

**ERF 12313, 233 ELEVENTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF THE BERGRANT TRUST**

Notice is hereby given in terms of Section 48, read with Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020, (By-Law) that an application has been received in order to depart from the permissible boundary wall height from 2.1m to 3.7m from the existing ground level.

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 may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) on or **before 5 May 2023**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to **Mr P Roux** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.

**ERF 12313, ELFDESTRAAT 233, VOËLKLIP, HERMANUS, OVERSTRAND MUNISIPALE AREA: AANSOEK OM AFWYKING: MNRE PLAN ACTIVE STAD- EN STREEKSBEPLANNERS NAMENS THE BERGRANT TRUST**

Kennis word hiermee gegee ingevolge Artikel 48, saamgelees met Artikel 16(2)(b) van die Overstrand Munisipaliteit Wysigingsverordening op Munisipale Grondgebruikbeplanning, 2020 (Verordening) dat 'n aansoek ontvang is ten einde af te wyk van die toelaatbare grensmuurhoogte vanaf 2.1m na 3.7m vanaf die bestaande grondvlak.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) voor of op **5 Mei 2023**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan **Mnr P Roux** by 028-313 8900. Die Munisipaliteit mag weier om die kommentaar te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

**ISIZA SAMA-12313, 233 ELEVENTH STREET, EVOËLKLIP, EHERMANUS, KUMMANDLA KAMASIPALA WASE-OVERSTRAND: ISIOCELO SOKUPHAMBUKA: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS EGAMENI LEBERGRANT TRUST**

Isaziso sinikwe ngokuphathelele kwiCandelo lama-48 - lomThetho kaMasipala wesiLungiso wase-Overstrad kuYilo lokuSetyenziswa koMhlaba kaMasipala, 2020, (UmThetho kaMasipala ) ukuba isicelo sifunyanelwe ungenelelo ukuze isithintelo sobude esivunyelwe kwiindonga zemida ukususela kwisi- 2.1m ukuya-o 3.7m.

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 may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) on or **before 5 uMeyi 2023**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to **Mr P Roux** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.



**PROPOSED DEPARTURE**  
**ERF 12313 HERMANUS**  
**OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT**

**1. BACKGROUND**

Plan Active Town & Regional Planners has been appointed by Mr. A.P. du Plessis, on behalf of The Bergrant Trust, the owner of Erf 12313 Hermanus, to apply for the departure of the subject property.

The owner is in the process of constructing a dwelling on the subject property. The proposed boundary wall on the subject property will consist of three different layers (bricks at the bottom, CLEAR VU, and electrical fencing on top). The bottom section consisting of brickwork of the boundary wall has already been built. The intention is to place the CLEAR VU fencing and electrical fencing on-top of the brick wall. The height of the proposed boundary wall and fence (consisting of bricks, CLEAR VU and electrical fencing) will exceed the permissible height for boundary walls of 2.1m according to **Section 16.1.1(a)(i) of the Zoning Scheme Regulations**, at certain sections of the proposed wall. In order to address the proposed height encroachment of the boundary wall and fence consisting of a combination of brick work at the bottom, CLEAR VU fencing and electrical fencing on top, a departure application is required.

Erf 12313 Hermanus is held by Title Deed Number T246/2021 and is 1464m<sup>2</sup> in extent.

## **2. APPLICATION DETAILS**

Application is made in terms of:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the departure of the permissible height for boundary walls **exceeding 2.1m** above the existing ground level.

## **3. GENERAL APPLICATION INFORMATION**

### **3.1 PROPERTY DESCRIPTION**

Erf 12313 Hermanus is situated at 233, 11<sup>TH</sup> Street, Hermanus, in close proximity and, overlooking Grotto Beach located to the south. Erf 12313 Hermanus is 1464m<sup>2</sup> in extent and is situated in a predominantly single residential environment. Please refer to the enclosed locality map.



### **3.2 ZONING**

The subject property is zoned Residential Zone I: Single Residential and it will be utilized as such as a dwelling on the property is being constructed.

Surrounding properties are zoned for single residential purposes, public roads, and public open space.



