

ERF 5744, 273 FIFTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS ENGELBRECHT & SCORGIE ARCHITECTURAL OFFICE ON BEHALF OF AE VAN DER MERWE

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), that an application has been received for the following:

- **Departure** in terms of Section 16(2)(b) of the By-Law in order to:
 - relax the northern street building line from 4.0m to 2.82m, to accommodate the guest bedroom;
 - relax the western lateral building line from 2.0m to 1.28m, to accommodate the guest bedroom and the en-suite bathroom; and
 - relax the western lateral building line from 2.0m to 1.28m, in order to replace existing balustrades erected over the 2.0m lateral building line.
- **Determination for an administrative penalty** in terms of Section 16(2)(q) of the By-Law, in order to legalize the unauthorized building / construction work on the property.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, 16 Paterson Street, Hermanus. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) on or before **7 July 2023**, quoting your name, address and contact details, interest in the application and reasons for comment. Telephonic enquiries can be made to the **Town Planner, Mr P Roux** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.

ERF 5744, VYFDESTRAAT 273, VOËLKLIP, HERMANUS, OVERSTRAND MUNISIPALE AREA: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: MNRE ENGELBRECHT & SCORGIE ARCHITECTURAL OFFICE NAMENS AE VAN DER MERWE

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening), dat 'n aansoek ontvang is vir die volgende:

- **Afwyking** ingevolge Artikel 16(2)(b) van die Verordening ten einde die:
 - noordelike straatboulyn te verslap vanaf 4.0m na 2.82m, om die gasteslaapkamer te akkommodeer;
 - westelike lateraleboulyn te verslap vanaf 2.0m na 1.28m, om die gasteslaapkamer en die en-suite badkamer te akkommodeer; en
 - westelike lateraleboulyn te verslap vanaf 2.0m na 1.28m, ten einde die bestaande balustrades wat oor die 2.0m lateraleboulyn opgerig is te vervang.
- **Bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) van die Verordening, ten einde die ongemagtigde bou / konstruksiewerk op die eiendom te wettig.

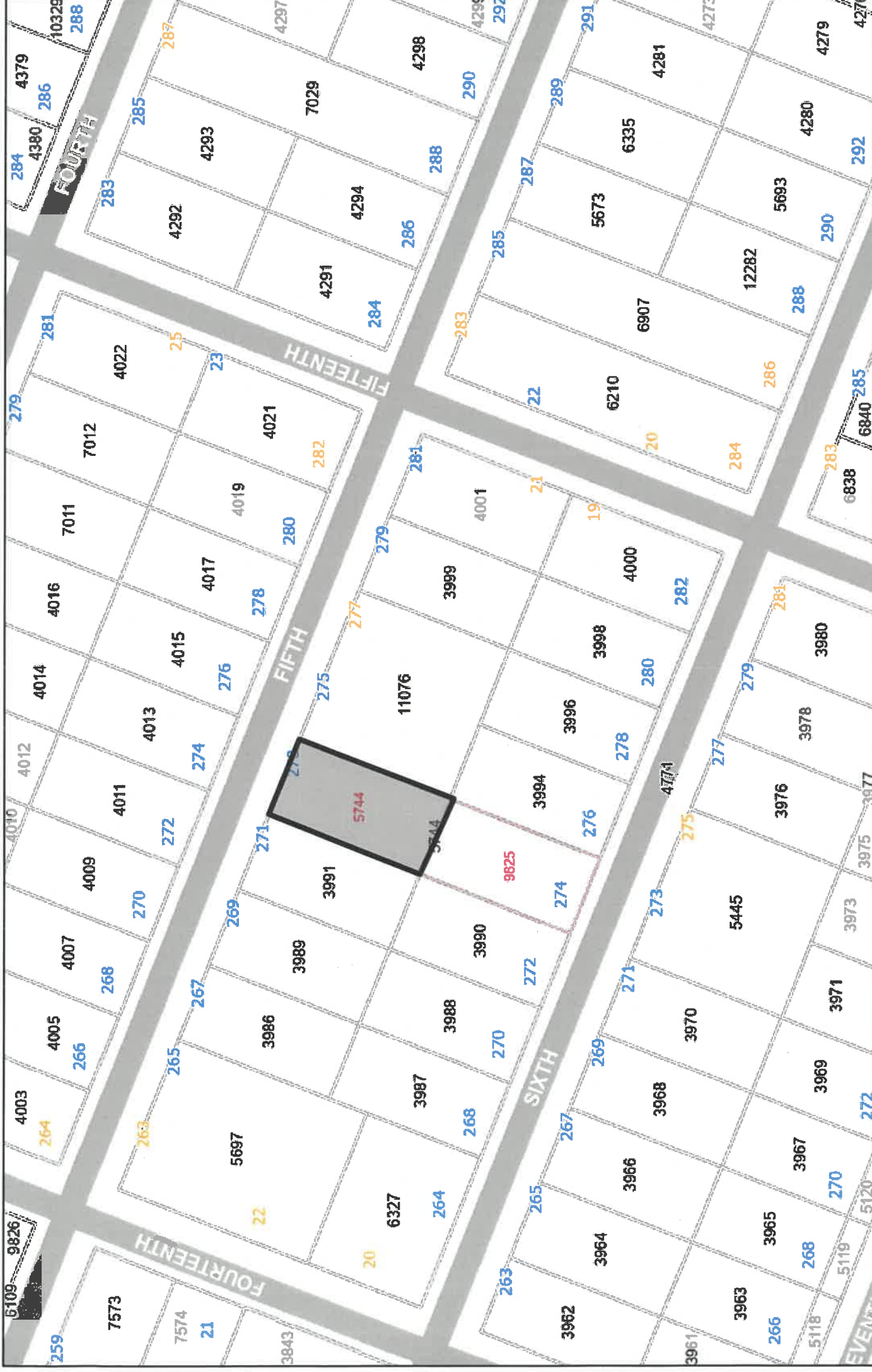
Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) voor of op **7 Julie 2023**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan die **Stadsbeplanner, Mnr P Roux** by 028-313 8900. Die Munisipaliteit mag weier om die kommentaar te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

