

ERF 1739, 49 LONG STREET, SANDBAAI, SECTIONAL TITLE UNIT 9, WATSONIA PARK : APPLICATION FOR DEPARTURE: WJN LOUW

Notice is hereby given in terms of Section 48, read with Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 that an application has been received for departure to relax the rear building line of Erf 1739, Sandbaai from 3m to 0m to accommodate an open braai with a veranda on Sectional Title Unit 9, Watsonia Park.

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 comments must be in writing and reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before **25 June 2021**, quoting your name, address and contact details, interest in the application, and reasons for comment. Telephonic enquiries can be made to **Mr. H Boshoff** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them to formalize their comment.

ERF 1739, LANGSTRAAT 49, SANDBAAI, DEELTITELEENHEID 9, WATSONIA PARK: AANSOEK OM AFWYKING: WJN LOUW

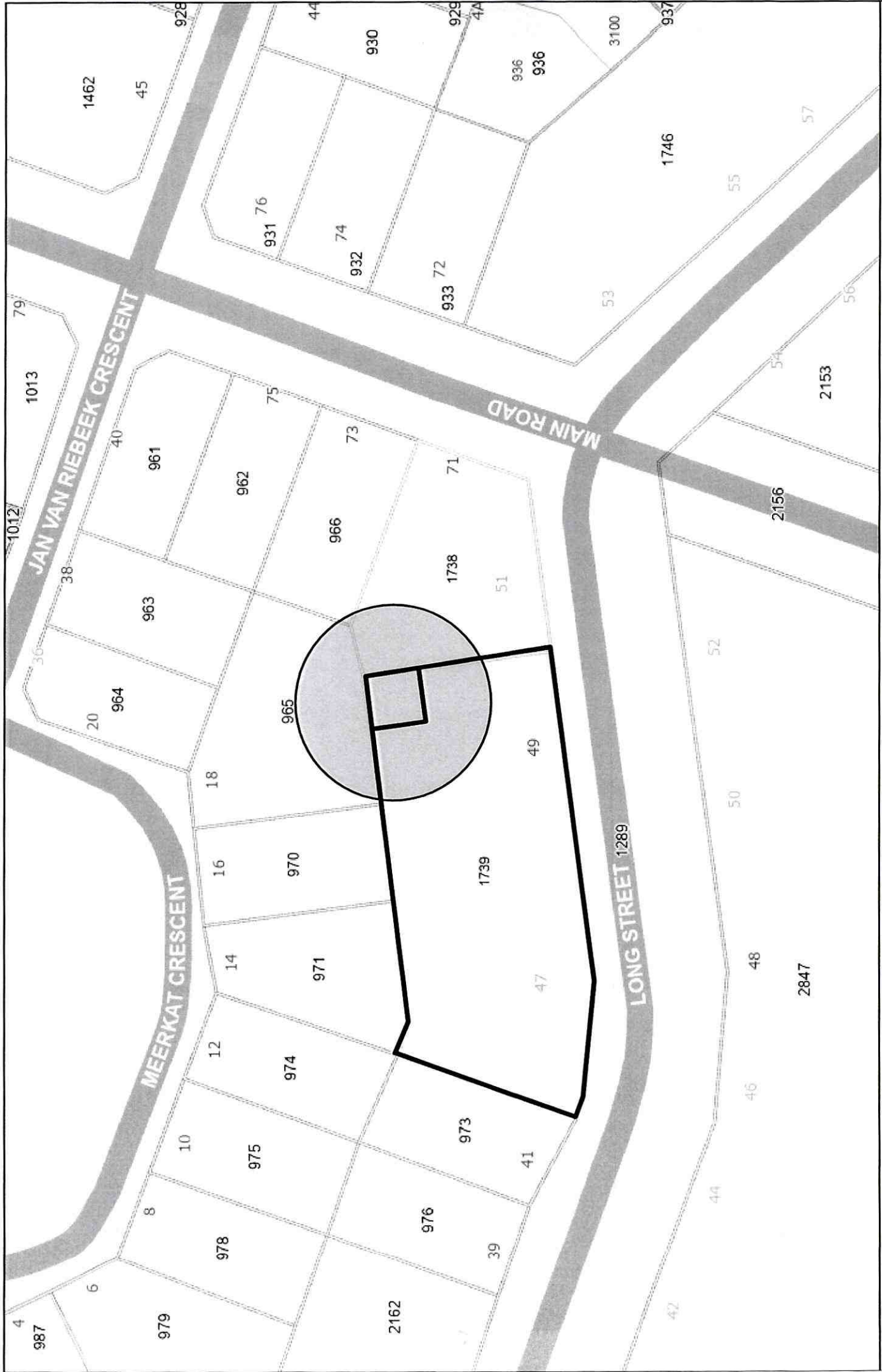
Kennis word hiermee gegee ingevolge Artikel 48, saamgelees met Artikel 16(2)(b) van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 dat 'n aansoek om afwyking ontvang is om die agterboulyn van Erf 1739, Sandbaai te verslap vanaf 3m na 0m om 'n oop braai met 'n afdak op Deeltiteleenheid 9, Watsonia Park 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. Enige kommentaar op die voorstel moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) bereik voor of op **25 Junie 2021**, met u naam, adres en kontakbesonderhede, belang in die aansoek, sowel as die redes vir kommentaar. Telefoniese navrae kan gerig word aan **Mnr. H Boshoff** at 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 1739, 49 LONG STREET, SANDBAAI, IYUNITHI YESI-9, YETAYITILE ENEZ AHLULO WATSONIA PARK: ISICELO SOPHAMBUKO: WJN LOUW