### 3.3 LAND USE

The owner is in the process of constructing a triple-storey dwelling on the subject property.

Surrounding land uses also consist predominantly of developed upmarket single residential erven.

### 3.4 PROPOSED DEVELOPMENT

Application is made in terms of:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the departure of the permissible height for boundary walls exceeding 2.1m above the existing ground level.

#### 3.4.1 Departure

Erf 12313 Hermanus is 1464m<sup>2</sup> in extent. With the construction of the new dwelling, the lower brick part of the boundary wall will also be constructed. The intention of the owner is to install CLEAR VU and electrical fencing on-top of the brick wall that in total will exceed the permissible height of 2.1m, at certain sections of the boundary

wall and fence consisting of a combination of brick work at the bottom, CLEAR VU fencing and electrical fencing on top.

The applicable restrictions in the Overstrand Municipality Zoning Scheme, 2020, Sections 16.1 and 16.6 read as follows:

#### 16.1 GENERAL ENCROACHMENTS

##### Encroachment of building lines permitted

16.1.1 The following additional development parameters apply with regard to encroachment of building lines.

##### General encroachments permitted

a) Notwithstanding the building line requirements set out in Part 2, the following structures or portions of structures may be erected over the prescribed building lines, provided that they do not extend beyond the boundaries of the land unit

- (i) boundary walls, retaining walls, screen walls, fences and gates not exceeding 2.1 m in height above the existing ground level abutting such wall,

#### 16.6 BOUNDARY WALLS

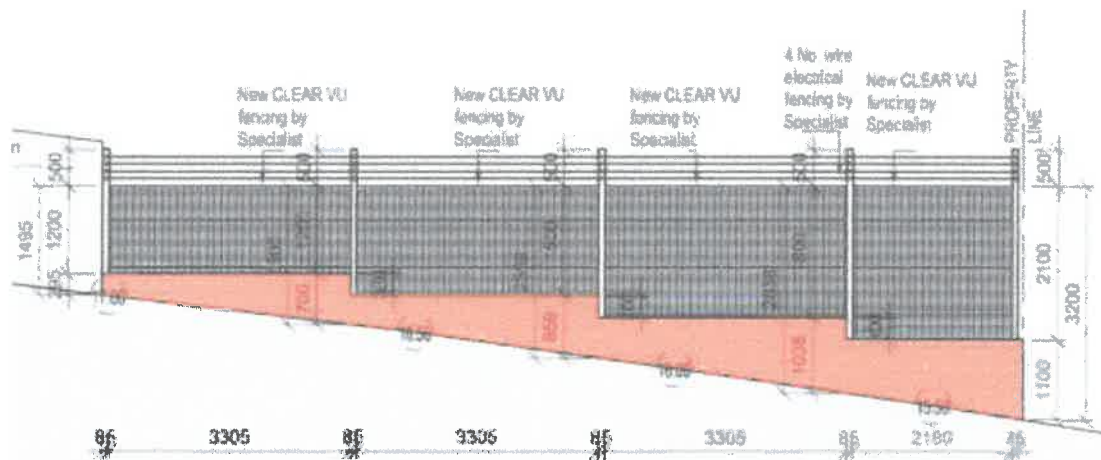
16.6.1 Without the prior written permission of the Municipality, no boundary wall or fence shall exceed 2.1 m in height above the existing ground level abutting such wall or fence (unless other heights are required by Fire Regulations), provided that where the ground levels on opposite sides of the wall or fence are unequal, the height of the wall or fence shall be measured from the higher of the two levels.

As seen in the photograph below, the sections of the boundary wall that will exceed the permissible height of 2.1m are on the southern seaside boundary and a small portion of the western lateral boundary of the subject property adjacent to Erf 10315 Hermanus as marked in red. A dwelling is in the process of being erected on the site.