ISIZA SAMA-5744, 273 FIFTH STREET, EVOËLKLIP, EHERMANUS, UMMANDLA KAMASIPALA WASE-OVERSTRAND: ISICELO SOKUPHAMBUKA NESOKUMISELA ISOHLWAYO SOLAWULO: MESSRS ENGELBRECHT & SCORGIE ARCHITECTURAL OFFICE EGAMENI LIKA- AE VAN DER MERWE

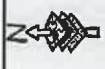
Isaziso sinikwe ngokuphathelele kwiCandelo lama-48 lomThetho kaMasipala wesiLungiso wase-Overstrad kuYilo lokuSetyenziswa koMhlaba kaMasipala, 2020, (umThetho kaMasipala) isicelo sifunyanelwe oku kulandelayo:

- **Ukuphambuka** ngokuphathelele kwiCandelo le-16(2)(b) lomThetho kamasipala ukuze:
 - ukunyenisa umda wokwakha kwisitalato esisemantla ukusuka kwisi-4.0m ukuya kwisi- 2.82m, ukulungiselela igumbi lokulala undwendwe;
 - ukunyenisa umda wokwakha osemacaleni entshona ukusuka kwisi-2.0m ukuya kwisi- 1.28m, ukulungiselela igumbi lokulala undwendwe negumbi lokuhlambela elikwigumbi lokulala; kunye
 - ukunyenisa umda wokwakha osemacaleni entshona ukusuka kwisi-2.0m ukuya kwisi- 1.28m, ukuze kutshintshwe lweentsika ezakhiwe phezu kwesi- 2.0msomda wokwakha osemacaleni.
- **Ukumiselwa kwesohlwayo solawulo** in ngokuphathelele kwiCandelo le-16(2)(q)lomThetho kaMasipala ukuze kube semthethweni ukwakhiwa okungagunyaziswanga/umsebenzi wokwakha kumhlaba.

linkcukacha ezipheleleyo mayela nezi zindululo ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini ukusukela kwixesha eliphakathi kwentsimbi ye08:00 neye16:30 kwiSebe:izicwangciso zeDolophu, 16 Paterson Street, Hermanus naseGansbaai Library, Main Road, Gansbaai. Naziphi na izimvo ezibhaliweyo zingangeniswa kwaMasipala ngokwezibonelelo zeSoloty lama51 nelama52 loMthethwana kaMasipala ochazwe ngentla (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) ngomhla okanye ngaphambi komhla wama- **7 Julayi 2023**, uchaze igama lakho, idilesi yakho neekcukacha zakho, umda wakho kwesi sicelo nezizathu zakho zokuhlomla. Imibuzo ngefowuni ingathunyelwa kuMchwangcisi weDolophu Oyintloko, **Mnu. P. Roux** kwa028-313 8900. UMasipala angala ukwamkela izimvo ezifike emva komhla wokuvala. Nabani ongakwazi ukufunda nokubhala angahambela kwiSebe leziCwangciso ngeDolophu apho igosa likamasipala liza kumnceda ukufaka izimvo zakhe ngokusemthethweni



ERF 5744, 273 FIFTH STREET, VOELKLIP, HERMANUS



1. INTRODUCTION:

1.1 Background

The owner of the property, Ms. A.E van der Merwe has instructed Gerhard Engelbrecht from the firm Engelbrecht & Scorgie Architectural Office to apply for a building line departure from the Overstrand Municipality's Zoning Scheme Regulations. Erf 5744, referred to in this document as the application area, measures 990.00m² and is held by Title Deed No. T038805/22

1.2 Application detail

Application is made in terms of the following:

- 1.2.1 The Overstrand Municipality's By-Laws on Municipal Land Use Planning, Chapter 4 Section 16(2)(b), 2020 states that an owner of an erf may apply to the Municipality for a permanent departure from the provisions of the Zoning Scheme Regulations.

Relevant sections in the Zoning Scheme Regulations applicable to the departure:

- Section 6.1.2 (b)(i) "Street Building Lines". The street building line is determined in accordance with the net erf area, as listed in the table below:

Net erf area:	Street building line
400m ² and greater	4.0m

- Section 6.1.2 (b)(ii) "Side Building Lines". The side building line is determined in accordance with the net erf area, as listed in the table below:

Net erf area:	Side building line
400m ² and greater	2.0m

- Usage change within an existing structure constructed within the 4.0m Street Building Line and the 2.0m Side Building Line.

- 1.2.2 Overstrand Municipality's amended By-laws on Municipal Land Use Planning states that a person who is in contravention of this By-laws, and submit 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.

1.3 Need and desirability

1.3.1 Property description

The application area of 990m² in extent is located within the residential suburb of Voëlklip at 273 Fifth Street. Erf 5744 is situated on 2 erven between 5th and 6th street, which has been consolidated. Refer to the enclosed SG Diagram.

The application area is surrounded with similar type residential properties. Refer to the enclosed locality layout.

The dwelling on Erf 5744 is a double storey dwelling comprising typical family type living accommodation. The owner of the property, Ms. A.E. van der Merwe, purchased this property in 2022 for a considerable sum of money with the intention of making it her permanent residence. In order to become a permanent residence, the property needed a few additions and alterations as discussed later in this application document.

2. THE APPLICATION:

2.1 Analysis - Development Criteria as per the Overstrand Municipality

The development parameters for the application area as per the Overstrand Municipality Land Use Scheme, 2020 can be summarized as follows:

Design Parameters:		Overstrand Municipality's Zoning Scheme Regulations:	Proposal:	Comments:
Zoning		Residential Zone 1: Single Residential (SR1)	Residential Zone 1: Single Residential (SR1)	Unchanged
Primary Use		Crèche, dwelling house, guest rooms, home occupation, second dwelling unit and self - catering	Dwelling house	Unchanged
Consent Use		Day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and intensive horticulture	None	Unchanged
Coverage		50%	30.577%	Unchanged
Height Restriction		8.0m	8.0m	Unchanged
Building lines	Street	4.0m	4.0m Sixth Street & 2.82m Fifth Street	Application for a departure for the Fifth Street Building Line
	Side (West)	2.0m	1.28m	Application for a departure
	Side (East)	2.0m	2.0m	Unchanged
	Rear	N/A	N/A	N/A
Parking		Dwelling house: 2 bays	Dwelling house: 2 bays	Unchanged

2.2 Analysis – Development Criteria as per the Title Deed

Refer to Annexure C in the Title Deed.

