



OVERSTRAND MUNISIPALITEIT

**ERF 88, SEE VIEW RYLAAN 1, FRANSKRAAL:
AANSOEK OM OPHEFFING VAN BEPERKENDE
TITELAKTEVOORWAARDES, AFWYKING EN
BEPALING VAN 'N ADMINISTRATIEWE BOETE:
INTERACTIVE STAD- EN STREEKSBEPLANNERS
NAMENS LI & C SMIT**

Kragtens Artikels 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verodening) word hiermee kennis gegee van die onderstaande aansoek van toepassing op Erf 88, Franskraal naamlik:

Opheffing van beperkende titelaktevoorwaardes

Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelaktevoorwaarde C.(20)(d) soos vervat in Titelakte Nr: T21892/2002.

Afwyking

Aansoek om afwyking ingevolge Artikel 16(2)(b) van die Verordening vir die volgende:

- verslapping van die oostelike lateraleboulyn van 2m tot 0m om die bestaande stoorkamer te akkommodeer;
- verslapping van die oostelike lateraleboulyn van 2m tot 1.6m om die bestaande slaapkamer-erkervenster(bay window) te akkommodeer;
- verslapping van die oostelike lateraleboulyn vanaf 2m tot 1.7m om 'n voorgestelde braai te akkommodeer;
- verslapping van die westelike straatboulyn vanaf 4m na 3.1m om die voorgestelde sonkamer te akkommodeer;
- verslapping van die toelaatbare hoogtebeperking van toepassing op grensmuur vanaf 2.1m tot 3.1m bo natuurlike grondvlak om balustrade op die voorgestelde grensmuur te akkommodeer; en
- verslapping tot op die straat- en lateralegrens om opvulling vanaf 1m na 2.1m bo natuurlike grondvlak te akkommodeer.

Bepaling van 'n administratiewe boete

Bepaling van 'n administratiewe boete ingevolge Artikel 16(2)(q) van die Verordening, ten einde die bestaande buitegebou te akkommodeer.

Besonderhede aangaande die voorstel lê ter insae gedurende weesdae tussen 08:00 en 16:30 by die Departement Stadsbeplanning te Patersonstraat 16, Hermanus en Gansbaai Biblioteek, Hoofweg, Gansbaai. Enige kommentare moet skriftelik ingedien word ingevolge die bepaling van Artikels 51 en 52 van die Verordening en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za bereik voor of op 9 Junie 2023, met u naam, adres en kontak besonderhede, belang in die aansoek en redes vir kommentaar. Telefoniese navrae kan gerig word aan die Senior Stadsbeplanner, Mr SW van der Merwe by 028-3138900. Die Munisipaliteit mag weier om kommentare 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 formuleer.

Munisipale Bestuurder, Overstrand Munisipaliteit,
Posbus 20, HERMANUS, 7200
Munisipale Kennisgewing Nr. 78/2023



OVERSTRAND MUNICIPALITY

**ERF 88, 1 SEA VIEW DRIVE, FRANSKRAAL:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE
DEED CONDITIONS, DEPARTURE AND
DETERMINATION OF AN ADMINISTRATIVE PENALTY:
MESSRS INTERACTIVE TOWN AND REGIONAL
PLANNING ON BEHALF OF LI & C SMIT**

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) of the applications mentioned below applicable to Erf 88, Franskraal namely:

Removal of Restrictive Title Deed Conditions

Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed condition: C.(20)(d) as contained in Title Deed No: T21892/2002.

Departures

Application for departure in terms of Section 16(2)(b) of the By-Law for the following:

- relaxation of the eastern lateral building line from 2m to 0m to accommodate the existing storeroom;
- relaxation of the eastern lateral building line from 2m to 1.6m to accommodate the existing bedroom bay window;
- relaxation of the eastern lateral building line from 2m to 1.7m to accommodate a proposed braai;
- relaxation of the western street building line from 4m to 3.1m to to accommodate the proposed sunroom;
- relaxation of the permissible height restriction applicable to boundary walls from 2.1m to 3.1m above natural groundlevel to accommodate balustrades on the proposed boundary wall; and
- relaxation onto the street- and lateral property boundaries to accommodate filling from 1m to 2.1m above natural ground level.

Determination of an administrative penalty

Determination of an administrative penalty in terms of Section 16(2)(q) of the By-Law, in order to accommodate the existing outbuilding.

Details regarding the proposal is available for inspection during weekdays between 08:00 and 16:30 at the Department Town Planning at 16 Paterson Street, Hermanus and Gansbaai Library, Main Road, Gansbaai. Any written comments must be submitted in accordance with the provisions of Sections 51 and 52 of the said By-law and reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za on or before 9 June 2023, quoting your name, address and contact details, interest in the application and reasons for comment. Telephonic enquiries can be made to the Senior Town Planner, Mr SW van der Merwe at 028-313 8900. The Municipality may refuse to accept comment 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.

Municipal Manager, Overstrand Municipality, P.O. Box 20, HERMANUS, 7200
Municipal Notice No. 78/2023



* UMASIPALA WASE-OVERSTRAND

**ISIZA 88, 1 SEA VIEW DRIVE, FRANSKRAAL: ISICELO
SOKUSUSWA KWEMIQATHANGO ENEZITHINTELO
KWITAYITILE, UKUNYENYISWA NOKUGOITYWA
KWESOHLWAYO: ABAKWA-INTERACTIVE TOWN AND
REGIONAL PLANNING EGAMENI LIKA-LI & C SMIT**

Kukhutshwa isaziso ngokumayela neCandelo 47 no-48 loMthetho Otshintshiweyo woMasipala waseOverstrand ongokuSetyenziswa Nokucetywa koMhlabha kaMasipala, 2020 (uMthetho kaMasipala), ukuba kufunyenwe izicelo ezilandelayo ezichazwe ngezantsi ngokumayela neSiza 88 eFranskraal ngolu hlobo:

Ukususwa Kwemiqathango Enezithintelo Kwitayitile

Isicelo simayela neCandelo 16(2)(f) loMthetho kaMasipala wokususwa kwemiqathango enesithintelo kwitayitile C.(20)(d) njengoko iqulethwe kwiTayitile eNombolo: T21892/2002.

Ukunyenyiswa

Isicelo sokunyenyiswa ngokumayela neCandelo 16(2)(b) soMthetho kaMasipala kwezi zinto zilandelayo:

- ukunyenyiswa komda wesakhiwo kwicala elingasempuma ukusuka ku-2m ukuya ku-0m ukuze kuvunyelwe igumbi lokugcina izinto esele likho;
- ukunyenyiswa komda wesakhiwo kwicala elingasempuma ukususela ku-2m ukuya ku-1.6m ukuze kuvunyelwe ifestile yegumbi likulala esele yakhelwe yaza yafakwa;
- ukunyenyiswa komda wesakhiwo kwicala elingasempuma ukususela ku-2m ukuya ku-1.7m ukuze kwakhiwe indawo yokojela;
- ukunyenyiswa komda wesakhiwo kwicala elingasentshona lesitrato ukusuka ku-4m ukuya ku-3.1m ukuze kwakhiwe igumbi elivumela kungene ukukhanya nelanga emini;
- ukunyenyiswa kwesithintelo sobude obuvumelekileyo kwiindonga zokubiyela isiza ukususela ku-2.1m ukuya ku-3.1m ngentla kwesiseko ukuze kufakelwe iintsimbi zokubiyela kudonga ekucetywa ukuba lakhiwe; kunye nokunyenyiswa kwemida esesitratweni nemida ekwisiza ukuze kuvunyelwe ukudiba okususela ku-1m ukuya ku-2.1m ngasentla komhlaba.

Ukugqitywa kwesohlwayo

Ukugqitywa kwesohlwayo emasibhatalwe ngokweCandelo 16(2)(q) loMthetho kaMasipala ukuze kwenziwe ibe semthethweni indawo yokumisa imoto, indawo yokungena efakwe uphahla kunye neveranda egqithayo kumda wesakhiwo ovunyelweyo.

Iinkcukacha mayela nesi sindululo ziyafumaneka ukuze zihlolwe phakathi evekini phakathi ko 08:00 no 16:30 kwiSebe Loyilo Dolophu e-16 Paterson Street, Hermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe kuMasipala ngokwezibonelelo zeCandelo 51 nele-52 loMthetho kaMasipala zize zifike kwaMasipala (16 Paterson Street Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za engadlulanga 9 Juni 2022, ubhale igama lakho, idilesi yakho kunye neenkukacha zoqhagamshelwano, umdla wakho kwisicelo nezizathu zokubhala izimvo zakho. Imibuzo ngefowuni ingafakwa kuMcebisi Dolophu, uMnu SW van der Merwe ku 028-313 8900. UMasipala angangavumi ukwamkela amagqabaza okuhlomla afunyenwe emva komhla wokuvula. Nabani na ongakwazi kufunda okanye ukubhala angatyelela iSebe lokuCeba Idolophu apho igosa lakwamasipala liya kumnceda afake amagqabaza okuhlomla.

Umphathi kaMasipala, Overstrand Municipality, P.O. Box 20, HERMANUS, 7200

Inothisi kaMasipala Nomb. 78/2023

PROJECT

Erf 88 Franskraal

TITLE

Locality Plan
Local Context

Application Area



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CLIENT

| | | |
|----------------------------|------------------------|-----------------------|
| DRAWN BY AUSA | CHECKED BY GABRIEL | DATE 2024/08/28 |
| SCALE (1:1000) AS SHOWN | PROJECT NUMBER 1001 | DRAWING NUMBER A01 |

InterActive Town & Regional Planning

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Local Context
A4 Scale 1 : 2000

1. Introduction

a. Brief

Refer to **Annexure A** for the Power of Attorney.

