

ERF 78, 16 VOORTREKKER STREET, GANSBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: TOWN AND COUNTRY CREATIVE LAND SOLUTIONS ON BEHALF OF J & C ZOGHBY

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:

- **consent use** (institution) in terms of Section 16(2)(o) of the By-Law, in order to accommodate a home for the old aged;
- **determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law, in order to accommodate the facility that is already operational.

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 and at the 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 **7 October 2022**, quoting your name, address and contact details, interest in the application and reasons for comment. Telephonic enquiries can be made to **Mr SW van der Merwe** 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 78, VOORSTREKKERSTRAAT 16, GANSBAAI, OVERSTRAND MUNISIPALE AREA: AANSOEK OM VERGUNNINGSGEBRUIK: TOWN AND COUNTRY CREATIVE LAND SOLUTIONS NAMENS J & C ZOGHBY

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:

- **vergunninggebruik** (inrigting) ingevolge Artikel 16(2)(o) van die Verordening, ten einde 'n ouetehuis te akkommodeer;
- **bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) van die Verordening, ten einde die fasiliteit wat reeds operasioneel is te akkommodeer.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus en by die Gansbaai Biblioteek, Hoofweg, Gansbaai. Enige skriftelike kommentaar moet ingevolge die bepalings van Artikels 51 en 52 van die Verordening ingedien word en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) bereik voor of op **7 Oktober 2022**, met u naam, adres en kontakbesonderhede, belang in die aansoek, sowel as die redes vir kommentaar. Telefoniese navrae kan gerig word aan **Mnr SW van der Merwe** 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 78, 16 VOORTREKKER STREET, E-GANSBAAI, KUMMANDLA WOMASIPALA WASE OVERSTRAND: ISICELO SOKUSEBENZISA IMVUME: YI (TOWN AND COUNTRY CREATIVE LAND SOLUTIONS EGAMENI LE J & C ZOGHBY)

Esi sisaziso esikhutshwa ngokweSoloty 48 loMthethwana kaMasipala woYilo lokuSetyenziswa koMhlaba kaMasipala, 2020 sokuba kufunyenwe ezizicelo zilandelayo:

- imvume yokusetyenziswa (iziko) ngokweCandelo le-16(2)(o) loMthetho kaMasipala, ukuze kulungiselelwe ikhaya labantu abadala;
- ukumiselwa kwesohlwayo solawulo ngokweCandelo le-16(2)(q) loMthetho kaMasipala, ukuze kulungiselelwe uncedo esele lusebenza.

Linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ngeentsuku zomsebenzi phakathi kweyure-08:00 ne-16:30 kwiSebe: Town Planning, 16 e-Paterson Street, e-Hermanus, kunye neThala lencwadi e-Gansbaai, kwisitalato sase Main Road, e-Gansbaai. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zamaCandelo 51 nelama-52 alo Mthethwana zithunyelwe kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) ngomhla okanye ngaphambi komhla wama **7 EyeDwarha (uOktobha) 2022**, unike igama lakho, idilesi neenkukacha zonxibelelwano nawe, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Xa ufuna ukubuza into malunga nesi saziso ungafonela **kuMnu SW van der Merwe** ku-028-313-8900. Umasipala angala ukuzamkela izimvo ezifike emva komhla wokuvula. Nabani na ongakwaziyo ukufunda okanye ukubhala makaye kwiSebe loYilo lweDolophu apho igosa likamasipala liya kumncedisa azibhale izimvo zakhe.



LOCALITY PLAN: Erf 78, Gansbaai



MOTIVATIONAL REPORT

PROPOSED CONSENT USE FOR AN INSTITUTION: ERF 78, GANSBAAI

Ref. GAN/2696

1. INTRODUCTION

This office was appointed by Sister Tertia Stoltz, of Huis Immanuel in Gansbaai, to prepare the town planning application for a consent use. The application is required to apply for a consent use that will allow the continued use of the house for purposes of an institution. The facility is already operational. Huis Immanuel is a special care residential premises and home for the elderly who requires assistance with daily living. All uses are proposed within the already existing building on site.

2. APPLICATION

Application is made for:

- I. Consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning for purposes of an 'Institution'
- II. Determination of an Administrative Penalty in terms of Section 90(3) of the By-Law) of the Overstrand Municipality By-Law on municipal land use planning.

The Primary uses for a Single Residential property is: crèche, dwelling house, guest rooms, home occupation, second dwelling unit and self-catering.

Consent Uses: day care centre, green house, guest house, house shop, **institution**, place of instruction, place of worship, residential building and intensive horticulture.