The portion of the proposed boundary wall and fence consisting of a combination of brick work at the bottom, CLEAR VU fencing and electrical fencing on top, on the western lateral side will range in height from ±1.995m to 3.7m. The detail of the proposed boundary wall is described in the table below:

Section of wall	Type	Lowest height	Highest height	Average height
Ground section	Bricks	0.295m	1.1m	0.6975m
Second section	CLEAR VU	1.2m	2.1m	1.65m
Third section	Electrical fencing	0.5m	0.5m	0.5m
<b>Total</b>	<b>Complete wall</b>	<b>1.995m</b>	<b>3.7m</b>	<b>2.8475m</b>



As seen in the abstract from the architect's drawing above and the attached site plan the increased wall height above the 2.1m is due to the topography of the land as indicated on the cross section of the plan. For aesthetic and safety reasons the owner does not want to step the CLEAR VU and electric fencing.

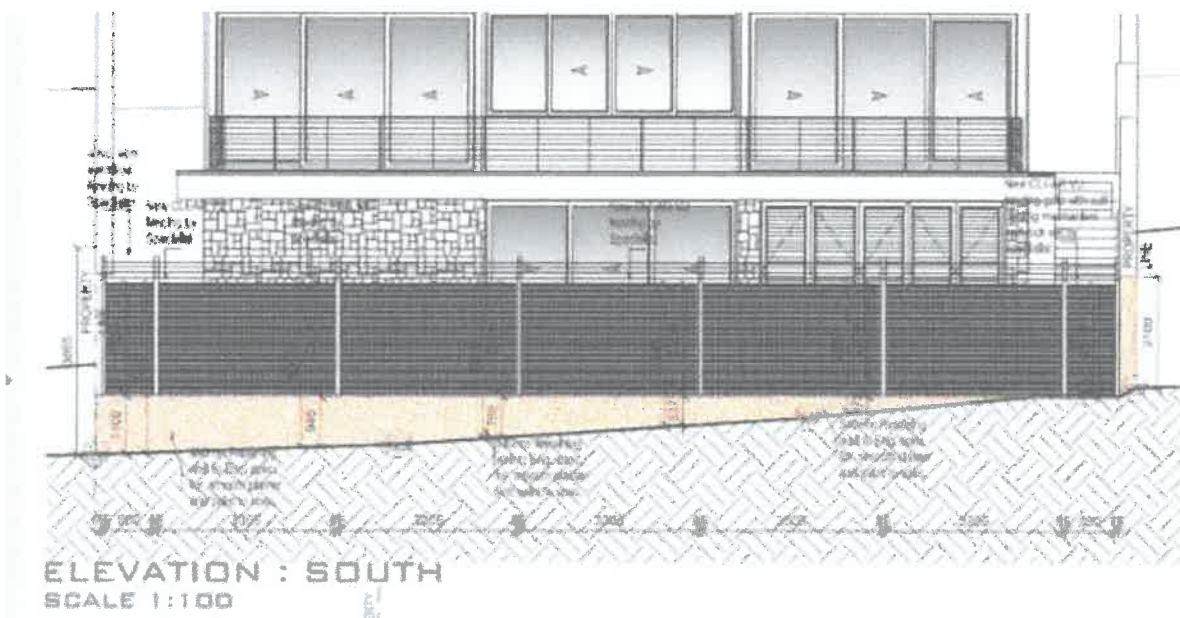
The proposed boundary wall and fence consisting of a combination of brick work at the bottom, CLEAR VU fencing and electrical fencing on top, will not have a negative impact on the surrounding property owners as the section of the wall that will exceed the maximum permissible height will be CLEAR VU fencing. The area where the boundary wall and fence consisting of a combination of brick work at the bottom, CLEAR VU fencing and electrical fencing on top, exceeds the maximum allowable height is also located within dense bush and will be unobtrusive. With the dense bush situated so close to the boundary line (being part of the Fernkloof Nature Reserve), a higher boundary wall will be beneficial to the owner of the subject property for safety reasons as the dense bush provides an opportunity for criminal activities to be

disguised. The solid brick wall at the bottom will also not have any impact on the surrounding property owners and will be within the maximum allowable height.

The proposed boundary wall and fence consisting of a combination of brick work at the bottom, CLEAR VU fencing and electrical fencing on top, on the southern seaside is ±19meter in length and ranges in height from ±2.6m to ±3.865m from East to West.