Interactive Town and Regional Planning was appointed by the owner of the property, Lambert Johannes Smit & Christelle Smit to prepare and submit an application for the removal of restrictive title deed conditions, departures and the determination of an administrative penalty for Erf 88, Franskraal in terms of Chapter IV, Section 16.2(b),(f),(q) & Section 90.(5) of the Overstrand Amendment By-law on Municipal Land-use Planning, 2020.

b. Background

The proposal involves the improvement and upgrading of the property by inter alia relocating the entertainment area to the southern side of the application area and thus optimizing the space and views the site offers.

As part of the above, the filling of the southern side of the property is proposed where a more functional and aesthetical pleasing entertainment area with a swimming pool is envisaged.

The application will also address an existing storeroom exceeding the zoning scheme and title deed side building lines. An existing bay-window exceeding the zoning scheme lateral building line was previously approved.



Figure 1: Photographs of the application area

c. Development Objective & Application Proposal

The **development objective** is to legalise existing structures and to accommodate a proposed sunroom and braai as well as boundary wall and filling.

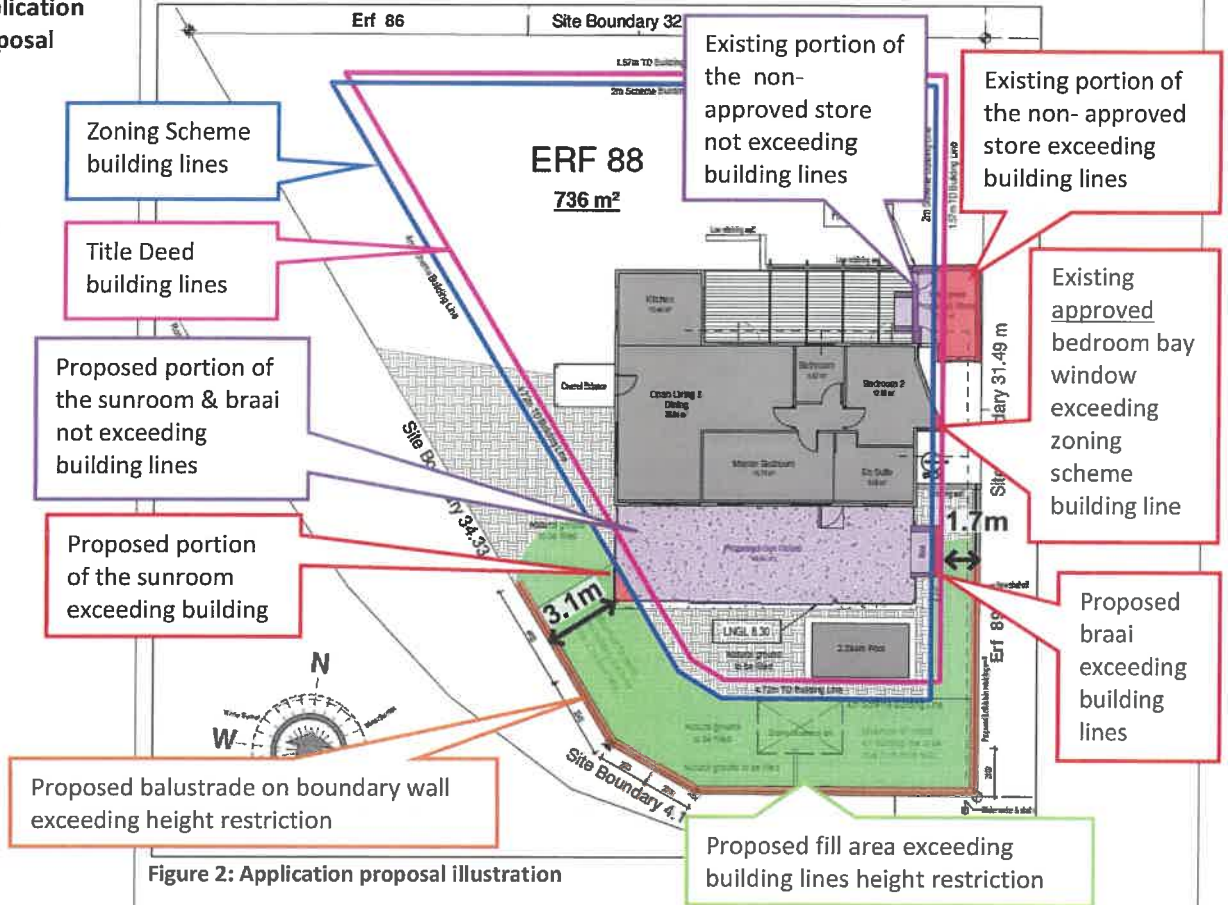


Figure 2: Application proposal illustration

Subsequently, the **application proposal** is for the following:

- Removal of restrictive title deed Condition C. 20(d) from Title Deed T21892/2002.
- Departure of the eastern side building line from 2m to 0m to allow for an existing storeroom.
- Departure of the eastern side building line from 2m to 1.6m to allow for an existing bedroom bay window.
- Departure of the eastern side building line from 2m to 1.7m to allow for a proposed braai.
- Departure of the western street building line from 4m to 3.1m to allow for a proposed sunroom.
- Departure to relax the height of the boundary walls and balustrades to up to 3.1m above natural ground to allow for a 1m balustrade on top of the proposed 2.1m boundary wall.
- Departure to relax the height of filling from 1m to up to 2.1m from the natural ground level.
- Determination of an administrative penalty for the building of a storeroom and a braai without the necessary approvals.

2. The Application

| | | | | |
|--|---|--|--|--|
| <p>a. Analysis: Title Deed</p> <p>Refer to Annexure D for the Conveyancer Certificate.</p> | <p>The Conveyancer Monica Korf from Virtual Lawyers issued a certificate confirming that there is a title deed condition that restricts the development proposal.</p> <p>The restrictive title deed conditions in T21892/2002.</p> <p><i>"C. 20(d) geen gebou of struktuur of enige gedeelte daarvan behalwe grensmure en heinings mag binne 4,72 meter van die straatlyn wat 'n grens van hierdie erf vorm opgerig word nie ook nie binne 3,15 meter van die agtergrens of 1,57 meter van die sygrens van 'n aangrensende erf nie, met dien verstande dat 'n buitegebou met die toestemming van die plaaslike owerheid mag opgerig word op die voorgeskrewe ruimte langs die agtergrens, mits sodanige buitegebou nie 'n hoogte van 3,05 meter te bowe gaan nie, watter hoogte gemeet moet word van die vloer tot die ankerplaat en mits geen gedeelte daarvan vir bewoningsdoeleindes deur mense aangewend word nie."</i></p> | | | |
| <p>b. Analysis: Development Criteria:</p> <p>The development parameters for Erf 88 Franskraal, Overstrand as per the Overstrand Zoning Scheme Regulations, 2020, are summarised as follows:</p> | <p>Parameters</p> | <p>Existing Zoning</p> | <p>Proposal</p> | <p>Comments</p> |
| <p>Zoning</p> | <p>Residential Zone 1: Single Residential (SR1)</p> | <p>Residential Zone 1: Single Residential (SR1)</p> | <p>Consistent</p> | |
| <p>Primary Uses</p> | <p>Crèche, dwelling house, guest rooms, home occupation, second dwelling unit and self-catering</p> | <p>Dwelling house</p> | <p>Consistent</p> | |
| <p>Consent Uses</p> | <p>Day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and intensive horticulture</p> | <p>None</p> | <p>Consistent</p> | |
| <p>Coverage</p> | <p>50%</p> | <p>25.4%</p> | <p>Consistent</p> | |
| <p>Height</p> | <p>8m for dwelling 2.1m for boundary wall 1m for filling</p> | <p>4.9m Up to 2.1m boundary wall & filling + 1m balustrade which totals 3.1m</p> | <p>Application includes departures</p> | |
| <p>Building Lines</p> | <p>Street</p> | <p>4m</p> | <p>3.1m</p> | <p>Application includes a departure</p> |
| | <p>Common</p> | <p>2m</p> | <p>0m east for existing store 1.7m east for proposed braai chimney 1.6m for the existing bedroom bay window (previously approved) 2m north</p> | <p>Application includes departures</p> |
| <p>Parking</p> | <p>Dwelling house: 2 bays</p> | <p>2 bays</p> | <p>Consistent</p> | |
| <p>c. Application</p> | <p>Application is hereby made in terms of the Overstrand Amendment By-law on Municipal Land-use Planning, 2020 for:</p> <ul style="list-style-type: none"> • Removal of restrictive title deed Condition C. 20(d) from Title Deed T21892/2002 in terms of Chapter IV, Section 16(2)(f). • Departure of the eastern side building line from 2m to 0m to allow for an existing storeroom in terms of Chapter IV, Section 16(2)(b). • Departure of the western street building line from 4m to 3.1m to allow for a proposed sunroom in terms of Chapter IV, Section 16(2)(b). | | | |

| | |
|--|--|
| | <ul style="list-style-type: none">• Departure of the eastern side building line from 2m to 1.7m to allow for a proposed braai in terms of Chapter IV, Section 16(2)(b).• Departure to relax the height of the boundary walls and balustrades to up to 3.1m above natural ground to allow for a 1m balustrade on top of the proposed 2.1m boundary wall in terms of Chapter IV, Section 16(2)(b).• Departure to relax the height of filling from 1m to up to 2.1m from the natural ground level in terms of Chapter IV, Section 16(2)(b).• Waiving of the administrative penalty for the building of a storeroom and a braai in terms of Chapter IV, Section 16(q) & Section 90.(5). |
|--|--|

3. Contextual Site Information

a. Property Description

| Property | Extent | Title Deed | Registered Owner |
|-------------------|-------------------|-------------|---|
| Erf 88 Franskraal | 736m ² | T21892/2002 | Lambert Johannes Smit & Christelle Smit |