The definition for an 'Institution' as given by the appropriate Overstrand Integrated Zoning Scheme:

Institution" means a property used as a social, health or welfare facility or for the administration thereof and includes a hospital; special needs school; clinic; homes for the aged, indigent or handicapped; and a reformatory or place of detention, whether of commercial or charitable nature, but does not include a jail;

3. PROPERTY DETAILS

TOTAL AREA	972m ²
REGISTERED OWNER	Josef Zoghby & Charmain Zoghby
Boundaries: North	Voortrekker Street and erf 204
East	Erf 79
South	Erf 77
West	Church Street and Erf 71

Erf 78 is registered under title deed T17154/2021.



Photo 1. Erf 78 in a south-eastern direction from the corner of Church and Voortrekker Street.

4. SITE DESCRIPTION AND SURROUNDING AREA

Erf 78 is located on the corner of Voortrekker and Church Street. The erf is generally flat and developed with a house and outside buildings.

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#2696



Properties surrounding Erf 78 are of a mixed use, with only a few residential properties remaining. The property north of Erf 78 is a school, towards the east is a business premises that is currently not in use. Towards the south is a vacant business premises and west of the property is a residential building.



Google Earth Image, to illustrate the location of Erf 78 and surrounding land use.

5. ZONING

Erf 78 is zoned Single Residential. The institutional use is not a primary right allowed for this zoning. Please refer to the zoning plan extract below.



The house is managed by a qualified nursing sister and a qualified medic, with the necessary experience and qualifications. Qualified personnel are employed in shifts to ensure 24h care for the residents. There is four bedrooms available, that can sleep 12 people and the rest of the house is used as a normal residence with a kitchen and spacious general living areas for the residents. Being small, it still has an intimate feel to it.

The house offers, except for the large inside relaxation areas, also an outside area in front of the house and courtyard areas behind the house, where the elderly can spend time.

The personnel helps residents with the administering of medicine, daily bathroom rounds, mobility assistance, hand and foot care, all the meals of the day – served in the dining room or in the patient's room, a laundry service and daily activities to promote interaction and socialization. Transportation in and around Gansbaai is provided for.

All National Health and Safety regulations will be complied with, and the house will be made wheelchair friendly.

Sufficient on-site parking complying with the Integrated Zoning Scheme is available on-site. Unfortunately access from Church Street will be very costly due to the steep slope – and is not an option for the Huis Immanuel owners. Please refer to the addendum for photo's of the steep slope.

8. DETERMINATION OF AN ADMINISTRATIVE FEE

Huis Immanuel is already operational and received a notice of non-compliance for an unauthorised land use.

The facility does however provide a community service and with the relocation from a previous residence and the cost of a previous town planning application in Kleinbaai for a similar use – was not initially in a financial position to do the required town planning application. With elderly in need of care and permanent personel, they could not close the facility.



The applied for institutional use, is small and similar to that of single residential dwelling, except that there is 24-hour assistance for the residence. The impact on surrounding landowners is therefore small.

With the determination of an administrative fee, Council is asked to please take the above into consideration.

A determination of an Administrative Penalty in terms of Section 90(3) of the By-Law) of the Overstrand Municipality By-Law on municipal land use planning is required, due to the facility that is already operational.

In terms of the By Law 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;

No additional buildings were erected, but Huis Immanuel became operational in approximately August 2021 inside the existing house. Our office was appointed in October 2021, but only manage to acquire the necessary building plans for purposes of a site plan towards the end of November. The application was lodged in December 2021. The use is a consent use on a residential zoning and can therefore be reconciled with existing surrounding land uses. All integrated zoning scheme parameters will generally be complied with and it is not believed that the uses have a negative impact on surrounding neighbouring properties.

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

The owners of Huis Immanuel previously did a similar application in Kleinbaai, but had to move out fairly quickly and had nowhere else to go. There was a lot of expenses for the first consent



use, and they couldn't immediately lodge a new application for the Gansbaai property. Mrs Stoltz's priority was at all times the wellbeing of the elderly in their home and they are fully compliant with health and safety regulations.

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

As far as we are aware no unauthorised construction took place.

(d) whether the unlawful conduct was stopped;

The unlawful conduct was not stopped, due to House Immanuel taking care of elderly people, that requires daily assistance and that doesn't have anywhere else to go. They also employ personnel that rely on this income for their households. Closing the facility was / is not a possibility without leaving elderly individuals without a place to stay.

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

We do not know if there was previous contraventions.

9. RELEVANT OVERHEAD PLANNING POLICY

Various local, provincial and national forward planning documents are applicable to the application.

9.1 OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK (SDF)

The vision of the Overstrand SDF is based on the vision of the Overstrand IDP and is as follows:

'Overstrand Municipality is striving to be the most desirable destination to visit, stay and do business'.

