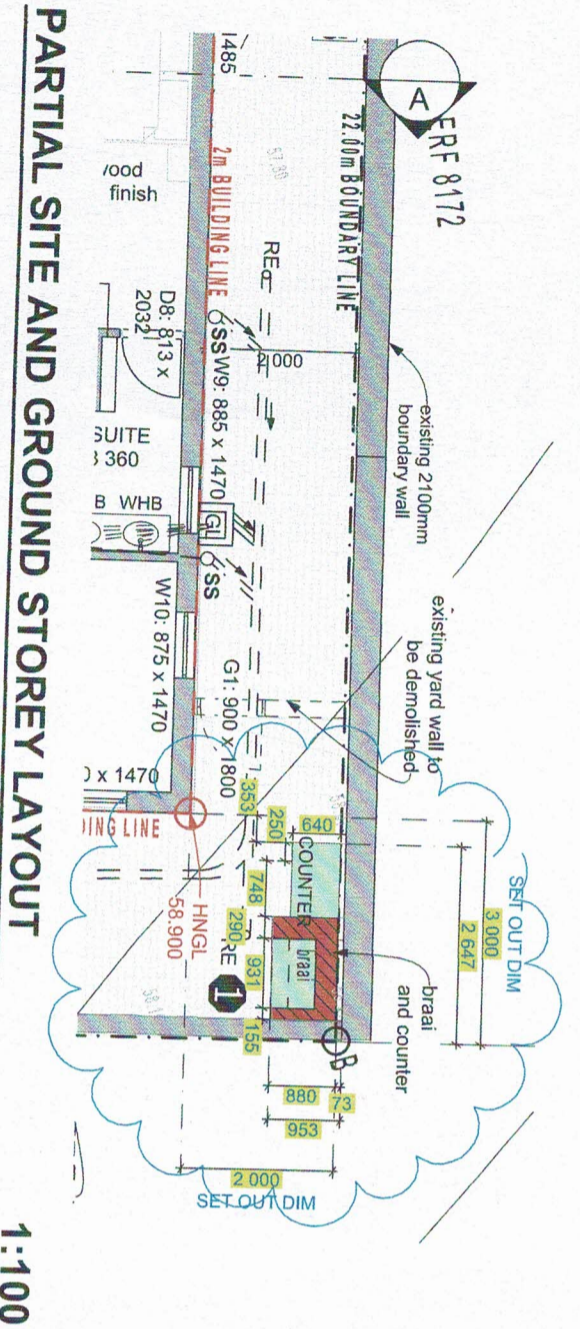
SMART SOLUTION ARCHITECTURE
 and Architectural Consultants
 Members of SACAP / CIA / and SALAT
 PRINCIPAL: Ian Smit / a Smart Solution Architecture
 Office 028 125 0019 admin@ssarc.co.za
 I Smit 082 879 6749 ian@ssarc.co.za
 D Swart 079 694 1728 dian@ssarc.co.za
 Mail Collection 104, Hemel & Aarde Estate, Hermanus, 7200

PROJECT NAME:
 ADDITIONS TO: ERF 8173, 22 SANDPIPER STREET
 HEMEL EN AARDE ESTATE
 HERMANUS
 7200

DWG TITLE:
 LOCALITY MAP
DATE:
 16.08.2023
DRAWN BY:
 JEANNE NEL
CHECKED BY:
 D SWART

DRAWING SCALE:
 AS SHOWN
DRAWING NO.:
 10479/A3/01

PRINT A3 LANDSCAPE
REV NO.:
 00



HOME OWNERS ASSOCIATION
APPROVED
 SIGNED: [Signature]
 DATE: 2023-08-21
 CONDITIONS:



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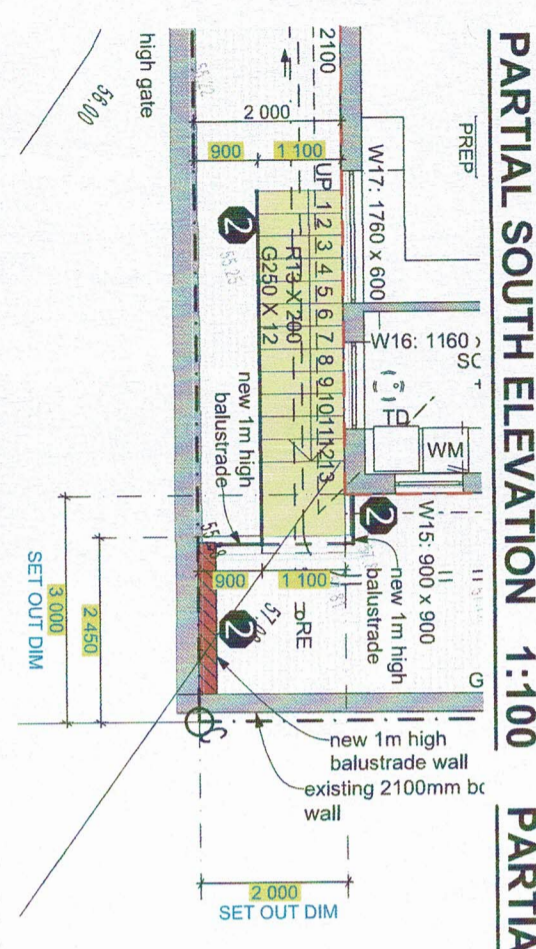
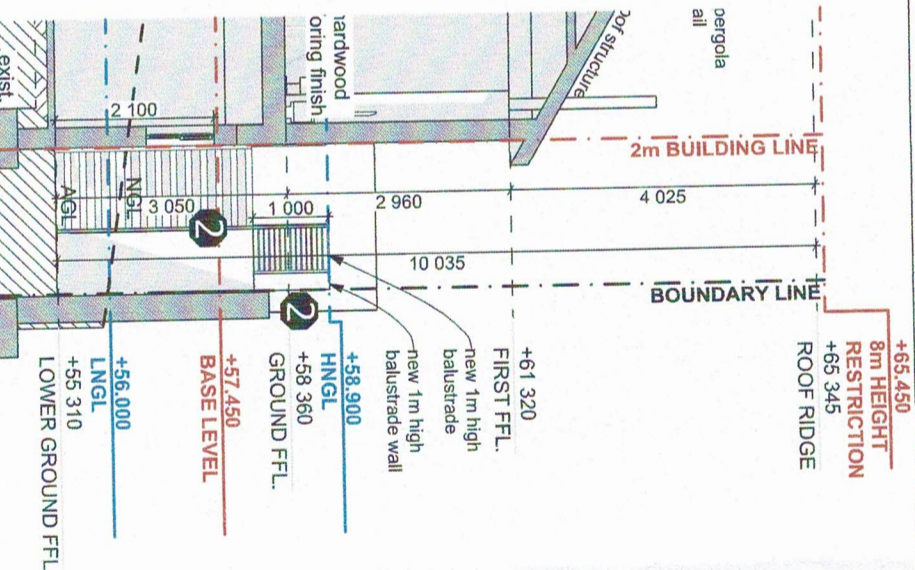
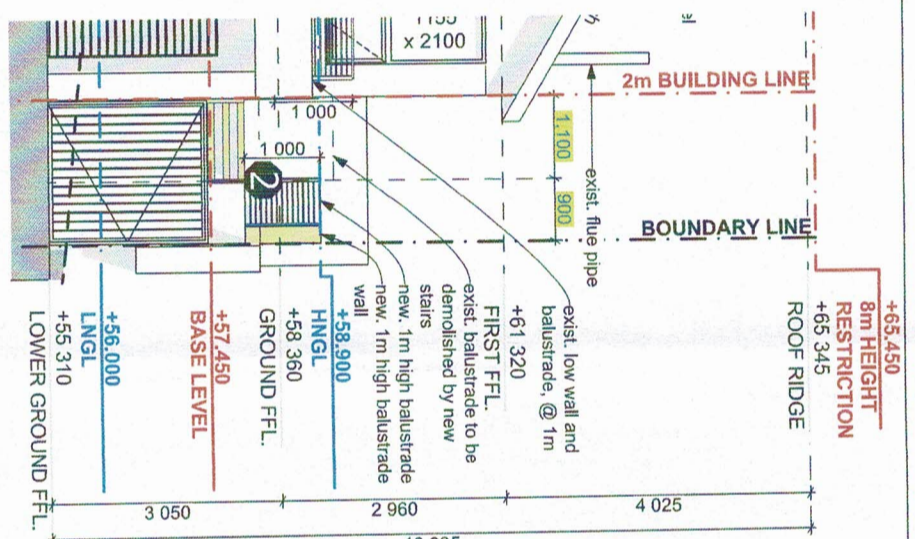
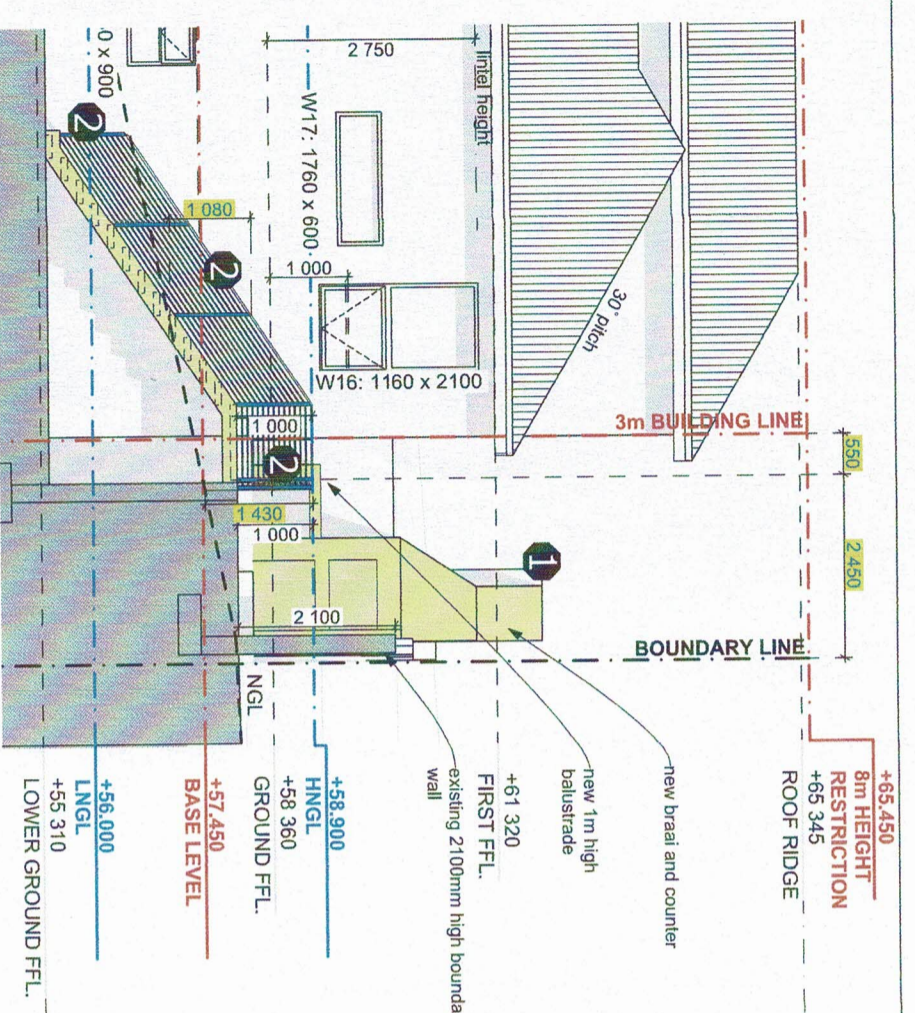
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DRAWING STAGE:	
COUNCIL SUBMISSION	<input checked="" type="checkbox"/>
DEPARTURE APPLICATION	<input checked="" type="checkbox"/>
SKETCH PROPOSAL	<input type="checkbox"/>
TENDER DRAWING	<input type="checkbox"/>
WORKING DRAWING	<input type="checkbox"/>
SITE RESTRICTIONS:	
STREET BUILDING LINE	4.000m
LATERAL BUILDING LINE	2.000m
REAR BUILDING LINE	3.000m
HEIGHT RESTRICTION	8.000m
TITLE DEED BUILDING LINES (see drawings)	N/A
ZONE APPLICABLE:	
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TOWN HOUSING - ZONE 1 (GR1)	<input type="checkbox"/>
TOWN HOUSING - ZONE 2 (GR2)	<input type="checkbox"/>
FLATS - ZONE 3 (GR3 and DR4)	<input type="checkbox"/>
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 Mail Collection 104, Hemel & Aarde Estate, Hermanus, 7200