Isaziso sinikwe ngokwemiqathango yeCandelo 48, elifundwa kunye neCandelo 16(2)(b) loMthetho kaMasipala oLungisiweyo woYilo lokuSetyenziswa koMhlaba woMasipala wase-Overstrand 2020 sokokuba isicelo sifunyenwe sophambuko ukulungiselela ukunyenyiswa komda ongasemva kwesakhiwo seSiza 1739, eSandbaai ukususela kwi-3m ukuya kwi-0m ukulungiselela ulwakhiwo lwendawo yokojela inyama evulekileyo eneveranda kwiYunithi yesi-9 yeTayitile eneZahlulo, eWatsonia Park.

Iinkcukacha eziphelileyo malunga nesi sindululo ziyafumaneka ngeentsuku zomsebenzi phakathi kweyure-08:00 ne-16:30 kwiSebe: loCwangciso lweDolophu, Paterson Street, Hermanus. Naziphi na izimvo mazibe zezibhaliweyo yaye mazifike kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ngomhla okanye ngaphambi komhla **wama-25 kuJuni 2021**, unike igama lakho, idilesi neenkukacha zonxibelelwano nawe, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Xa ufuna ukubuza into malunga nesi saziso ungatsalela umnxeba **Mnu. H Boshoff** kule nombolo 028-313 8900. UMasipala angala ukuzamkela izimvo ezifike emva komhla wokuvalwa. Nabani na ongakwaziyo ukufunda okanye ukubhala makaye kwiSebe loYilo lweDolophu apho igosa likamasipala liya kumncedisa azibhale izimvo zakhe.



13 April 2021

**PROPOSED DEPARTURE AND
DETERMINATION OF AN
ADMINISTRATIVE PENALTY AND**

ERF 1739 SANDBAAI

DIVISION: CALEDON

OVERSTRAND MUNICIPALITY



TP. A. Theal
(H. Olivier)

MOTIVATION REPORT

FILE NO:	EF 1739 ✓
	Sandbaai
SCAN NO:	HSB 1739
COLLABORATOR NO:	1526856

1. BACKGROUND

The owner of Section No.9 of the Sectional Title Scheme, Watsonia Park (S.G.No. 461/1999) established on Erf 1739 Sandbaai, Mr. W.J.N. Louw has instructed the company Plan Active to provide him with a motivational report for a departure from the prescribed rear building line and the determination of an administrative penalty.