In order to achieve this, the document identifies various principles:

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Development Principles:

- Efficient and integrated planning – Promote efficient and integrated planning and development through:
 - Integrated development and planning in rural and urban areas with a view to mutual support
 - Optimal utilisation of existing developed resources including bulk infrastructure
 - Promotion of compaction and densification as opposed to low-density sprawl
 - Protection of the agricultural resource base
 - Spatially co-ordinating sectoral activities
 - Addressing historically distorted spatial patterns

RELEVANT GOALS & OBJECTIVES FORMULATED BY THE DOCUMENT INCLUDE AMONG OTHER THE FOLLOWING:

Goal	Objective
To provide an environmentally and economically sustainable bulk service infrastructure and road transport network.	<ul style="list-style-type: none"> • To ascertain the overall carrying capacity of existing bulk services related to existing and future growth, and where appropriate, determine flood lines; • To identify critical problem areas relating to bulk water supply, groundwater abstraction and quality; • To improve and maintain the standard of bulk services with particular reference to bulk water supply, sewerage and solid waste and sewage management; and • To create an efficient, well defined hierarchy of roads.
To address the social needs and expectation of all sections of the community.	<ul style="list-style-type: none"> • To provide access to a full spectrum of social services and facilities; • To ensure the provision of basic housing and services; • To encourage public participation in all issues of public concern; and • To co-ordinate the joint management of certain functions on a sub-regional level, e.g. sporting facilities, education and health facilities.
To promote the conservation and sustainable use of the natural resources in the Overstrand municipal area.	<ul style="list-style-type: none"> • To protect, conserve, and restore where appropriate, all areas deemed to be conservation worthy; • To ensure that the impact of existing and proposed development is adequately evaluated from a holistic environmental perspective, taking current and future



	<p>generations into account;</p> <ul style="list-style-type: none"> • To promote the sound management of natural areas to ensure their sustainability; • Rehabilitate and/or restore degraded and disturbed environments where necessary to meet conservation or environmental management objectives; • To limit and control development and activities within environmentally sensitive and/or conservation worthy areas so as to ensure their sustainability taking into account affects on biodiversity; • To promote efficient use of water and energy resources; and • To implement water conservation and demand management objectives within municipal areas in order to promote savings and decrease the demand for costly bulk water supply systems.
<p>To ensure that ongoing development pressure and its spatial implications are managed in a sustainable manner that protects the unique character of the existing cultural landscape and the place-specific character and form of the existing settlement pattern.</p>	<ul style="list-style-type: none"> • To promote a spatial development pattern that contains urban sprawl/urban development and promotes compact well-defined settlements; • To retain and strengthen the unique identity of the municipal areas and its districts; • To determine clear limits to urban development and define the urban edge/limits of existing settlements; • To conserve and improve the visual quality of the landscape and the scenic route experience of the primary movement corridors; and • To improve the aesthetic quality of the built environment.

The SDF describes Gansbaai as a fishing village and a popular residential, holiday and retirement destination.

The Greater Gansbaai Spatial Development Framework provides guidelines that should steer future development in the area. This include:

- Urban sprawl should be contained by implementing a densification policy and by providing a clearly defined urban edge.
- Densification should take place by the process of infill development, higher residential densities and the maximum utilisation of existing land uses within the town's structure.
- All new developments should be evaluated in terms of the capacity of the existing services infrastructure.



- Linear development should be avoided by limiting development outside of the established urban area. Only small-scale development, that compliments the rural character or promotes tourism, should be permitted within these areas.
- Land use restrictions should be revised in order to adapt to the changing urban environment.

PROPOSED DEVELOPMENT COMPLIANCE

The development as proposed complies with the general goals and objectives set for the Overstrand Municipal area. The proposed use is compatible with the existing Single Residential Zoning and will address on a small scale an existing social need in the Overstrand Municipal area.

The proposed institution will make use of existing infrastructure and be located inside an existing building.

9.2 OVERSTRAND SECTORAL DENSIFICATION STRATEGY

A densification study was completed by Urban Dynamics, for the Overstrand Municipality in 2010. The objective of this study is to:

- Promote a more compact, denser, efficient and environmentally sustainable;
- Protect sensitive environments and resources within and outside the urban edge; and
- Rationalise bulk infrastructure and service capacity to ensure that the bulk capacity is provided in the urban areas where growth and development is considered desirable

Critical Contextual Informant being used in the study, includes:

- Historical Development Pattern and Heritage Resources of the towns and settlements within the Overstrand Municipal Area,
- Current Land Use and Distribution Patterns (zoning, densities, land ownership, land values, erf sizes)
- Natural elements and setting
- Population growth and Housing demand
- Bulk Service Capacities
- Traffic capacities and circulation



The proposed consent use does not deviate from what is proposed in the The Growth Management Strategy.