Refer to Annexure E for the SG Diagrams, Annexure B for the Title Deed of Erf 88 Franskraal

The following Surveyor General Plans reflect the application site:

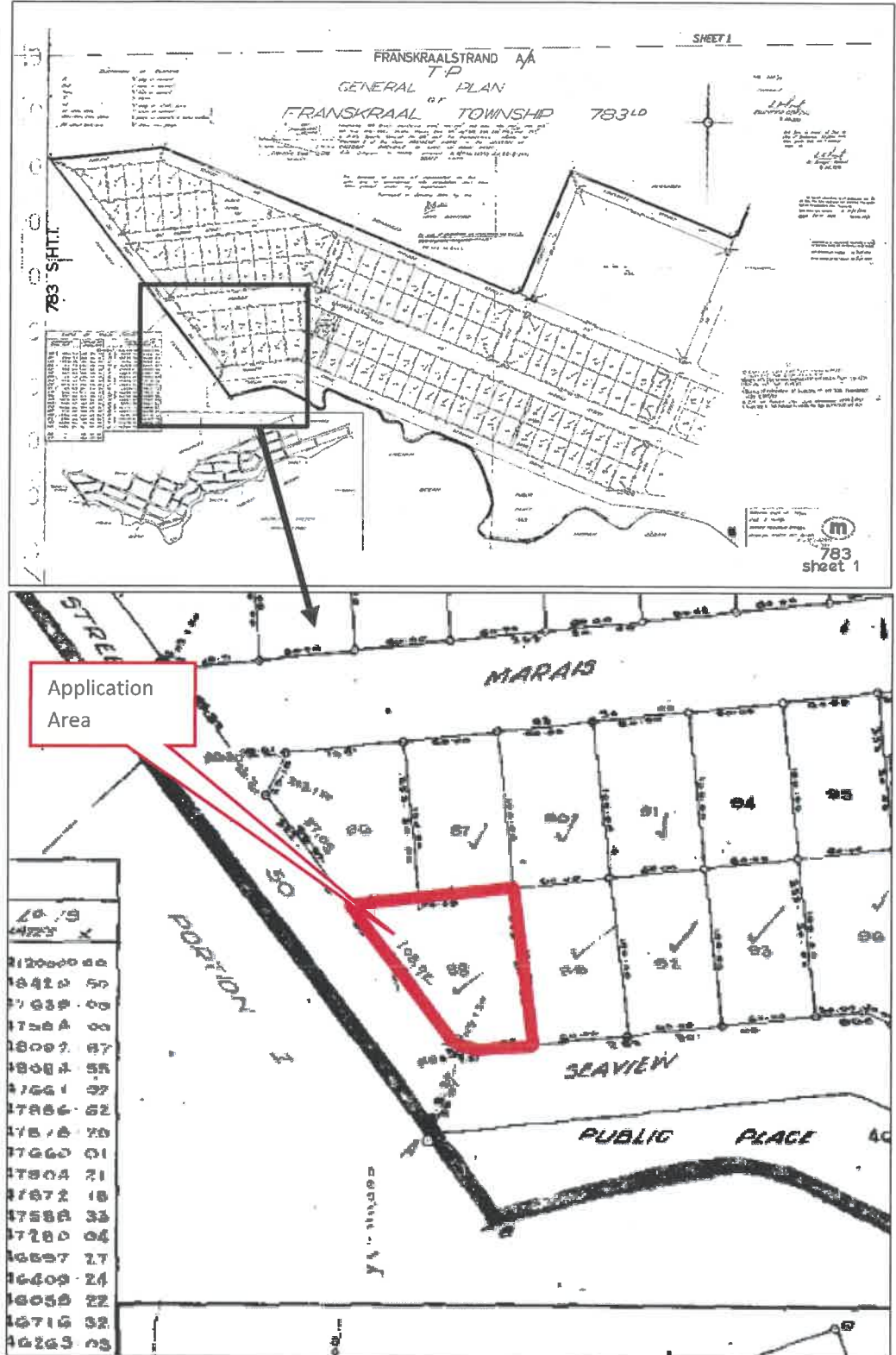


Figure 3: Extracts of the Surveyor General Plans of the application site

b. Location:

For the Locality Plans refer to Annexure F.

Regional Context:

Within the regional context, the application area is located within Franskraal residential suburb, located south east of Gansbaai and within the Overstrand municipal area. Franskraal functions as a popular residential, holiday and retirement suburb of Gansbaai.

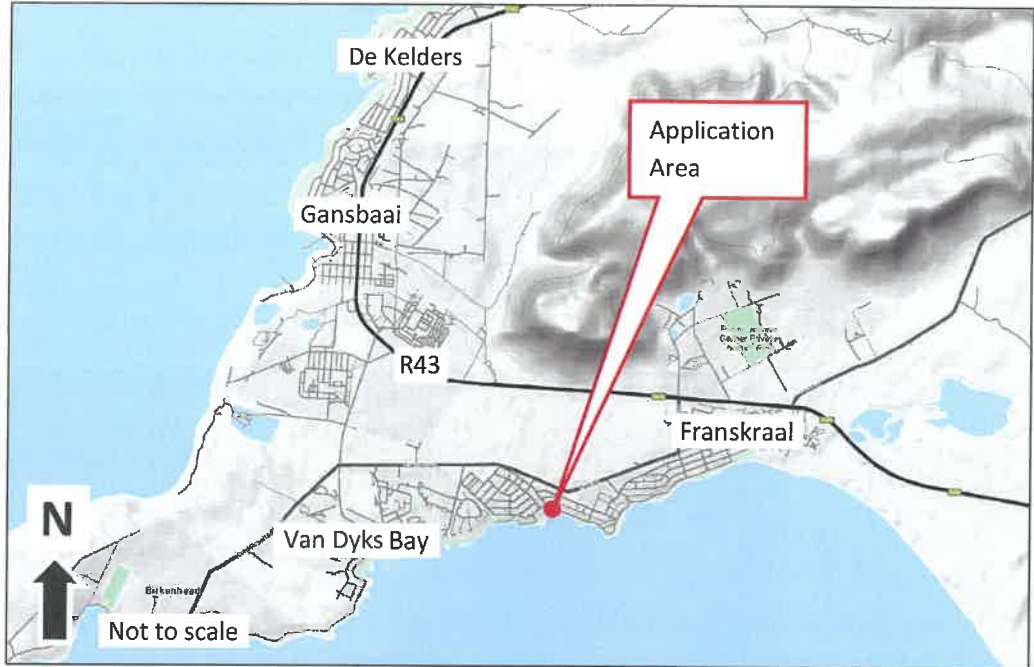


Figure 4: Locality Plan – Regional Context

Local Context:

Within the local context the application area is located at 1 Sea View Drive.



Figure 5: Locality Plan – Local Context

c. Land Use:

Refer to the Land Use Plan attached as **Annexure H**.

Erf 88 Franskraal is used for single residential purposes. The adjacent properties are also used for single residential and open space. No change in land use is proposed. The application is consistent with the land use of the area.



Figure 6: Land use plan based on a 2020 aerial photo

d. Zoning:

Refer to the zoning map attached as **Annexure G**.

The application area, Erf 88, Franskraal is zoned Residential Zone 1: Single Residential. The surrounding properties are zoned Residential Zone 1: Single Residential as well and Open Space Zone 1: Nature Reserve. No change in zoning is proposed. The application area's zoning is consistent with the zoning of the area.



Figure 7: Overstrand online zoning viewer extract

e. Spatial Planning Policy

The following policy guidelines from the following relevant policy documents are applicable to the application area:

i. Overstrand Municipality Spatial Development Framework 2020

The SDF 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 application area is within an urban development area, an Environmental Sensitive Development Area and a Coastal Protection Zone.

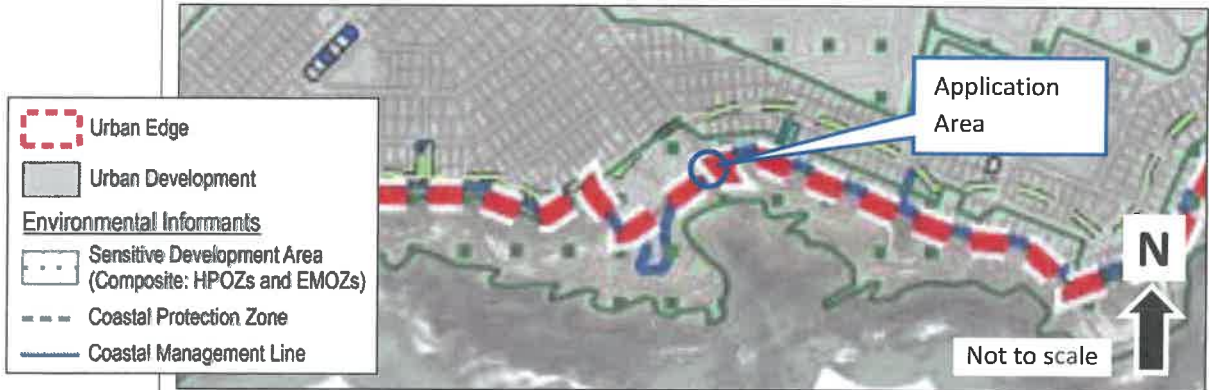


Figure 8: 2020 MSDF Spatial Proposal Franskraal

Given the existing and proposed development on the application site, the application proposal is considered consistent with the Overstrand Municipality Spatial Development Framework 2020.

ii. Overstrand Municipality Growth Management Strategy, 2010

The Overstrand Growth Management Strategy defines, explains, and uses densification as a growth management tool to positively redress and counteract the effects of urban sprawl to promote the longer-term sustainability of the Overstrand Municipality and its sub-regions environmental quality.