PROJECT NAME:
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 HERMEL EN AARDE ESTATE
 HERMANUS
 7200
FOR MR JAMES KER & MS JOHANNA HUMAN
DWG TITLE:
 BRAAI LAYOUT
DATE:
 16.08.2023
DRAWN BY:
 JEANNE NEL
CHECKED BY:
 D SMART
DRAWING SCALE
 AS SHOWN
DRAWING NO.
 10479/A3/05
PRINT A3 LANDSCAPE
REV NO.
 00

PHOTOS OF BRAAI AND COUNTER

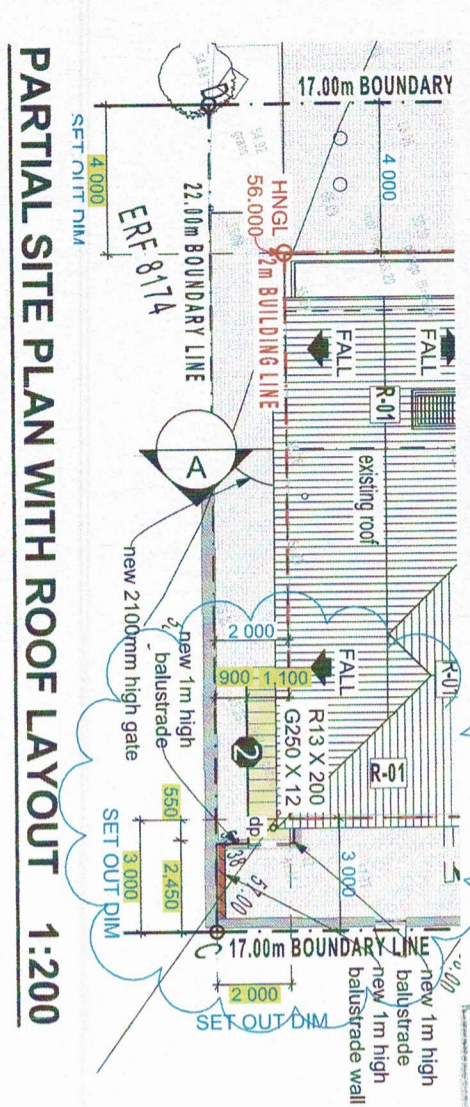


HOME OWNERS ASSOCIATION APPROVED

SIGNED: *[Signature]*
 DATE: 2023-08-21
 CONDITIONS:



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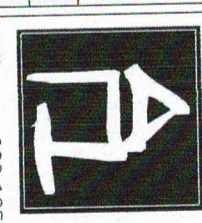
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SKETCH PROPOSAL	
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WORKING DRAWING	

SITE RESTRICTIONS:	RESTRICTION:
STREET BUILDING LINE	4.000m
LATERAL BUILDING LINE	2.000m
REAR BUILDING LINE	3.000m
HEIGHT RESTRICTION	8.000m
TITLE DEED BUILDING LINES (see drawings)	N/A

ZONE APPLICABLE:

- SINGLE RESIDENTIAL (SR1)
- TOWN HOUSING - ZONE 1 (GR1)
- TOWN HOUSING - ZONE 2 (GR2)
- FLATS - ZONE 3 (GR3 and DR4)
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SMART SOLUTION ARCHITECTURE
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DRAWING SCALE:
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DRAWING NO.:
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SACAP REG.:
 PSAT 24749037
PRINT A3 LANDSCAPE
REV NO.:
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