9.3 PROVINCIAL SPATIAL DEVELOPMENT FRAMEWORK (PSDF) 2014

The Western Cape Provincial SDF was approved in 2014 by the Western Cape Parliament and serves as strategic spatial planning tool that “communicates the provinces spatial planning agenda”.

The recent shift in legislative and policy frameworks have clearly outlined the roles and responsibility of provincial and municipal spatial planning and should be integrated towards the overall spatial structuring plan for the province to create and preserve the resources of the province more effectively through sustainable urban environments for future generations. This shift in spatial planning meant that provincial inputs are in general limited to provincial scale planning. However, it is important to note some of the key policies laid down by the PSDF have a bearing on the application.

The proposed development compliments the SDF spatial goals that aim to take the Western Cape on a path towards:

- (i) Greater productivity, competitiveness and opportunities within the spatial economy;
- (ii) More inclusive development in the urban areas;
- (iii) Strengthening resilience and sustainable development.

Key policies that is supported by this application:

Policy E3: Revitalise and Strengthen Urban Space-Economies as the Engine of Growth

5. Existing economic assets (e.g. CBDs, township centres, modal interchanges, vacant and under-utilised strategically located public land parcels, fishing harbours, public squares and markets, etc.) should be targeted to levers the regeneration and revitalisation of urban economies.



1. Incentives should be put in place to attract economic activities close to dormitory residential areas, facilitate brownfields development.

Policy S3: Ensure Compact, Balanced & Strategically Aligned Activities & Land Uses

This policy reflects the main aim of the policy through targeting economic assists (e.g. Modal Interchanges underutilised strategically located land parcels) should be used as a lever to regenerate and revitalise urban settlements.

Promoting functional integration and mix land use to increase liability of urban areas. Thus the policy specifies the importance to- increase density of settlements and number of units in new housing projects; continue to deliver public investment to meet the needs in settlement developments; integrate packages of land, infrastructure and services as critical to promote densification and efficiency associated with agglomeration.

10. ACCESS & PARKING

Access to the property is proposed from Voortrekker Streets from existing access points.

According to the Integrated Zoning Scheme Regulations applicable to the Overstrand, parking needs to be supplied at follow:

Use	Regulation	Proposed area of development	Parking Required
Retirement Home	1,25 Bay per bedroom	4 bedrooms	5
Total			5

The site plan makes provision for four (6) on-site parking spaces in front of the house and two parking spaces inside the existing double garage. Do however take note that it is very unlikely that any of the residents will have a vehicle. Parking will therefore only be used for visitors – which is also very seldom. The garage will only be used by the manager of the property.



Provision is made for one disabled parking area in front of the house.

11. SERVICES

All services are existing and it is not expected that any upgrades will be required.

Water: Supplied by the Overstrand Municipality

Electricity: Supplied by the Overstrand Municipality

Sewerage: Overstrand Municipality

Rubbish Removal: Overstrand Municipality..

12. DESIRABILITY

Title Deed

- There is no restriction in terms of the Title deed, that have an influence on this application and that has to be removed.

Physical Characteristics of the Property

- The erf is already fully developed, and no natural vegetation will be removed.
- The erf is flat, that ensure comfortable movement for the elderly.
- Being a corner property, the site is very accessible.
- The size of the erf makes it suitable for the proposed use, since the provision of enough onsite parking spaces is possible in front of the building.

Overhead Planning

The project generally complies with the overhead planning for the area:

- The erf is inside the Urban Edge as indicated on the approved Overstrand Spatial Development Framework.
- It complies with general goals and objectives set in local planning documents.



- The proposal is in line with the Provincial Spatial Development Framework and the Provincial Tourism Framework in that it explores alternatives in the market and diversifies to keep up with demand, while protecting our natural resources.

Character of the Area

- The property is located on a corner, bordering onto commercial properties.
- The appearance and use of properties are very diverse.
- No change in scale or character is proposed.

Potential of the Site

- The house is large enough for what is proposed.
- It is close to the central business area.
- The property is very accessible and is large enough for what is required.

Economic Benefit

- Unemployment is a significant challenge in the area. The business provides approximately eight job opportunities.
- The care facility provides families with an alternative facility for their loved ones. Larger facilities are often too expensive for most families.