The application area is located within a “less than 10 Dwelling Units Per Hectare Densification Zone” as well as within an area demarcated for urban design guidelines as well as an integration link.

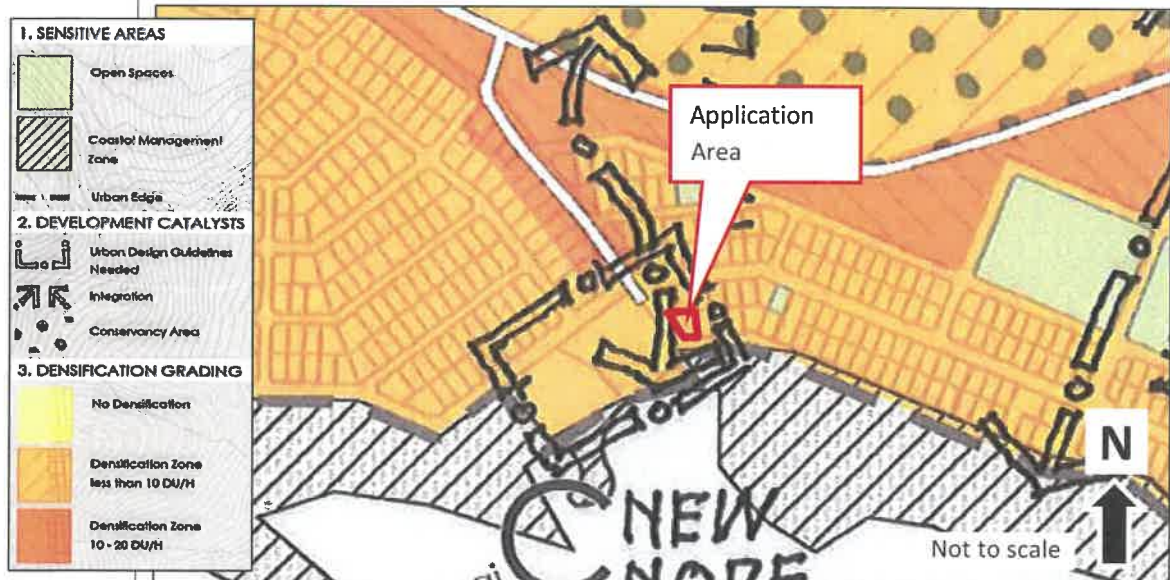


Figure 9: Extract from the Overstrand Municipality Growth Management Strategy, 2010

The application is, with cognisance of these proposals, considered **consistent** with the Overstrand Municipality Growth Management Strategy, 2010.

iii. **Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020**

“90. Application for administrative penalty

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.

(1) A person making an application contemplated in Subsection (1) must –

- (a) submit an application;*
- (b) pay the prescribed fee;*
- (c) provide the information contemplated in Subsections (3); and*
- (d) comply with the duties of an applicant in Section 84.*

(2) The applicant must, to the satisfaction of the Municipality, provide the following information such as–

- (a) the nature, duration, gravity and extent of the contravention;*
- (b) the conduct of the person (allegedly) involved in the contravention;*
- (c) a report by a quantity surveyor in matters of unauthorised building/construction;*
- (d) whether the unlawful conduct was stopped; and*
- (e) whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.”*

Application for administrative penalty is made in accordance with the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, for the existing contraventions of the zoning scheme and title deed building lines.

35(4) Application for removal, suspension or amendment of a restrictive condition

The following excerpts from the by-law are applicable to the removal of restrictive conditions:

“35. (4) When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following:

- (a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;*
- (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;*
- (c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed;*
- (d) the social benefit of the restrictive condition remaining in place in its existing form;*
- (e) the social benefit of the removal or amendment of the restrictive condition; and*
- (f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.”*

The application for the removal of restrictive conditions was evaluated according to the above-mentioned criteria and no material personal, social or financial benefits to the restrictive conditions remaining in place were found, whereas personal benefits are foreseen to result from the removal of the restrictive title deed conditions.

Therefore, the application proposal is consistent with the Overstrand Amendment By-law on Municipal Land-use Planning, 2020.

4. Motivation

Motivation for the application:

Refer to **Annexure I** for the Site Plan.

a. Introduction & Background:

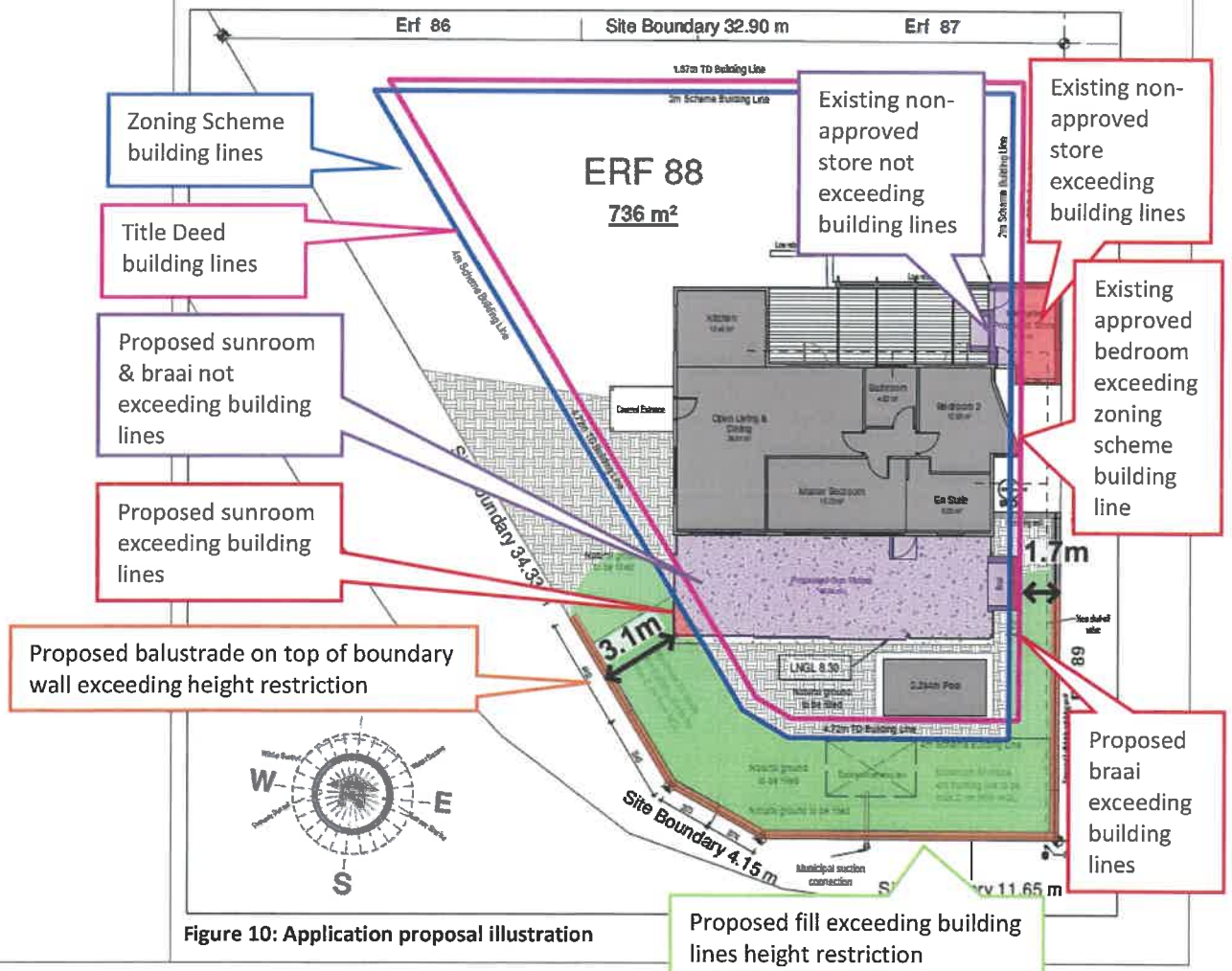
The proposal is to create an entertainment area with a braai room, swimming pool and a functional garden on the southern side of the property optimizing the views from the property and also legalizing the non-approved storeroom on the property.

b. Proposal

The **development objective** is thus to legalise existing non-approved structures and to accommodate a proposed sunroom and braai as well as boundary wall with balustrades and filling as illustrated in the following sketches.

Subsequently, the **application proposal** is for the following:

- Removal of restrictive title deed Condition C. 20(d) from Title Deed T21892/2002.
- Departure of the eastern side building line from 2m to 0m to allow for an existing storeroom.
- Departure of the eastern side building line from 2m to 1.7m to allow for a proposed braai.
- Departure of the western street building line from 4m to 3.1m to allow for a proposed sunroom.
- Departure to relax the height of the boundary walls and balustrades to up to 3.1m above natural ground to allow for a 1m balustrade on top of the proposed 2.1m boundary wall.
- Departure to relax the height of filling from 1m to up to 2.1m from the natural ground level.
- Determination of an administrative penalty for the building of a storeroom and a braai without the necessary approvals.