The Conveyancer Jeanne Mari Maritz issued a certificate confirming that there is no restrictive conditions contained in the Title Deed, that prohibits the existing garage from being used for human habitation. Refer to Annexure E.

2.3 Application

As stated earlier in this Departure Document;

2.3.1 the Overstrand Municipality's By-Laws on Municipal Land Use Planning Chapter 4 Section 16(2)(b), 2020 states that an owner of an erf may apply to the Municipality for a permanent departure from the provisions as stated in the Overstrand Municipality's Zoning Scheme Regulations.

Therefore, application is subsequently made for the following;

- in terms of the Overstrand Municipality's Amendment By-Law on Municipal Land-use Planning, 2020 for a permanent departure to relax the Northern Municipal Street Building Line from 4.0m to 2.82m to allow for a Guest Bedroom,
- in terms of the Overstrand Municipality's Amended By-Law on Municipal Land-use Planning, 2020 for a permanent departure to relax the Western Municipal Side Building Line from 2.0m to 1.28m to allow for a Guest Bedroom and En-Suite Bathroom,
- in terms of the Overstrand Municipality's Amended By-Law on Municipal Land-use Planning, 2020 for the usage change within an existing and approved structure constructed within the 4.0m Street Building Line and the 2.0m Side Building Line,
- in terms of the Overstrand Municipality's Amended By-Law on Municipal Land-use Planning, 2020 for the permission to erect a new proposed boundary wall along Fifth Street,
- in terms of the Overstrand Municipality's Amended By-Law on Municipal Land-use Planning, 2020 for the permission to replace existing balustrades erected over the 2.0m Municipal Side Building Line.

2.3.2 The Overstrand Municipality's amended By-laws on Municipal Land Use Planning states that a person who is in contravention of this By-laws, and submit 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.

Therefore, application is subsequently made in terms of the Overstrand Amended By-Law on Municipal Land-use Planning, 2020 for the application of an administrative penalty as contemplated in Section 90 in the Overstrand Municipality's amended By-laws on Municipal Land Use Planning

Refer to Annexure A for the application form.

3. **CONTEXTUAL SITE INFORMATION:**

3.1 **Property Description**

Property:	Extent:	Title Deed No:	Registered Owner:
Erf 5744, Voëlklip	990.00m ²	T038805/22	Anna Elizabeth van der Merwe

Refer to Annexure C for the Title Deed of Erf 5744 Voëlklip

Refer to Annexure F for SG Diagram

The following Surveyor General Plans reflect the application site:

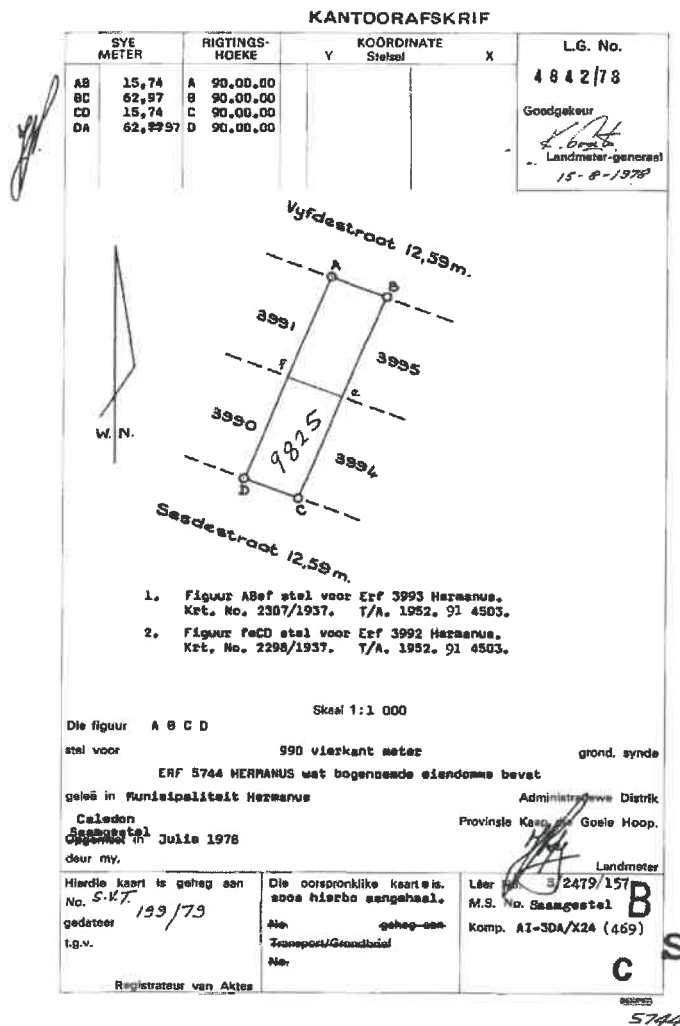


Figure 1: Extract of the Surveyor General Plans of the application site

3.2 Location

A. Regional Context

Within a regional context, the application area is located within Voëlklip residential suburb.



Figure 2: Regional Context – NOT TO SCALE

B. Local Context

Within a local context, the application area consists of a residential erf within Voëlklip. The application area is located at 273 Fifth Street.



Figure 3: Local Context, an extract from the Overstrand Public Viewer – NOT TO SCALE

3.3 Land Use:


The application area accommodates a three storey (basement, ground floor and first floor) dwelling.

The footprint of the dwelling as it stands measures a total of 302.72m² which includes a garage and storage areas on the basement floor, which is accessible from 6th Street.

3.4 Zoning

The application area is zoned Residential Zone 1 (SR1). All surrounding properties are zoned Residential Zone 1 (SR1).



 Residential Zone 1: Single Residential


 Transport Zone 2: Road and Parking

Figure 4: Zoning, an extract from the Overstand Public Viewer – NOT TO SCALE

4. **PROPOSAL**

4.1 **Background and introduction to the proposal**

Our firm, Engelbrecht & Scorgie Architectural Office was appointed in approximate mid – June 2022 by Ms. A.E. van der Merwe, to prepare drawings for the additions and alteration which, I think is not important to mention in this Departure Application as it has no direct effect to the Departure Application. The above-mentioned plans were submitted and approved in November 2022.