The owner intends to legalise the existing structures on the subject property within the prescribed rear building line. In order to address the existing structures consisting of a braai and veranda, that encroaches the rear building line, an administrative penalty needs to be determined. The owner was issued with a notice to stop building work on the 30th of October 2020. The owner now intends to obtain the necessary approvals for the existing braai and veranda.

Erf 1739 Sandbaai is 3065m² in extent. Section No.9 of the Watsonia Park (S.G.No. 461/1999) Sectional Title Scheme is 51m² in extent and is held by Sectional Title Deed Number T10478/2019.

TP
09 APR 2021

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 from the prescribed building lines;
- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an administrative penalty.

3. DESIRABILITY

3.1 PROPERTY DESCRIPTION

Erf 1739 Sandbaai is located at 49 Long Street, Sandbaai and is 3065m² in extent. Flats are established on the subject erf and the development is known as Watsonia Park. Please refer to the enclosed locality plan.

3.2 ZONING

Erf 1739 Sandbaai is zoned Business Zone 3 with a consent use for flats on the ground floor and is utilized as such. The surrounding properties are zoned for single residential purposes, local businesses, public roads and public open spaces.

3.3 LAND USE

Erf 1739 Sandbaai is used for residential purposes. A block of sectional title flats are established on the subject property. Access to Erf 1739 Sandbaai is obtained from Long Street, Sandbaai.

Land uses that surround Erf 1739 Sandbaai are single dwellings, flats, public roads, shops, offices, and public open spaces. It is therefore evident that Erf 1739 Sandbaai is situated within a mixed-use area.

3.4 **PROPOSAL**

The following are proposed 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 from the prescribed building line;
- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an administrative penalty.

Erf 1739 Sandbaai is 3605m² in extent. The intention of the owner of Section No.9 of the Watsonia Park Sectional Title Scheme (S.G.No. 461/1999) is to legalise the existing braai and veranda that were constructed on the rear boundary. The structures that need to be legalised encroach the rear building line.

3.4.1. Proposed Departure

The existing braai and veranda encroach the zoning scheme building lines.

The building line departure can be summarised as follow:

- Relaxation of the **rear** building line from 3m to 0m to accommodate the existing braai with veranda.

The Overstrand Scheme Regulations stipulate the following building lines with regards to a Business 3 zoning:

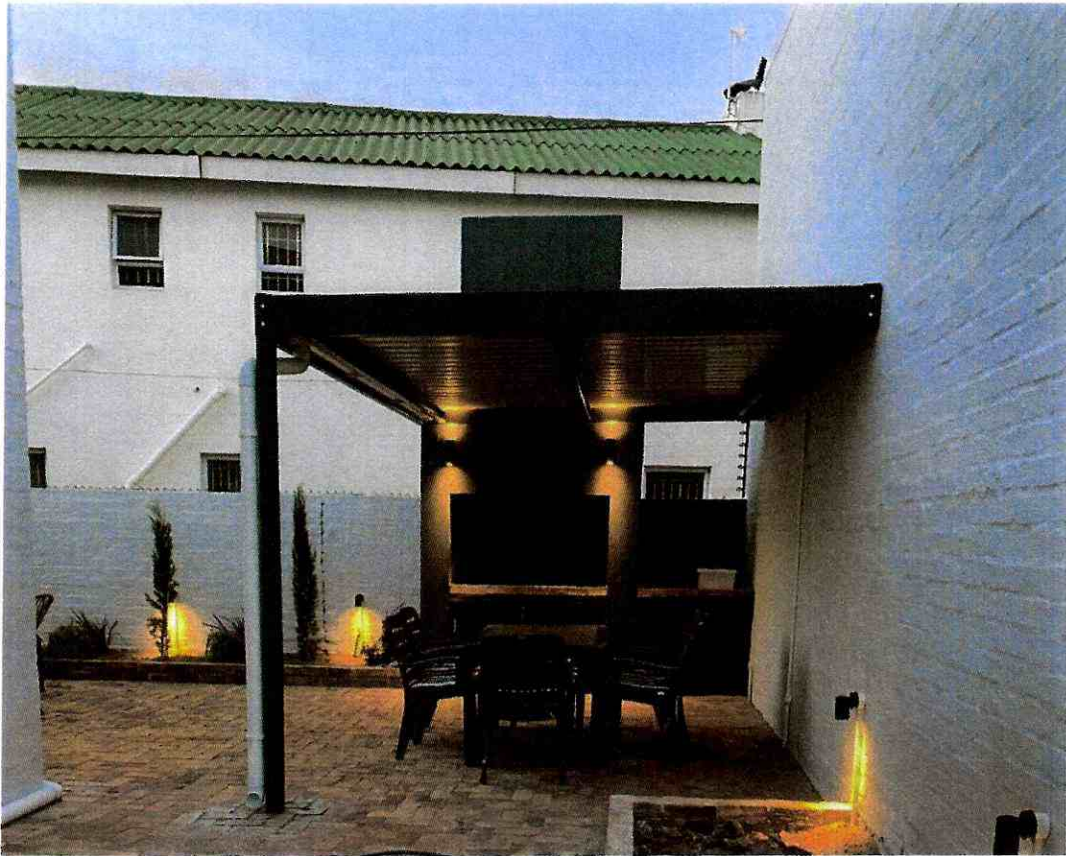
c) **Building lines**

- (i) the street building line is 0 m, provided that a 5,0 m building line applies where fuel pumps are erected;
- (ii) the side building line is 0 m, provided that where any Business Zone 3 abuts another zone, the side building line is 3,0 m;

- (iii) **the rear building line is 3,0 m, provided that where any Business Zone 3 abuts another zone, the rear building line is 3,0 m; and**
- (iv) provided that the Municipality may require more restrictive building lines in the interests of public health or safety or the environment or in order to enforce any applicable law or right; and
- (v) the building line exemptions in 16.1 apply.

The existing **braai with the veranda** was constructed without obtaining building plan approval from the Overstrand Municipality. The existing braai is located on the rear and lateral boundary line. The braai is located on the ground floor and therefore it does not have a negative impact on the neighbouring properties. The existing braai blends in with the surrounding area and does not have any impact on the surrounding property values and character as seen in the pictures below.