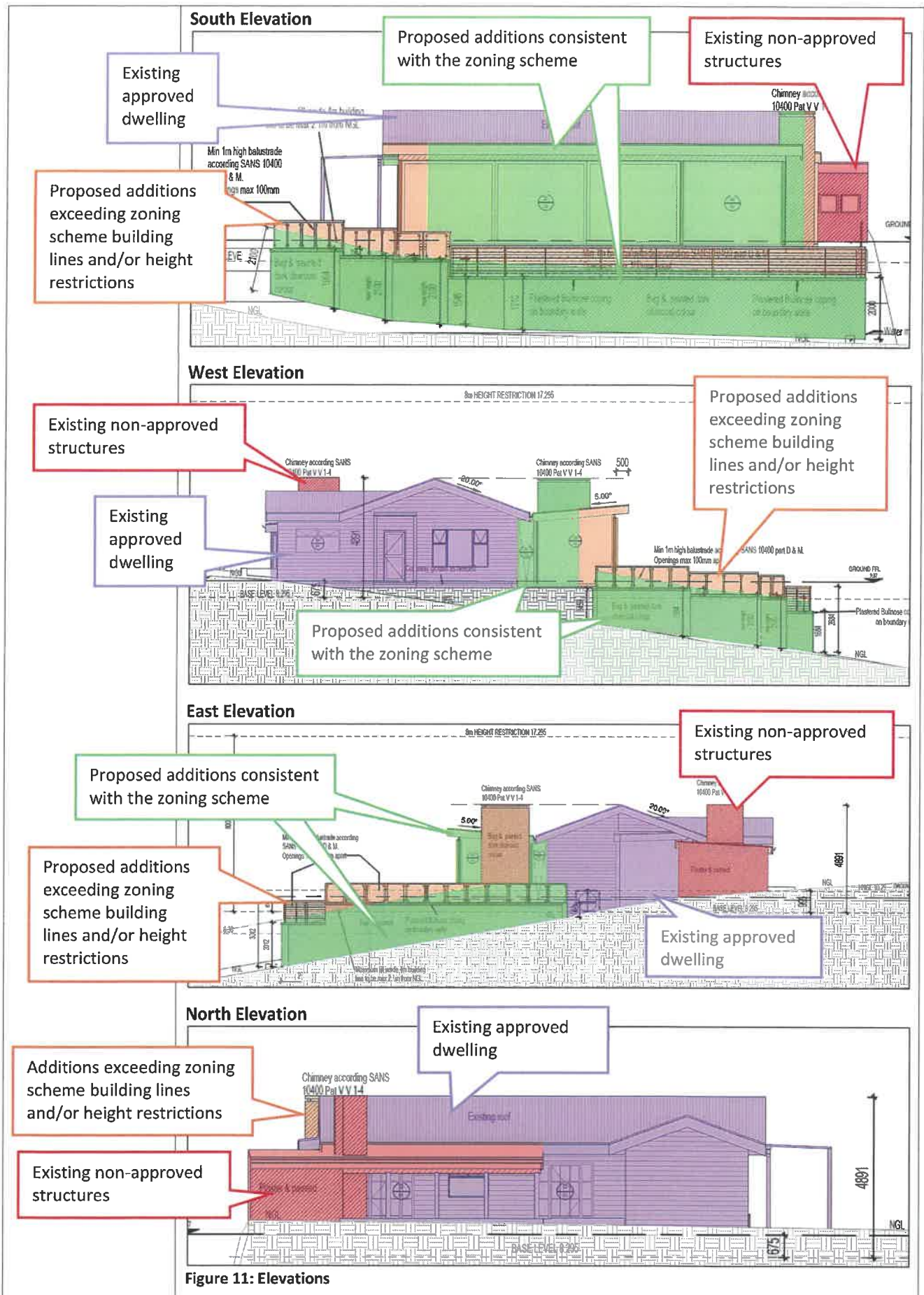


Figure 11: Elevations



Figure 12: Three dimensional renderings of the proposal

Removal of restrictive title deed Condition C. 20(d) from Title Deed T21892/2002

The restrictive title deed conditions in T21892/2002.

"C. 20(d) geen gebou of struktuur of enige gedeelte daarvan behalwe grensmure en heinings mag binne 4,72 meter van die straatlyn wat 'n grens van hierdie erf vorm opgerig word nie ook nie binne 3,15 meter van die agtergrens of 1,57 meter van die sygrens van 'n aangrensende erf nie, met dien verstande dat 'n buitegebou met die toestemming van die plaaslike owerheid mag opgerig word op die voorgeskrewe ruimte langs die agtergrens, mits sodanige buitegebou nie 'n hoogte van 3,05 meter te bowe gaan nie, watter hoogte gemeet moet word van die vloer tot die ankerplaat en mits geen gedeelte daarvan vir bewoningsdoeleindes deur mense aangewend word nie."

The reasons for the removal of the restrictive title deed condition are the following:

- The existing storeroom exceeds the title deed side building line.
- The proposed braai room is proposed to exceed the title deed street building line.

Title deed zoning restrictions were historically used as a substitute for a lack of municipal zoning criteria. The municipality has since compiled a zoning scheme and a planning by-law to provide zoning criteria and departure application processes. The removal of the title deed restriction will allow for the zoning criteria to be determined by the municipality.

The existing storeroom is not clearly visible from the road, thus not having a negative effect on the character of the area. The existing storeroom is on the ground floor, thus not impacting views. The existing storeroom will not have an impact on services or have an impact on access to different parts of the property. The existing storeroom also does not have windows or doors facing the adjacent property and will therefore not have an impact on privacy.

Only a corner of the proposed braai room is proposed to exceed the title deed building line, thus being limited in scale and will not have a negative effect on character of the area. Over 3m will still be available for services and access. The proposed braai room is on the ground floor and will therefore not have an impact on views.

The existing storeroom and proposed braai room will improve the functionality of the application area without having an impact on privacy, views, safety, services or the character of the area.

Departure of the eastern side building line from 2m to 0m to allow for an existing storeroom

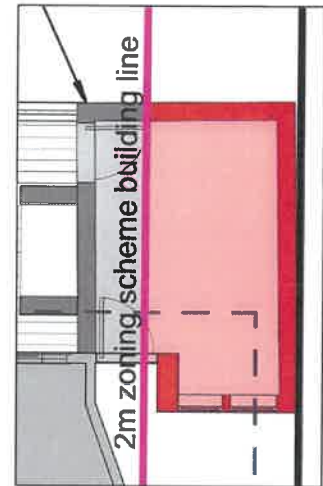
The existing storeroom spans 4m along the eastern side building line with a height of 2.5m and is on the ground floor.

The storeroom does not have windows or doors facing the neighbouring property and is not a habitable space and therefore does not have an impact on the neighbouring property in terms of privacy or noise.

The storeroom is set back from the street façade of the dwelling, is only on the ground floor and is barely visible from the road and will therefore not have an impact on the character of the area.

The existing storeroom will not have an impact on services or access to different parts of the property.

The storeroom improves the functionality of the application area by providing a dedicated storage area, especially in the context that no garage exists on the application area.



Departure of the western street building line from 4m to 3.1m to allow for a proposed sunroom

The existing braai area faces the north which does not take advantage of the sea views to the south. The proposal is to move the entertainment area and braai to the southern side of the property to improve the functionality of the property. As a result a sunroom with a braai is proposed on the southern side of the existing dwelling.

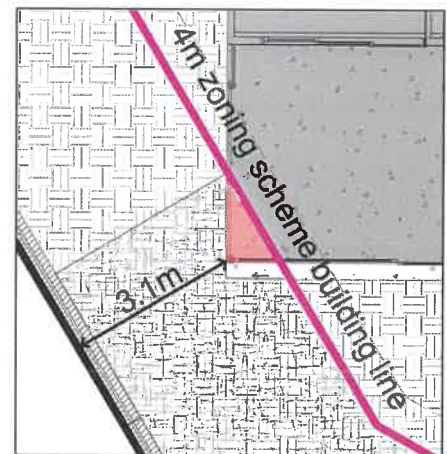
A functional sized sunroom is proposed and it is proposed to align it with the walls of the existing dwelling from an aesthetical point of view.

The area exceeding the street building line involves a corner of the sunroom of 0.8m² on the ground floor level, thus not having a notable impact on the character of the area.

Due to the limited scale exceeding the building line and since the proposed sunroom is on the ground floor the sunroom will not have an impact on views of neighbouring properties.

The sunroom will not have an impact on services or access.

The property is located on a corner erf and at the place of the proposed braai room, the property has a depth of less than 20m and in similar circumstances a 3m building line is allowed in terms of the applicable Zoning Scheme.



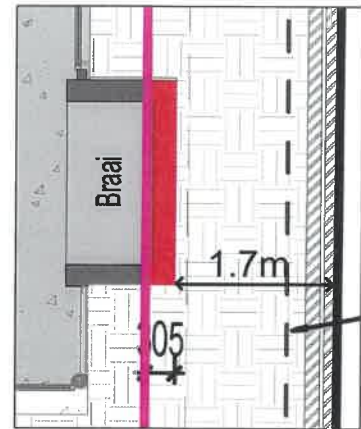
Departure of the eastern side building line from 2m to 1.7m to allow for a proposed braai

The proposed braai exceeds the eastern side building line by 0.3m and has a width of 2.1m. The reason for the proposed location of the braai is to have walls that are parallel to the existing dwelling.

The zoning scheme allows for chimney breasts not projecting more than 0.5m from the wall of the building to exceed building lines. In this case the braai projects 1m from the wall of the building of which 0.3m exceeds the building line.

The braai chimney is proposed to have the same height as the existing dwelling roof and will not have an impact on views of surrounding properties as a result.

The proposed chimney will not have a negative impact on the character of the area, services or access.