When processing this Departure Application, keep in mind that the following owners, as mentioned here within, have the meaning hereinafter assigned to them as follows;

- Current / new owner (2022 – Current) Ms. A.E. van der Merwe
- Previous owner Owner of the property before purchased by Ms. A.E. v.d. Merwe

When copies of the approved drawings were obtained from the Overstrand Municipality's Building Council, it became clear that the approved drawings on file at the Overstrand Municipality reflect slight dissimilarities to the dwelling we measured-up on site. These dissimilarities comprise the conversion of an approved single garage on the North Western corner of the property into a guest bedroom with an en-suite bathroom.

The above-mentioned contravention, was brought to Ms. A.E. van der Merwe's attention who were quite surprised of our findings as she were under the impression that the as-built guest bedroom with its en-suite bathroom was approved by the Overstrand Municipality's Building Control.

Our services were then further extended by preparing and submitting a Departure Application to rectify this matter on behalf of our client, Ms. A.E. van der Merwe. Subsequent to the above-mentioned, application is also made for the following;

- to replace an existing window (approved as a single garage door) with a new window of the same size and proportion along the street facade,
- replacing the existing balustrades on the first floor as the existing balustrades is deteriorating and does not comply with the SANS 10400 regulations,
- erecting a boundary wall along Fifth Street for security reasons.

4.2 **Proposal and its details**

The Departures that would be required for the application area, as mentioned earlier in this document, include the following:

- The relaxation of the Northern Municipal Street Building Line from 4.0m to 2.82m that is affected by the guest bedroom,
- The relaxation of the Western Municipal Side Building Line from 2.0m to 1.28m to that is affected by the guest bedroom and an en-Suite bathroom,
- Usage change within an existing structure constructed within the 4.0m Street Building Line and the 2.0m Side Building Line,

- Permission to replace balustrades at the previously approved balcony on the first floor, which was erected over the 4.0m Municipal Street building line and the 2.0m Municipal Side building line.

The above-mentioned balustrades pose a safety risk to the owner of the property as they are rotting, are not structurally stable, and do not comply with the latest SANS 10400 regulations applicable to balustrades.

- Permission to erect a new proposed boundary wall along Fifth Street for security reasons.

4.3 Character of the environment

The property is situated in the Voëlklip residential area which has a multitude of different architectural styles.

Erf 3992 and erf 3993 were consolidated to create erf 5744 (the application area), making it longer than the majority of the surrounding erven within the area.

Fifth and Sixth Street lies relatively high up against the mountain slopes in this node of Voëlklip. There are 6 more rows of erven to the North of Fifth Street. Many of these Dwellings overlook the Dwellings on Fifth and Sixth Street having a sea view at first floor level.

Where dwellings in Fourth, Third Street and Second street do not overlook dwellings in Fifth Street, most if not all of these properties have some sea view in between houses due to the topography in the area.

Most of the surrounding erven have similar proportions with similar type dwellings constructed on them.



Figure 5: Surrounding erven, an extract from the Overstrand Public Viewer – NOT TO SCALE

4.4 Effects on nature / environment, streetscape and surrounding properties:

- As shown on the attached drawings, these contraventions are relatively minor in nature and do not impact negatively on the environment, streetscape or any of the surrounding properties,
- The as-built structure is not in stark contrast with the existing dwelling on the application area and blends in very well with the surrounding properties in the area which, as mentioned above, has a multitude of different architectural styles,
- The as-built structure is reasonably sited on the property and is within the existing and previously approved building envelope,
- No doors and windows are built, in any wall, closer than 1.0m to the Erf Boundary Line and therefore, the as-built structure does not pose a fire risk hazard to any of the adjoining properties,
- The surrounding properties which have references to the as-built structures mentioned in this departure are the following:

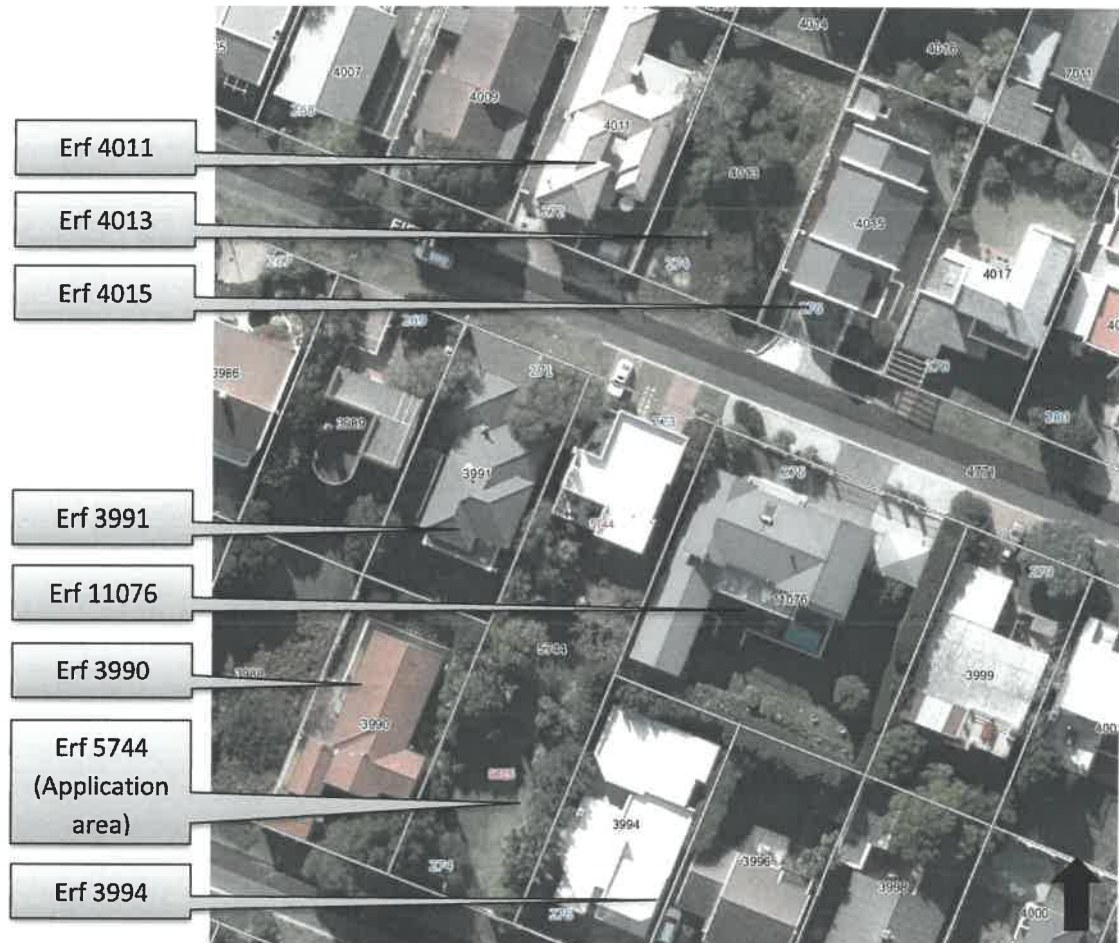


Figure 6: Surrounding effected erven, an extract from the Overstrand Public Viewer – NOT TO SCALE

4.4.1 Erf 3990 – Single Residential Zone 1 (495.00m²)

This Erf lies South West of the application area. The dwelling constructed on this erf enjoys views of the sea toward the South and mountain views towards the North, hence no change to the current views.