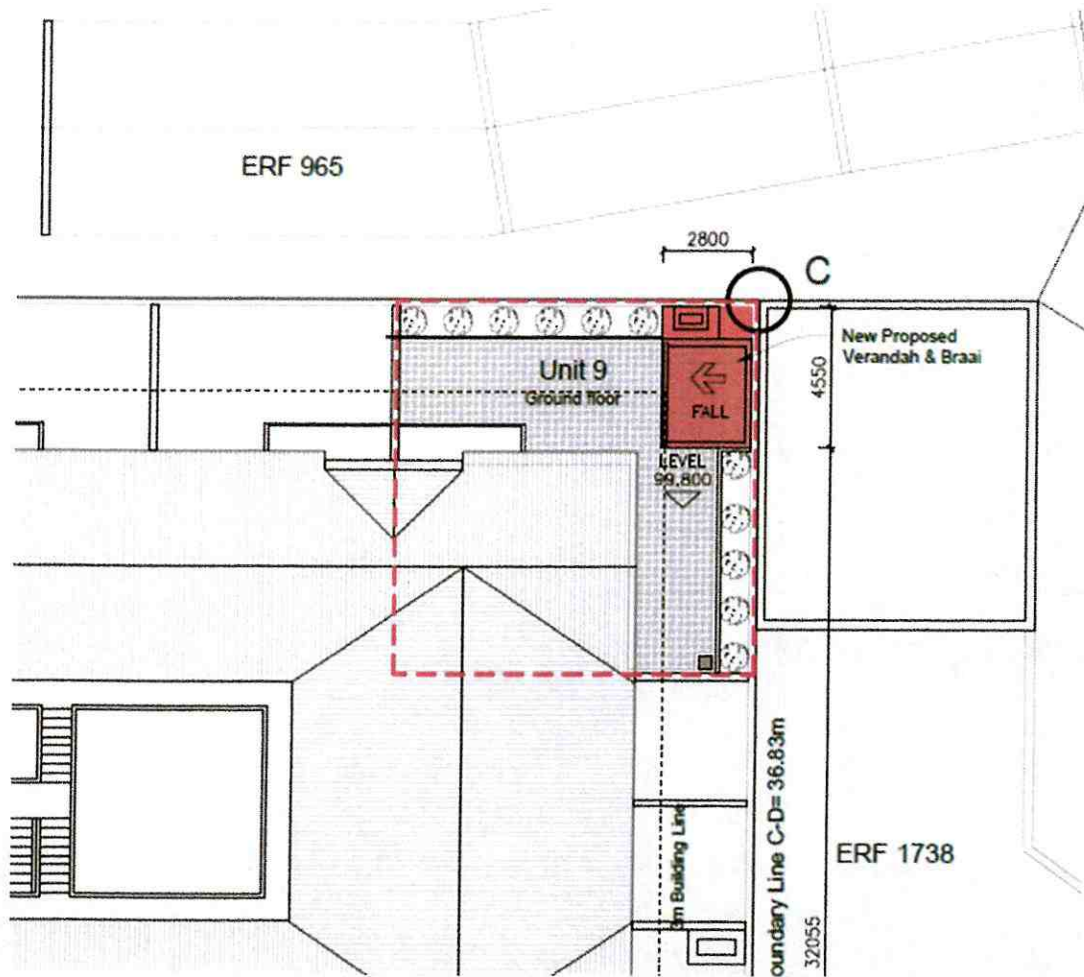


The proposed building line departure will not have a negative impact on the neighbouring properties or the character of the greater Sandbaai area. With the mentioned encroachment, no habitable space is proposed on the boundary lines and is the impact of the existing braai is minimal. Please refer to the enclosed as built building plans for the detail of the above-mentioned structures.

3.4.2. Determination of an administrative penalty

The owner of Section No.9 of the Watsonia Park Sectional Title Scheme (S.G.No. 461/1999) erected a braai and veranda on the aforementioned property. On the 30th of October 2020, the owner was issued with a notice from the building control department to stop all building work. The owner immediately started the process of obtaining all approvals for the illegal structures. The structures were already completed at the time the notice was served.

The intention of the owner is to rectify the unauthorised building work that was erected on the subject property. As mentioned before, the owner was issued with a notice to stop building work, although the building work was already completed when the letter was issued. The unauthorised building work is indicated on the plan below:



In terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 an application is made for the determination of an administrative penalty for unauthorised land use. In terms of Chapter 9, Section 90(1), "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".

In terms of Chapter 9, Section 90(3), of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 the applicant must to the satisfaction of the municipality, provide the following:

3.4.1.1. CRITERIA FOR DETERMINATION OF AN ADMINISTRATIVE PENALTY

a) The Nature, duration, gravity, and extent of the contravention.

The unauthorised building work started in August 2020, and by the time that the building control department issued the notice to stop the building work, the structure were already completed.

The extent of the unauthorised building work (that encroaches the rear building line) are as follow:

Structure	Extent of unauthorised building work	Total costs for unauthorised building works
Veranda with braai area	±12.74m ²	± R28 996.00
Total Extent of unauthorised building work (encroachment of the rear building line)	±9m ²	± R20 483.83

After a notice was served by the building control office the owner immediately started to investigate the procedures to rectify the unauthorised building work. The owner of Section No.9 of the Watsonia Park Sectional Title Scheme (S.G.No. 461/1999) intends to provide his full co-operation to the Overstrand Municipality to rectify the illegal building work.

The position and nature of the unauthorised braai and veranda on the property are unobtrusive in nature and do not impact negatively on the surrounding properties. A building line departure application is also submitted to rectify the rear building line encroachment on the subject property.

b) The conduct of the person involved in the contravention

The owner erected the braai and veranda without any knowledge that an approval needs to be obtained from the Overstrand Municipality. The owner is now in the process of rectifying the unauthorised building work that is in contravention of the zoning scheme regulations.

c) Whether the unlawful conduct was stopped

The owners are in the process of rectifying the contravention by applying for the determination of an administration penalty and building line departure. The building work was already completed when the notice was served by the building control department.

d) A report by a quantity surveyor in matters of unauthorised building/construction

If the Overstrand Municipality finds it necessary that an administrative penalty fee needs to be enforced for the unauthorised building work, the owner will submit a report from a quantity surveyor with reference to the unauthorised building work. The reason being that if there is a chance that no penalty fee is imposed the report from a quantity surveyor will be unnecessary at this stage. The owner has provided a cost estimate by the builder that completed the building work.