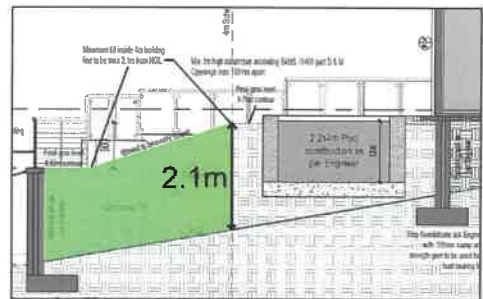


Departure to relax the height of filling from 1m to up to 2.1m from the natural ground level

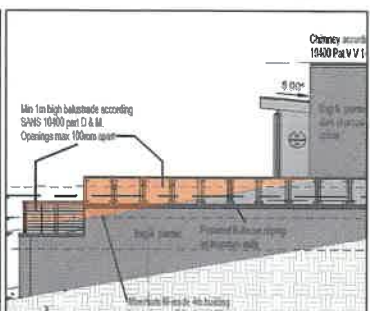
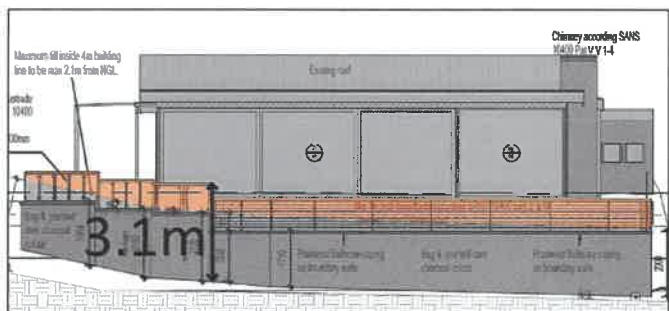
The application area is located on a slope of approximate 1:6 or 9.5 degree on the southern side of the erf. The slope caused that the southern side of the property, the side with ocean views and street view, cannot be utilised fully for recreation and entertainment purposes.

The proposal is to level street front area on the same level as the existing ground level in order to improve the functionality and utilization of the property. This will allow for a functional garden which faces the ocean, improving the street appeal of the property and thereby adding to the property value and character of the area.

It is subsequently proposed to fill up to a 2m height along the southern boundary, which is the boundary visible to the public and which will be screened by the boundary wall. The fill within the building lines are proposed to be up to 2.1m and therefore will not have a negative effect on the character of the area. The application area is on a street corner with roads to the south and west. The property is screened by shrubs/trees along the western boundary



Departure to relax the height of the boundary walls and balustrades to up to 3.1m above natural ground to allow for a 1m balustrade on top of the proposed 2.1m boundary wall



The purpose of the proposed boundary walls are to serve as retaining wall for the proposed fill. The boundary wall will be up to 2.1m above natural ground level. On top of the walls balustrades are proposed for safety purposes, but also to be mostly transparent to reduce the visual impact thereof. The proposed balustrades will be 1m in height, thus making the total height of the boundary walls with balustrades 3.1m above natural ground level.

Since the solid boundary walls are limited to 2.1m and the balustrades are proposed to be mostly transparent, the proposal will have a minimal impact on the character of the area.

The proposal will allow for the residents to optimally utilize the southern front portions of the property, thus improving passive surveillance and vibrancy of the streetscapes.

Determination of an administrative penalty for the building of a storeroom, a braai and a bay window without the necessary approvals

The following information with regards to the administrative penalty is provided as required according to Chapter X, Section 90(3):

- (a) The nature, duration, gravity and extent of the contravention;
 A storeroom was created on the eastern application area boundary by building a roof over a former outdoor shower area and a roof was added over a section of the stoep on the northern side of the property as well as a braai was also constructed against the storeroom without permission.
 These structures were constructed in 2015. The footprint of the storage area exceeding building lines calculates to 7.5m² and the sections of the storeroom and braai not exceeding building lines totals to 4.1m². The footprint of the roof above the stoep is 18.6m².
- (b) The conduct of the person (allegedly) involved in the contravention;
 A roof was constructed on a walled outdoor shower area exceeding building lines to create a storage area. A braai and roofed stoep was also constructed.
- (c) Report by a quantity surveyor in matters of unauthorised building/construction;
 The existing structures does not have a negative effect on the character of the area, views, privacy, services, access or safety and it is therefore it is requested that the administrative penalty be waived. No report by quantity surveyor was subsequently obtained as a result.
- (d) Whether the unlawful conduct was stopped
 The structure has not been demolished. This application inter alia is to legalise the existing structure.
- (e) Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.
 Besides the contraventions mentioned in the application, we are not aware of any other contraventions made by the property owner.

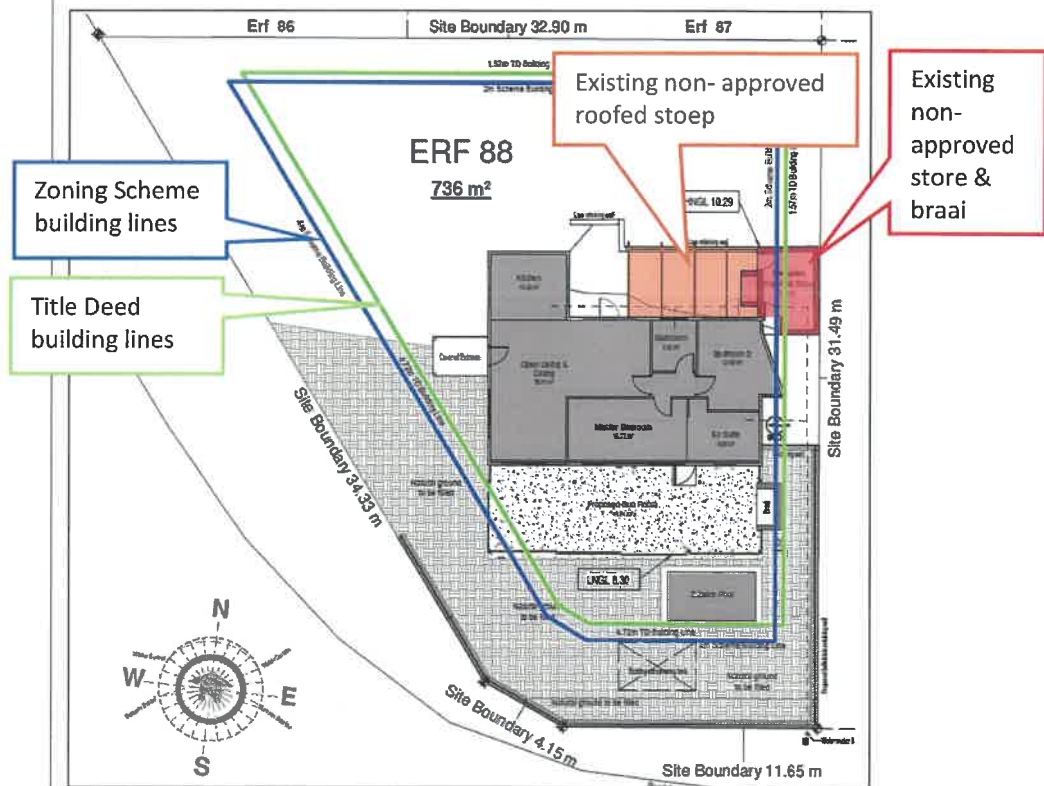


Figure 13: Administrative penalty illustration

c. Desirability of the proposal

The proposal is considered **desirable** for the following reasons:

- As motivated, the proposal will improve the functionality of the application area without having a negative effect on the character of the area, views, services or access.
- The proposal will improve the entertainment area along the seafront of the property opposed to the back of the property, thus improving passive surveillance and vibrancy of the streetscape.

d. Planning Principles

The application has also been analyzed for consistency with the planning principles prescribed by the Spatial Planning and Land Use Management Act, 2013 (SPLUMA) and also the Western Cape Land Use Planning Act, 2014 (LUPA) and the following conclusions were made:

- (i) **Spatial Justice** which refers to the need for redressing the past apartheid spatial development imbalances and aim for equity in the provision of access opportunities, facilities, services and land.

Possible results of the development

The application will allow for structures on an existing single residential erf and will not have an impact on spatial justice.

The application is **consistent** with the principle of spatial justice.

- (ii) **Spatial Sustainability** which refers to the fact that a spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.

Possible results of the development

The proposal is for amendments to a dwelling on a single residential property, therefore not having an impact on spatial sustainability.

The application is **consistent** with the principle of spatial sustainability.

- (iii) **Spatial Efficiency** which refers to the manner in which settlements themselves are designed to function in such a way that there will be a minimum need to travel long distances to access services, facilities and opportunities.

Possible results of the development

The application proposal will not have an impact to spatial efficiency since it only relates to the development of an existing single residential erf.

The application is **consistent** with the efficiency principle.

- (iv) **Spatial Resilience** which, in the context of land use planning, refers to spatial plans, policies and land use management systems which should enable communities to be able to resist, absorb and accommodate any economic and environmental shocks which might occur in a timely and efficient manner.

Possible results of the development

The development objective will not have an impact on spatial resilience since the proposal is for additions to a single residential erf.

The application is **consistent** with the principle of spatial resilience.

(v) **Good Administration** which, in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure that a joint planning approach is pursued.

Possible results of the development

Consultative practices are being followed in this application as it is done in consultation with the Planning Department of the Municipality who will also advertise the application in such a manner as to enable the Government and the general public to participate in the eventual decision-making process.

The application is **consistent** with the principle of good administration.

5. Conclusion

Approval of the application allows for a significant improvement in functionality of the application area without having a negative effect on the character of the area. Furthermore, the application as motivated in this report is regarded **desirable** within its local context and well-integrated within the existing community land-use activities.

It is therefore recommended that the application **be approved** in terms of the Overstrand Amendment By-law on Municipal Land-use Planning, 2020, as follows:

- Removal of restrictive title deed Condition C. 20(d) from Title Deed T21892/2002 in terms of Chapter IV, Section 16(2)(f).
- Departure of the eastern side building line from 2m to 0m to allow for an existing storeroom in terms of Chapter IV, Section 16(2)(b).
- Departure of the western street building line from 4m to 3.1m to allow for a proposed sunroom in terms of Chapter IV, Section 16(2)(b).
- Departure of the eastern side building line from 2m to 1.7m to allow for a proposed braai in terms of Chapter IV, Section 16(2)(b).
- Departure to relax the height of the boundary walls and balustrades to up to 3.1m above natural ground to allow for a 1m balustrade on top of the proposed 2.1m boundary wall in terms of Chapter IV, Section 16(2)(b).
- Departure to relax the height of filling from 1m to up to 2.1m from the natural ground level in terms of Chapter IV, Section 16(2)(b).
- Waiving of the administrative penalty for the building of a storeroom and a braai in terms of Chapter IV, Section 16(q) & Section 90.(5).