The as-built structure does not impact on their privacy in any way as the as-built structure is hardly visible from Erf 3990 due to the current dense vegetation Erf 3990 as well as the application area as shown on figure 6 above.

4.4.2 Erf 3991 - Single Residential Zone (495.00m²)

This Erf lies North West of the application area. The dwelling constructed on this erf enjoys views of the sea toward the South and mountain views toward the North, hence no change to the current views.

The as-built structure is visible from Erf 3991, however, as mentioned above, the as-built structure is not in stark contrast with the existing dwelling on the application area and blends in very well with the surrounding properties. The as-built structure was done in an architecturally pleasing style, and are minor in nature and therefore the impact of the as built structure is negligible.

The as-built structure does not pose a fire risk hazard to the dwelling on Erf 3991, as no doors and windows are built, in any wall, closer than 1.0m to the Erf Boundary Line. Refer to the enclosed plans.

The owner of Erf 3991 has been contacted, and the design has been sent to him for his consideration. He lodged no complaints or objections regarding the existing as-built structure, as the existing as-built structure is within the existing envelope and does not influence his view or their privacy in any way.

4.4.3 Erf 11076 – Single Residential Zone 1 (990.00m²)

This Erf lies East of the application area. The dwelling constructed on this erf enjoys views of the sea toward the South and mountain views toward the North, hence no change to the current views.

The as-built structure is hidden from view by the existing and previously approved dwelling on the application area, and therefore will have no impact on the existing dwelling on Erf 11076.

4.4.4 Erf 3994 – Single Residential Zone 1 (495.00m²)

This Erf lies South East of the application area. The dwelling constructed on this erf enjoys views of the sea toward the South and mountain views toward the North, hence no change to the current views.

The as-built structure is hidden from view by the existing and previously approved dwelling on the application area, and therefore will have no impact on the existing dwelling on Erf 3994.

4.4.5 Erf 4011 – Single Residential Zone 1 (495.00m²)

This Erf lies North West of the application area across Fifth Street. The dwelling constructed on this erf enjoys views of the sea toward the South and mountain views toward the North, hence no change to the current views.

The as-built structure is visible from Erf 4011 however, as mentioned above, the as-built structure is not in stark contrast with the existing dwelling on the application area and blends in very well with the surrounding properties. The as-built structure was done in an architecturally pleasing style, and are minor in nature and therefore the impact of the as built structure is negligible.

4.4.6 Erf 4013 – Single Residential Zone 1 (495.00m²)

This Erf (vacant erf) lies North of the application area across Fifth Street.

If the land gets developed by the current owners; the as-built structure will be visible from Erf 4013 however, as mentioned above, the as-built structure is not in stark contrast with the existing dwelling on the application area and blends in very well with the surrounding properties. The as-built structure was done in an architecturally pleasing style, and are minor in nature and therefore the impact of the as built structure is negligible.

4.4.7 Erf 4015 – Single Residential Zone 1 (495.00m²)

The Erf lies North East of the application area across Fifth Street. The dwelling constructed on this erf enjoys views of the sea toward the South and mountain views toward the North, hence no change to the current views.

The as-built structure is visible form Erf 4015 however, as mentioned above, the as-built structure is not in stark contrast with the existing dwelling on the application area and blends in very well with the surrounding properties. The as-built structure was done in an architecturally pleasing style, and are minor in nature and therefore the impact of the as built structure is negligible.

5. APPLICATION FOR ADMINISTRATIVE PENALTY

5.1 **Background and site history**

- The application area is zoned as Single Residential 1 (SR1) in terms of the Overstrand Municipality's Town planning scheme.
- The application area of 990.00m² in extent is located within the residential suburb of Voëlklip at 273 Fifth Street. The existing dwelling on the application area is a three story (basement, ground floor and first floor) dwelling comprising typical family type living accommodation.
- The unauthorized building / construction work is highlighted throughout this Application document and does not cause a negative impact on nature, the environment, streetscape, or any of the surrounding properties as discussed earlier in this Departure Document.
- In total, 1.44m² of unauthorized building / construction work contravenes the Overstrand Municipality's amended By-Laws on Municipal Land Use Planning. This contravention only includes;
 - a portion of the as-built en-suite bathroom built over the 2.0m Municipal lateral Building line,
 - the removal of the existing and approved single garage door and the installation of a new window of the same size and proportion along the street façade.

5.2 **Summary of the motivation**

Our client's motivation of the proposed is highlighted throughout this Departure Application, but can be summarized as follows:

- The current owner of Erf 5744, Ms. A.E. van der Merwe, purchased this sought property for a considerable sum of money in 2022.
- Our firm, Engelbrecht & Scorgie Architectural Office, was appointed in approximate mid – June 2022 by Ms. A.E. van der Merwe, to prepare drawings for the additions and alterations which was submitted and approved in November 2022.

When copies of the approved drawings were obtained from the Overstrand Municipality's Building Council, it was noticed that the approved drawings on file at the Overstrand Municipality reflect slight dissimilarities to the dwelling we measured up on site. These dissimilarities are highlighted throughout this Departure Application.

- No pervious contraventions were listed.

5.3 **Assessment of application**

- As indicated above, the unauthorized building work is in contravention of the Overstrand Municipality's amended By-Laws on Municipal Land Use Planning 2020. Application is made for

the determination of an administrative penalty in respect of part of an en-suite bathroom constructed prior to application approval.