The boundary wall and fence consisting of a combination of brick work at the bottom, CLEAR VU fencing and electrical fencing on top, on the southern boundary will also consist of three layers as tabled below:

Level	Type	Lowest height	Heightst height	Average height
Ground level	Bricks	0m	1.1m	0.55m
Second level	CLEAR VU	2.1m	2.1m	2.1m
Third level	Electrical fencing	0.5m	0.5m	0.5m
Total	Complete wall	2.6m	3.865m	3.23m



In terms of Section 16.6.1, the application is for a departure from the 2.1m to  $\pm 2.6$ m up to  $\pm 3.865$ m applicable height restriction imposed for boundary walls. The departure from the height restriction is applicable to a portion of the western boundary and the southern boundary, as indicated on the enclosed proposed building plans.

The proposed boundary wall and fence consisting of a combination of brick work at the bottom, CLEAR VU fencing and electrical fencing on top, will also consist of a CLEAR VU fencing gate with self-closing mechanism and lock, in the south-eastern corner which will be installed by a specialist. The gate will provide pedestrian access to the coastal path which is situated to the south of the subject property. The gate is 2.1m in height and 900mm wide and will not exceed the maximum allowable height of a boundary wall.

The proposed boundary wall and fence consisting of a combination of brick work at the bottom, CLEAR VU fencing and electrical fencing on top, will not have any impact on the existing character of the area. The CLEAR VU fence will not obstruct the sea view from surrounding properties and will be unobtrusive.

### **3.5 POTENTIAL OF THE PROPERTY (DESIRABILITY OF THE PROPOSED UTILIZATION)**

The subject property's zoning and land use will remain unchanged. The location of the subject property within a single residential area allows the property to be developed (in future) for low impact land uses as being provided for in terms of the primary and secondary rights of its zoning such as a bed-and-breakfast, guesthouse, home occupation, etc. The proposed departure will not discourage any future land use applications on Erf 12313 Hermanus.

### **3.6 IMPACT ON EXTERNAL ENGINEERING SERVICES**

#### **3.6.1 PROVISION OF SERVICES**

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

### **3.6.2 ACCESS**

Access to Erf 12313 Hermanus is from 11<sup>th</sup> Street, Voëlklip, Hermanus and will be retained. The proposed application only constitutes a departure from the permissible height of boundary walls.

### **3.7 TITLE DEED**

There are no restrictive Title Deed conditions in Title Deed No. T246/2021 that must be removed from the Title Deed to accommodate the proposed departure.

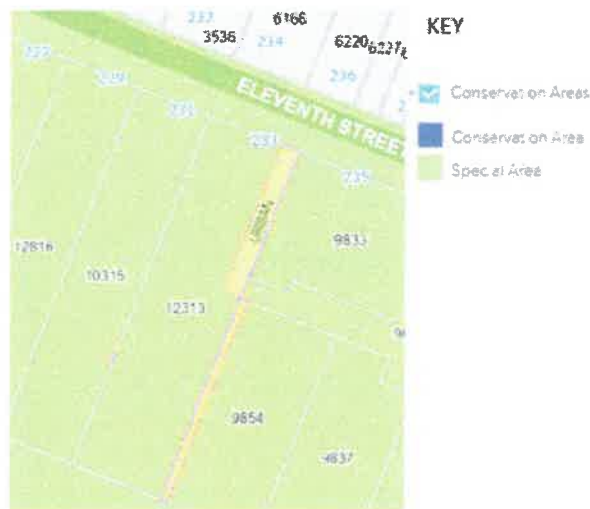
There is no bond registered against the subject property.

### **3.8 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**

#### **3.8.1 HERITAGE VALUE**

Erf 12313 Hermanus is situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). A new dwelling is being constructed and the Overstrand Heritage Survey Report (2009) is thus not applicable.