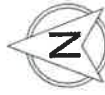
PROJECT

Erf 88 Franskraal

TITLE

Zoning Plan

-  Application Area
-  Residential Zone 1: Single Residential
-  Open Space Zone 1: Nature Reserve
-  Open Space Zone 2: Public Open Space
-  Transport Zone 2: Roads & Parking
-  Undetermined Zone



NEEDMITY
 INTERACTIVE TOWN & REGIONAL PLANNING (Pty) LTD
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GENERAL:

- ALL WORK TO COMPLY WITH NATIONAL BUILDING REGULATIONS:
1. All dimensions and levels to be checked on site before any work commences.
 2. The drawing is not to be used as a guide for any work commences.
 3. All work is to be carried out in accordance with local authority requirements.
 4. All levels unless otherwise indicated are finished floor levels.
 5. Floor floor levels are to be in mm. Commence N.C.L.
 6. All elevations are to be reported in the notes of the Architects.
 7. All levels are to be in mm.
 8. Buildings comply with National Building Regulations.
 9. Structures work to comply strictly with accordance to Eng's specs & details.

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|----------------|------------------------|------------------------------|-------------------------------|------------------------------|
| LEGEND: | SITE PLAN VIEW: | PLAN VIEW: | ELEVATIONS: | SECTIONS: |
| | All New Work | New Brickwork | New Brickwork | New Timberwork |
| | | New Timberwork | New Plasterwork | New Fire Protection Elements |
| | | New Steel Elements | New Foundation/ Concrete work | Existing building/structures |
| | | Existing building/structures | Demolished work | |
| | | | | |

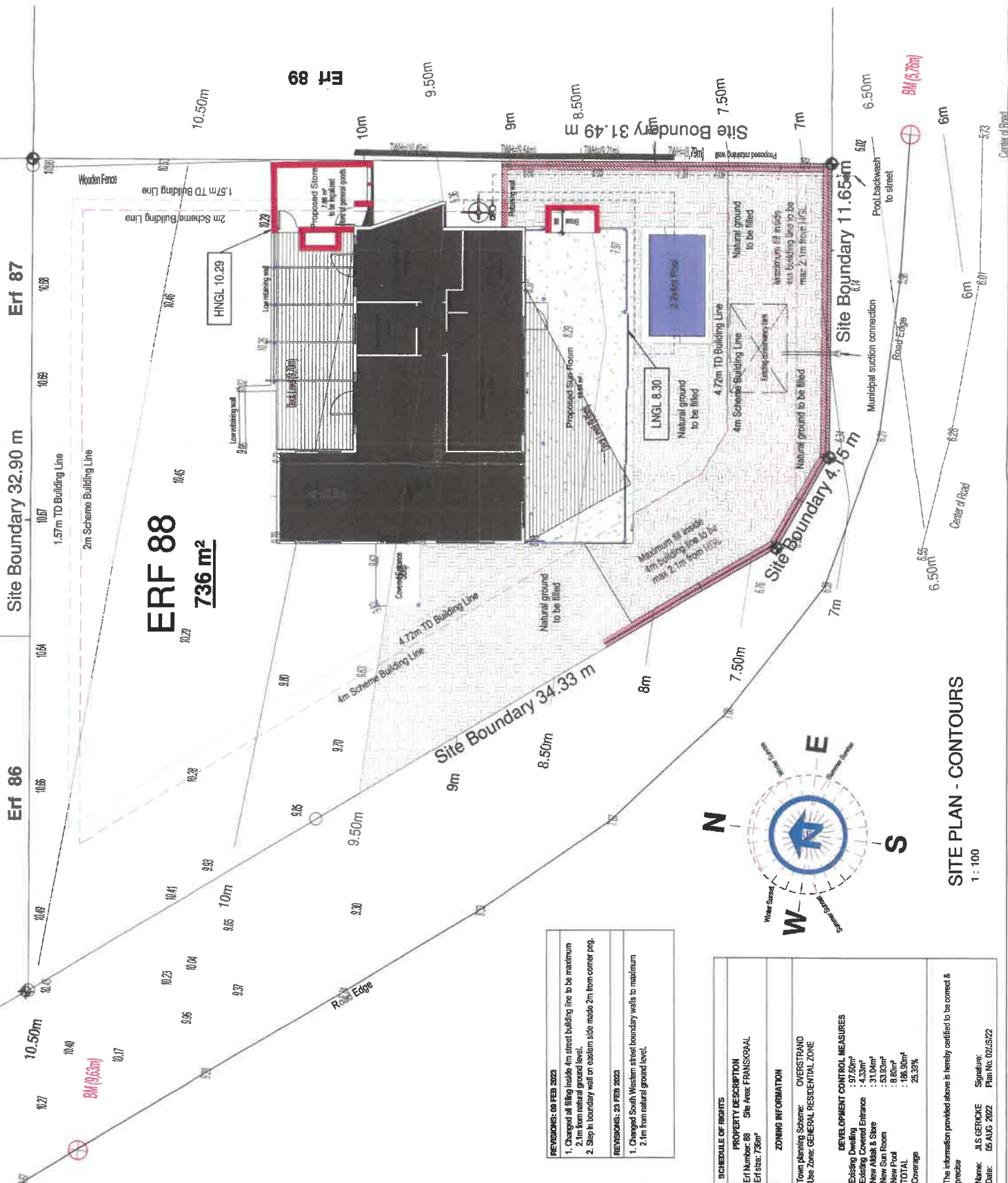
PROPOSED ADDITIONS FOR MR J SMIT ON ERF 88, FRANSKRAAL OVERSTRAND MUNICIPALITY.

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|----------------------|---------------|-----------------------------|----------------------|
| DESCRIPTION: | | SITE PLAN - CONTOURS | |
| SHEET FORMAT: | A2 | OCCUPATION: | H4 |
| SCALE: | As indicated | DRAWING #: | 02/US/22 |
| PAGE #: | 1 | PLOT DATE: | 03-Mar-23 2:37:32 PM |
| DRAWN: | John Gerlicke | SIGNATURE: | <i>J.Gerlicke</i> |

GERLICK ARCHITECTURE!

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 SACAP : 02856 Prof Arch Drought

REGISTERED ARCHITECTURAL
 CONSULTANTS
 SOUTH AFRICA



REVISIONS: 08 FEB 2023

1. Changed all filling inside 4m street building line to be maximum 2.1m from natural ground level.
2. Step in boundary wall on eastern side made 2m from corner peg.

REVISIONS: 23 FEB 2023

1. Changed South Western street boundary walls to maximum 2.1m from natural ground level.

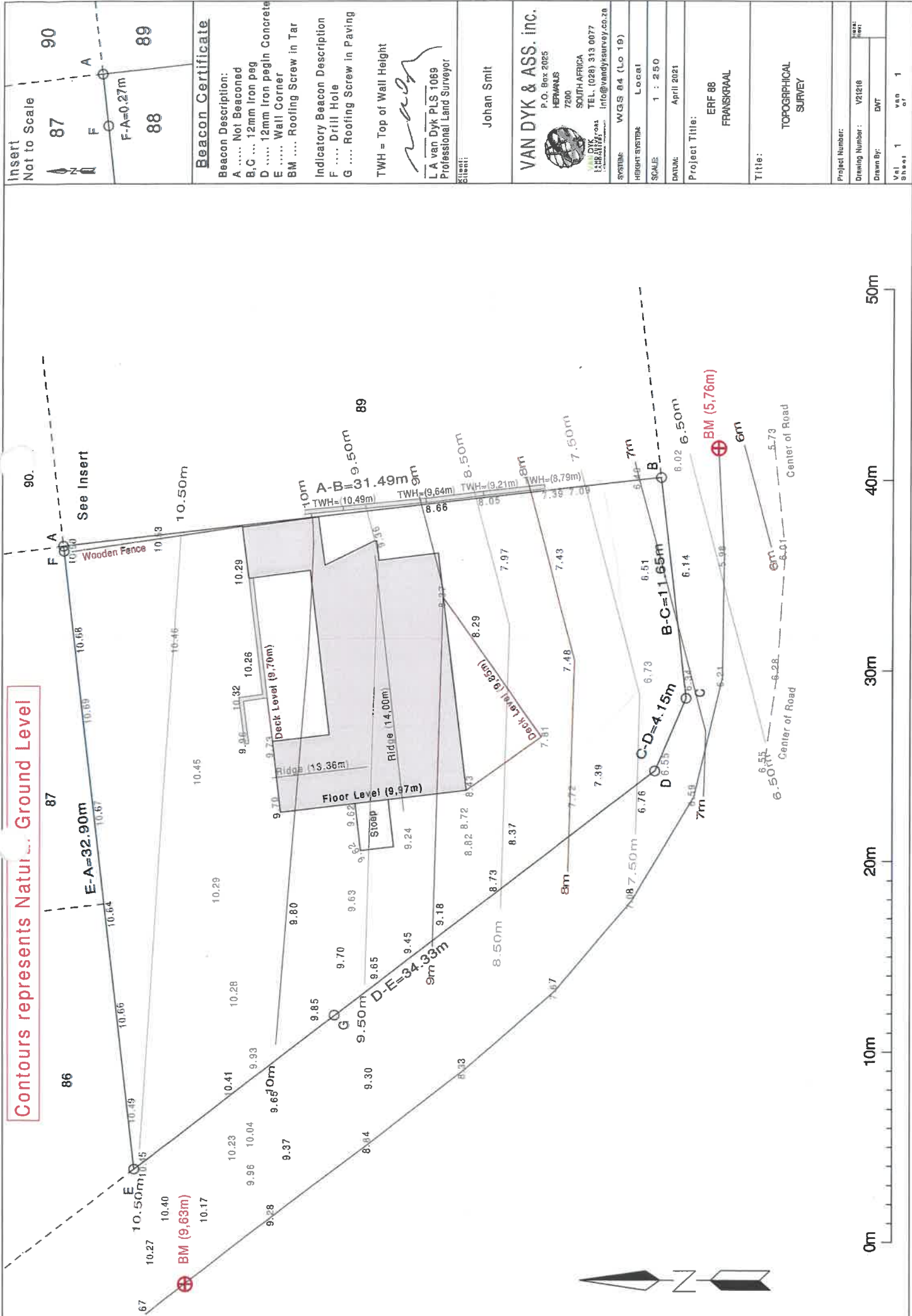
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|------------------------------------|-------------------------------------|
| SCHEDULE OF RIGHTS | PROPERTY DESCRIPTION |
| Erf Number: 88 | Site Area: FRANSKRAAL |
| Erf size: 726m² | |
| ZONING INFORMATION | DEVELOPMENT CONTROL MEASURES |
| Town Planning Scheme: OVERSTRAND | Existing Dwelling : 97.60m² |
| Use Zone: GENERAL RESIDENTIAL ZONE | Existing Covered Entrance : 4.35m² |
| | New Abak & Store : 31.04m² |
| | New Sun Room : 53.50m² |
| | New Pool : 6.80m² |
| | TOTAL : 189.30m² |
| | Coverage : 23.25% |