- In terms of section 90(5)(b) of the By-Law, an administrative penalty for a building work contravention may not be more than 100% of the value of the building, construction and engineering work unlawfully carried out.
- Administrative Penalty: Calculation

Unauthorized section that encroaches the 2.0m Municipal Side building line

Value of unlawful area (1.44m²) = R 42 000.00

An amount which is not more than 100% of R 42 000.00 may be imposed as an administrative penalty.

5.4 The nature, duration, gravity and extent of the contravention

The following factors need to be considered when determining an appropriate administrative penalty, as contemplated by section 90 of the Overstrand Municipality's amended By-laws on Municipal Land Use Planning:

5.4.1 Nature:

The unauthorized building work involves part of an as-built en-suite bathrooms structure encroaching upon the 2.0m Municipal Side Building Line as discussed earlier in this Departure Application.

5.4.2 Duration:

The duration is not really applicable I would not think. Our client was not served with a notice.

5.4.3 Gravity:

The gravity of the contravention is not considered serious insofar the extent is limited to 1.44m². The structure is a habitable area, used as a bathroom. The en-suite bathroom is not considered to cause any negative impact on any nature, the environment, streetscape and surrounding neighboring properties as discussed earlier in this Departure Application.

5.4.4 Extent:

1.44m²

5.5 A report by a quantity surveyor in matters of unauthorized building / construction

Refer to Annexure I for the report in matters the unauthorized building / construction work.

5.6 Whether the unlawful conduct was stopped

Overstrand Municipality did not stop the building work and have also not issued a notice with regards to the transgression.

5.7 Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law

As far as can be ascertained, there is no evidence that the owner of the property has previously contravened this By-law

5.8 Reasons for decision

Reasons for the recommended decision may be summarized as follows:

- To summarize the above-mentioned, it is concluded that it was not the doing of the new owner of the property, Ms. A.E. van der Merwe, and therefore It is not fair towards our client to hold her responsible for unlawful building / construction work done by the previous owner of the property.
- The unauthorized building / construction work is highlighted throughout this Application document and does not cause negative impact on nature, the environment, streetscape, or the surrounding properties as discussed earlier in this Departure Document.

5.9 Recommendation

In light of the above assessment, we appeal to your generosity that an administrative penalty of 0% be imposed for the unauthorized as-built building structures as this is not the wrong doing of the current owner, Ms. A.E. van der Merwe.

6. CONCLUSION

6.1 Heritage value

The property is not situated within a heritage overlay zone and has no grading or any heritage value.

6.2 Impact on Municipal Engineering Services

No additional electrical, water or sewerage will be required. The current Municipal provision is adequate to supply the dwelling

3.9 Forward planning

The Overstrand Spatial Development Framework (SDF) 2020 earmarks the area where Erf 5744 is situated for residential purposes. The structures, for which the departure is required, form part of any typical residential component and the Zoning Scheme Regulations make provision for departure procedures to incorporate structures within the building line zone. The character and zoning of the property will remain unchanged and therefore the property falls within the existing planning for the Voëlklip area.

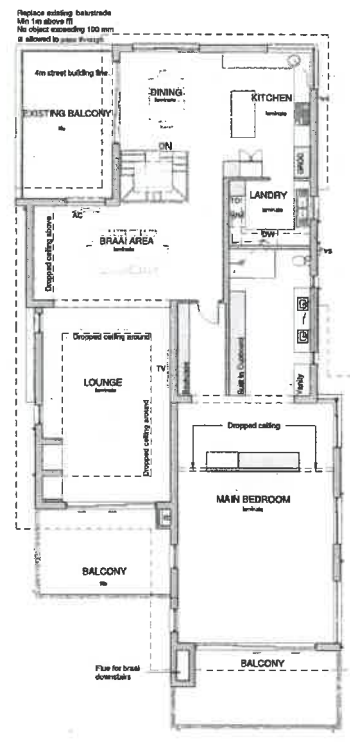
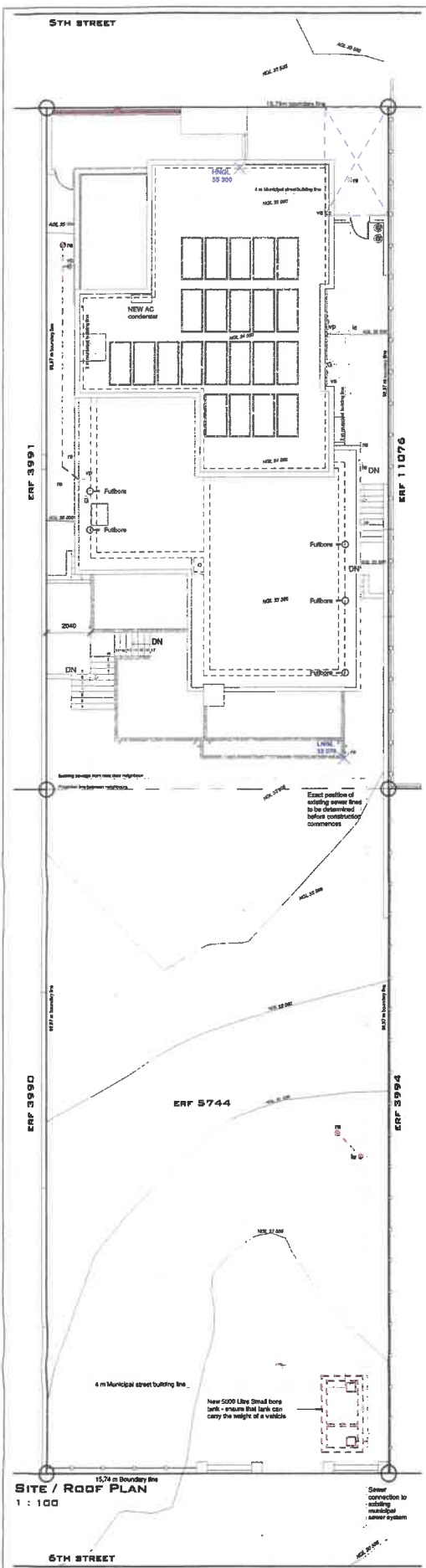
It is therefore recommended that the application be approved in terms of the Overstrand Amendment By-Lay on Municipal Land – use Planning, 2020.

I appeal to your experienced consideration of this Departure Application. I look forward to your correspondence.