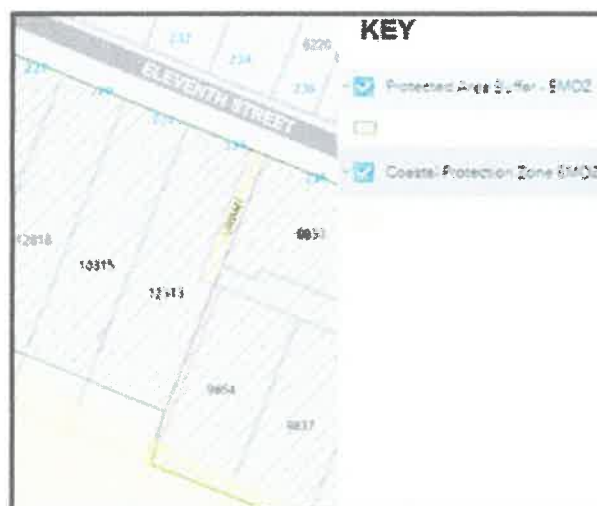
According to the Overstrand Municipal GIS System the area where the subject property is situated is earmarked as a Conservation Area, Special Area, as seen below. The proposed departure will have no impact on the conservation area.



In the light of the above mentioned the proposed departure will not have a negative impact on the heritage value of the Voëlklip area.

### 3.8.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed departure does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998). The subject property is situated in a protected buffer area and partially situated in the coastal protection zone in terms of the Environmental Management Overlay Zone. The proposed application will not have any impact in the activities listed in the aforementioned areas as specified in the **Environmental Management Overlay Zoning Regulations 2020 (EMOZ)**.



### 3.9 FORWARD PLANNING AND LAND USE DOCUMENTS

The Overstrand Spatial Development Framework (2020) earmarks the area where Erf 12313 Hermanus is situated, for urban development purposes. The zoning and use of the subject property will remain unchanged (Residential Zone 1: Single Residential). As a result, the application will not impact negatively on the spatial integrity of the area and is therefore consistent with the Overstrand SDF (2020).



The Overstrand Municipal Growth Management Strategy (OMGMS, 2010) specifies that Erf 12313 Hermanus forms part of Planning Unit No.6. This planning unit consists of the existing pristine high income, low density southern section of the Voëklip residential area. Incremental development through subdivision to allow a second dwelling and third dwelling units respectively is proposed for an assumed 20% of the area of this planning unit. This application does however not propose to create any additional portions, nor does it propose the construction of additional dwelling units on the subject property. The density will therefore remain unchanged.

From the above it is evident that the proposed application will have no impact on the density proposed for the area and we are of the opinion that the proposed application can be supported.

### 3.10 PLANNING PRINCIPLES

The planning principles of spatial justice and spatial resilience do not apply to this application.

**Spatial sustainability:** It is motivated that the proposed departure is compatible with the character of the area and does not impact negatively on the rights of the surrounding landowners.

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

**Efficiency** refers to the need to create settlements that optimise the use of space, energy, infrastructure, resources, and land. Inherent in this statement is the need to promote densification and urban (as opposed to suburban) development typologies. This also has to do with the way the settlement itself is designed and functions, which should reduce the need to travel long distances to access services, facilities, and opportunities. Efficiency also refers to decision making procedures which are designed to minimise negative financial, social, economic, or environmental impacts. In addition, efficiency refers to the need for development application procedures that are efficient and streamlined. In our opinion the principle of efficiency is not applicable to this application.

**Good administration:** Our Company is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to

ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020.

#### **4. RECOMMENDATION**

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

- The departure is compatible with the character of the area and does not impact negatively on the rights of the neighbouring landowners;
- No additional services are needed for the proposed application to be approved;
- The departure will not have a negative impact on the land values of the surrounding erven;
- The proposed boundary walls and fence consisting of a combination of brick work at the bottom, CLEAR VU fencing and electrical fencing on top will be of high quality and will be unobtrusive being located within a dense bush area;
- The application is fully compliant with the applicable planning principles described in the LUPA (2014) and SPLUMA (2013).

With regards to the above mentioned it would be appreciated if the Overstrand Municipality would consider the application favourably to exceed the permissible height for boundary walls of Erf 12313 Hermanus.