The information provided above is hereby certified to be correct & precise

Name: J.S.GERLICK Signature: _____
 Date: 05 AUG. 2022 Plan No: 02/US/22

SITE PLAN - CONTOURS
1 : 100

Contours represents Natural Ground Level



Insert Not to Scale

87 90

88 89

F-A=0,27m

F A

Beacon Certificate

Beacon Description:
 A Not Beaconsed
 B, C 12mm Iron peg
 D 12mm Iron peg in Concrete
 E Wall Corner
 BM Roofing Screw in Tar

Indicatory Beacon Description
 F Drill Hole
 G Roofing Screw in Paving

TWH = Top of Wall Height

[Signature]

L.A. van Dyk PLS 1069
 Professional Land Surveyor

Client: Johan Smit

VAN DYK & ASS. inc.

P.O. Box 2025
 HERMANUS
 7200
 SOUTH AFRICA

TEL: (028) 313 0077
 info@vandyksurvey.co.za

| | |
|----------------|----------------------|
| SYSTEM: | WGS 84 (Lo 19) |
| HIGHT SYSTEM: | Local |
| SCALE: | 1 : 250 |
| DATE: | April 2021 |
| Project Title: | ERF 88 FRANSKRAAL |

| | |
|-----------------|----------------------|
| Title: | TOPOGRAPHICAL SURVEY |
| Project Number: | |
| Drawing Number: | V21216 |
| Drawn By: | DWT |
| Vol. of 1 | 1 |
| Sheet of 1 | 1 |

| LEGEND: | |
|--------------------------------|--------------|
| SITE PLAN VIEW: | All New Work |
| PLAN VIEW: | |
| New Blockwork | |
| New Timberwork | |
| New Steel Elements | |
| New Foundational Concrete work | |
| Existing building/structures | |
| Dismantled work | |
| ELEVATIONS: | |
| New Blockwork | |
| New Plasterwork | |
| New Timberwork | |
| Existing building/structures | |
| SECTIONS: | |
| New Timberwork | |
| New Fire Protection Elements | |
| Existing building/structures | |

PROPOSED ADDITIONS FOR MR J SMIT ON ERF 88, FRANKSKRAAL, OVERSTRAND MUNICIPALITY.

DESCRIPTION: SITE PLAN - GROUND FLOOR

SHEET FORMAT: A2 OCCUPATION: FH4

SCALE: As indicated DRAWING #: 02JUS/22

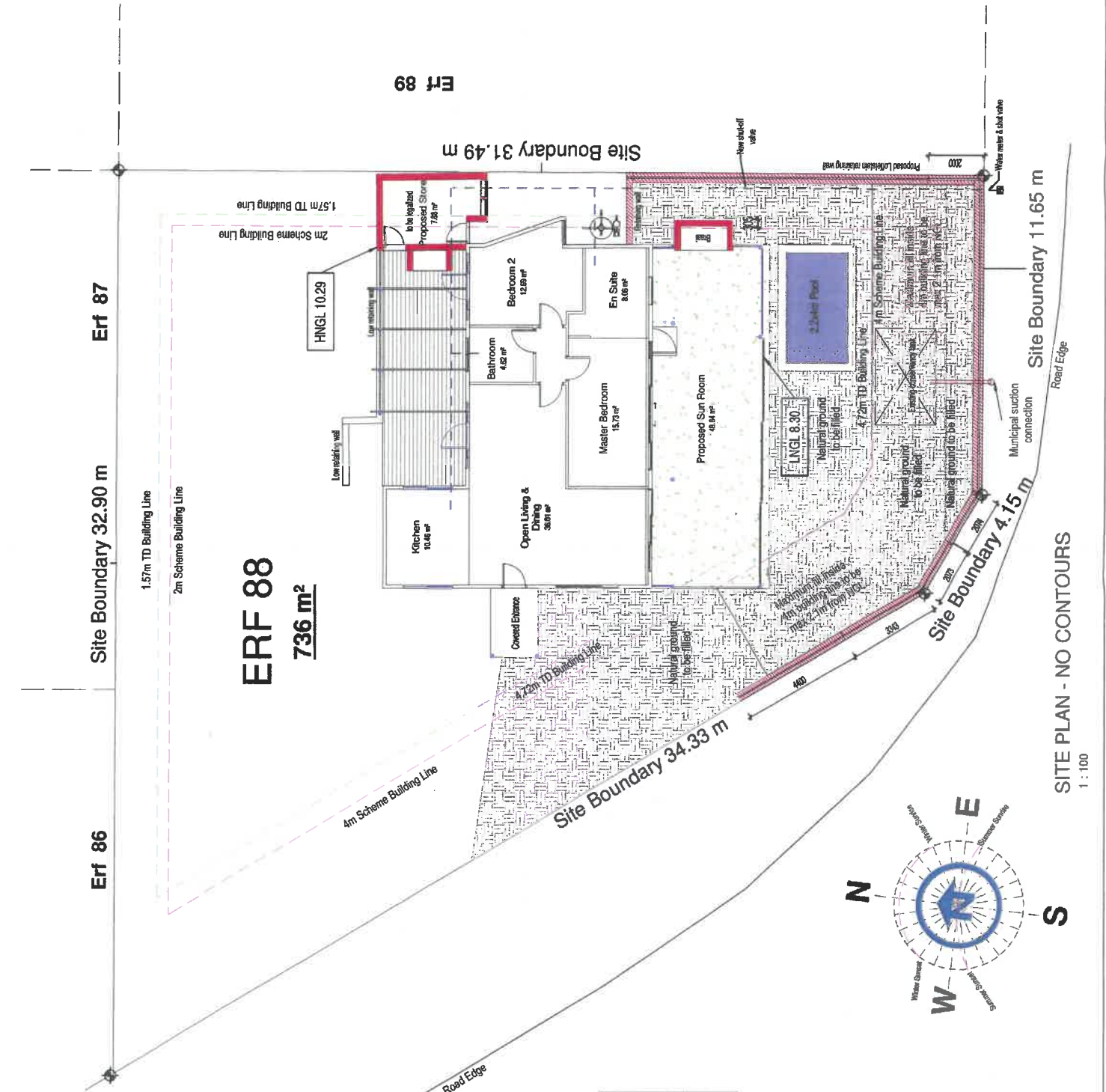
PAGE #: 2

DRAWING DATE: 30 JUNE 2022 PLOT DATE: 03-Mar-23 2:37:32 PM

DRAWN: Johan Gericke SIGNATURE: *Johan Gericke*

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PROFESSIONAL ARCHITECTURAL CONSULTATION
JANUARY 2023
www.gericke-architecture.co.za



ERF 88
736 m²

SITE PLAN - NO CONTOURS
1 : 100

REVISIONS: 08 FEB 2023

- Changed all filling inside 4m street building line to be maximum 2.1m from natural ground level.
- Step in boundary wall on eastern side made 2m from corner peg.

REVISIONS: 20 FEB 2023

- Changed South Western street boundary walls to maximum 2.1m from natural ground level.

| SCHEDULE OF RIGHTS | |
|------------------------------|---------------------------------------|
| PROPERTY DESCRIPTION | ERF Number: 88 Site Area: FRANKSKRAAL |
| ERF size | 736m ² |
| ZONING INFORMATION | |
| Town Planning Scheme: | OVERSTRAND |
| Use Zone: | GENERAL RESIDENTIAL ZONE |
| DEVELOPMENT CONTROL MEASURES | |
| Existing Dwelling | : 37.60m ² |
| Existing Covered Entrance | : 4.50m ² |
| New Wall & Store | : 53.90m ² |
| New Sun Room | : 8.80m ² |
| NEW POOL | : 168.90m ² |
| TOTAL | : 168.90m ² |
| Coverage | : 25.35% |

The information provided above is hereby certified to be correct & precise

Name: JLS GERICKE Signature: _____
Date: 05 AUG 2022 Plan No: 02JUS/22