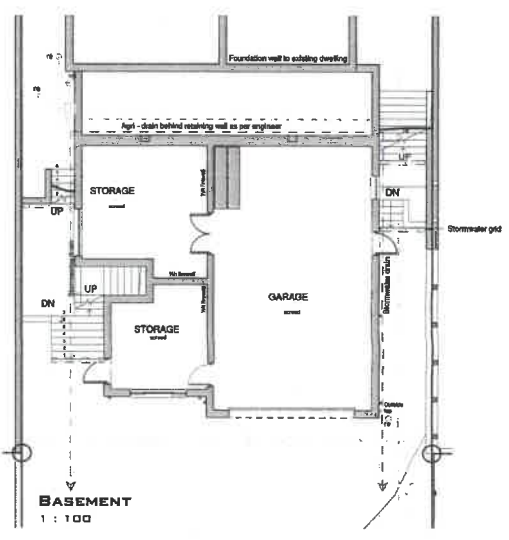
Yours sincerely



GERHARD ENGELBRECHT
for Engelbrecht & Scorgie



FIRST FLOOR PLAN
1 : 100



BASEMENT
1 : 100



AREA CALCULATIONS:

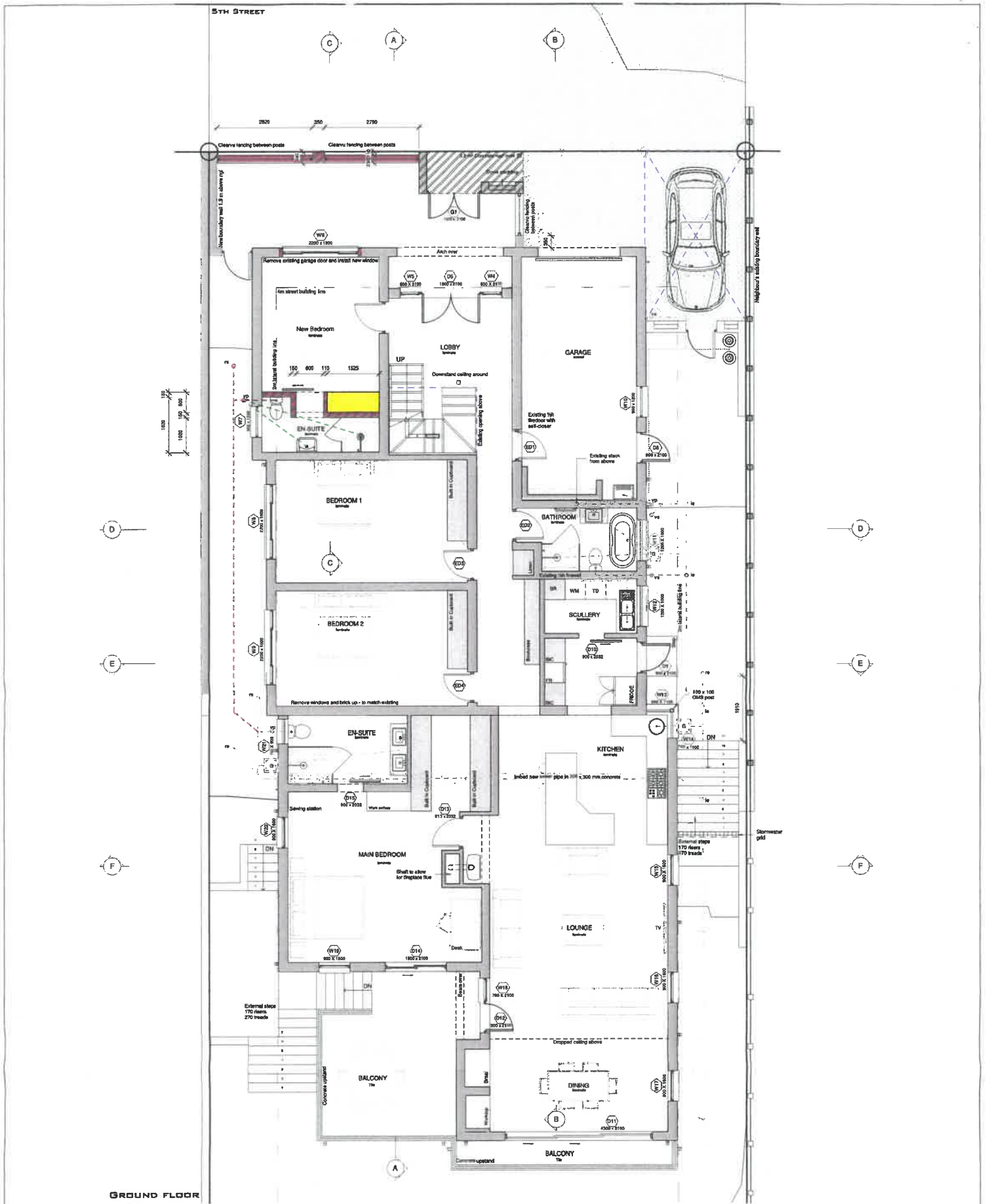
ERF	990.000 M ²
EXISTING BASEMENT	118.917 M ²
EXISTING GROUND FLOOR	276.680 M ²
EXISTING FIRST FLOOR	217.673 M ²
ADDITIONS	0.000 M ²
COVERAGE ALLOWED	302.716 M ²
	30.577 %

48 Mah Rd, Overstrand - PO Box 131 • Contact Area 7321
Tel: 029 918 2266 • Fax: 029 914 2800 • archoffice@maxtec.co.za
Member of Engelbrecht & Scorgie
an engineering

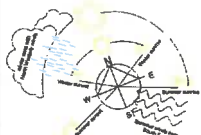
Rev	Description	Date
1	Client feedback	06 August 2022
2	Utility rooms	19 August 2022
3	Remove structural beams	28 August 2022
4	Ground Floor Braai	5 September 2022
5	Landmark completion	4 October 2022
6	New Sleep Tank	13 October 2022
7	Finalize sewer design	21 October
8	Water control basement	14 November
9	Finalize	1 December 22

archoffice@maxtec.co.za	
DRAWN BY: Maxima Landa	Phone: 54019730
CHECKED BY: Gert Engelbrecht	571838
PROJECT: Van der Merwe	
CLIENT: Johan van der Merwe	
ADDRESS: 273 Die Dreef, Vredenburg	
ERF: 5744	
PROJECT AND PAGE NUMBER: J1152/A1-61	
DATE: 1 December 2022	SCALE: 1:100
REVISION: 5	