13. CONCLUSION

The proposed use will not detract from already existing uses in the surrounding neighbourhood. The proposed use is in line with general principles set by forward planning documents, providing in much needed social need development at a small scale. The proposal will contribute towards making the Overstrand Municipality *the most desirable destination to visit, stay and do business.*



ADDENDUM

The slope along Church Street is steep and access from here is not viable for the client



Photo 1. Corner of property on Church Street

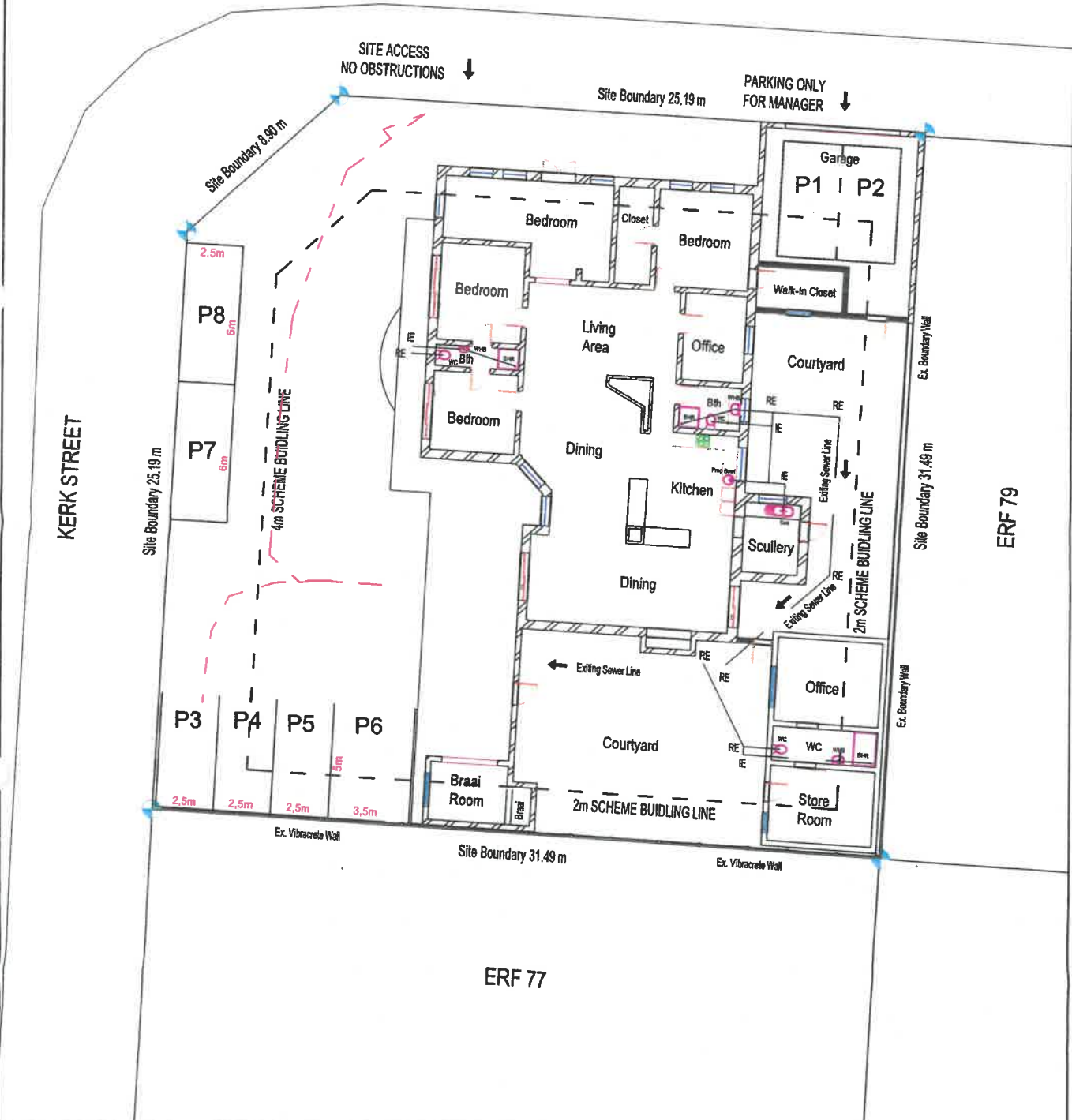


Photo 2. Photo taken from Church Street, towards front of house






VOORTREKKER STREET



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PROJECT
SITE PLAN: ERF 78 GANSBAAI
OVERSTRAND MUNICIPALITY



Land Surveyors • Town Planners

DRAWN	CHECKED
LT	LT
SCALE	DATE
1:250	JUNE 2022
DWG No.	REVISION
GAN/2696	2
Notes: All areas and distances subject to survey	