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NOTES:



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ARCHITECTURAL OFFICE

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Members: G. Engelbrecht & B. Scorpion
© Environmental

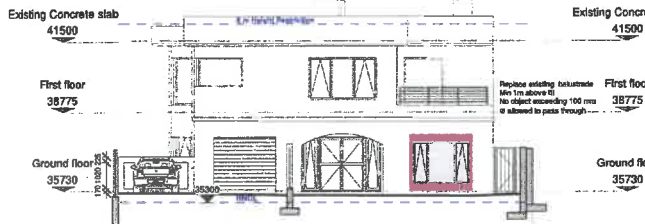
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Rev	Description	Date
1	Client's feedback	04 August 2022
2	Layout change	19 August 2022
3	Hardware change bathroom	20 August 2022
4	Orkney Floor Draft	1 September 2022
5	Client's presentation	4 October 2022
6	New Space and	13 October 2022
7	Final design to client	21 October 2022
8	After council feedback	14 November 2022
9	Water	1 December 2022

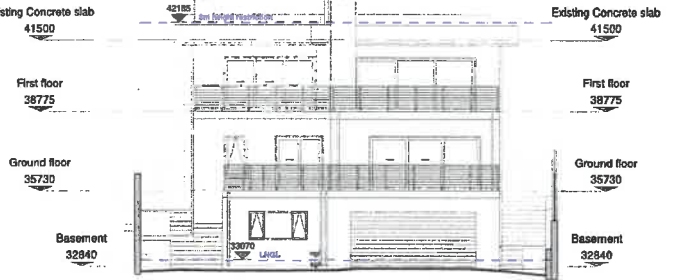
archoffice@maxtec.co.za	
DRAWN BY:	Isabella Meeus - Project 1:41:1949
CHECKED BY:	Orkney Engelenburg - ST1028
PROJECT:	Van der Merwe
CLIENT:	Johan van der Merwe
ADDRESS:	273 Orkney Street 16985
ERP:	ST14
FACE DESCRIPTION:	Ground Floor Plan
PROJECT AND PAGE NUMBER:	J1132; A1-02
DATE:	1 December 2022
SCALE:	1 : 50
REVISION:	0



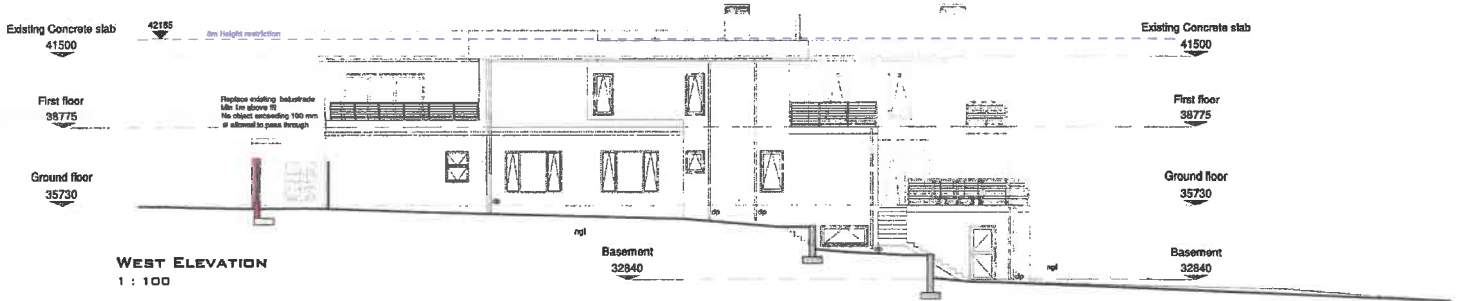
STREET FACADE BOUNDARY WALL
1 : 50



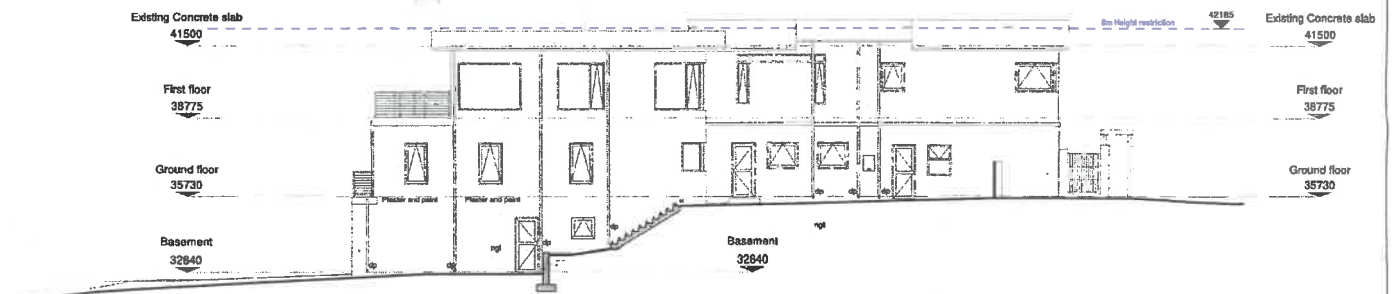
NORTH ELEVATION
1 : 100



SOUTH ELEVATION
1 : 100



WEST ELEVATION
1 : 100



EAST ELEVATION
1 : 100

NOTES:



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Rev	Description	Date
1	Client feedback	08 August 2023
2	Client review	19 August 2023
3	Remove garage balustrade	30 August 2023
4	Ground Floor Slab	5 September 2023
5	Finalise presentation	4 October 2023
6	New Sewer tank	13 October 2023
7	Building permit in progress	27 October 2023
8	After council feedback	14 November 2023
9	Water	1 December 2023

archoffice@maxtec.co.za	
DRAWN BY:	Masha, Masha P-04 54511428
CHECKED BY:	Gerit Engelbrecht 271128
PROJECT:	Van der Merwe
CLIENT:	John van der Merwe
ADDRESS:	271 5th Street Verdiep
ERP:	5744
PAGE DESCRIPTION:	PROJECT AND PAGE NUMBER
DATE:	1 December 2023
SCALE:	As indicated
REVISION:	1