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

To the best knowledge of the applicant and as confirmed by the landowner, he has never previously contravened this By-Law or any other previous planning law.

We appeal to the Overstrand Municipality to take into consideration the low impact the unauthorised building work has on the surrounding area. The owner has taken the initiative to legalise the illegal structures and is following due process to obtain an approval from the Overstrand Municipality as soon as he was informed that he needed to do so.

As soon as the owner was served with a notice, he started to liaise with the Overstrand Municipality to advise him on due process to rectify the contraventions. We therefore respectfully request that a penalty fee not be imposed on the property owner for the reasons given above.

3.5 ACCESS

Vehicular and pedestrian access to Erf 1739 Sandbaai is from Long Street, Sandbaai and will be retained. No new accesses are proposed with the proposed application.

3.6 SERVICES

All services on Erf 1739 Sandbaai already exists. No additional services are required in order for the proposed application to be approved.

3.7 TITLE DEED

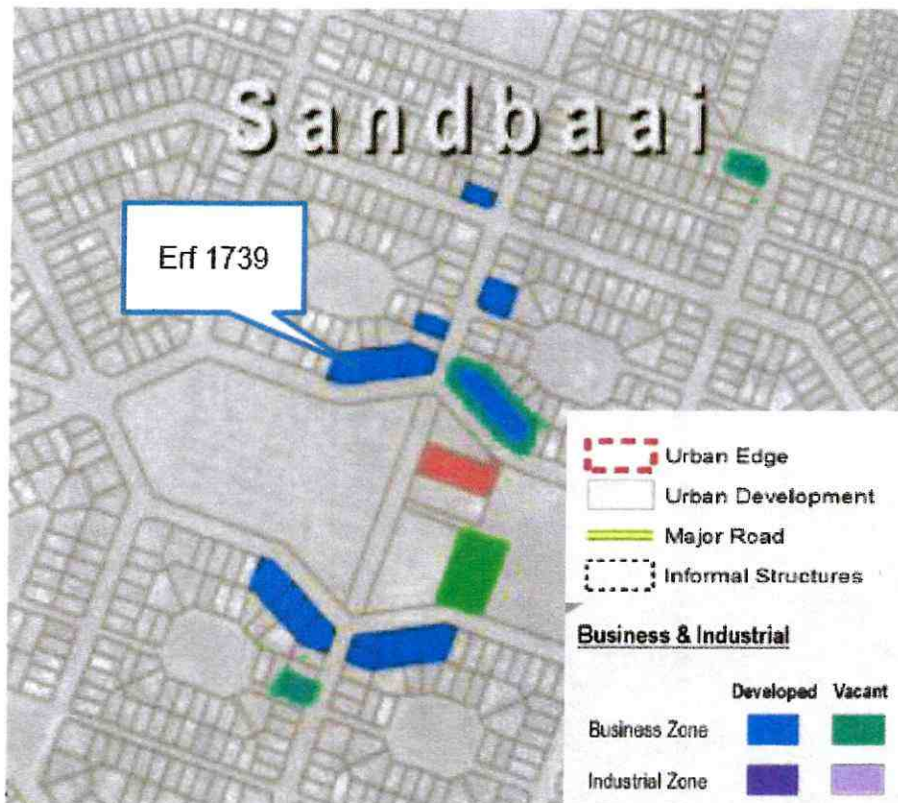
The Sectional Title Deed 10478/2019 has no restrictions that needs to be removed in order for the proposed application to be approved.

There is a bond registered against Section No.9 of the Sectional Title Scheme Watsonia Park (S.G.No. 461/1999) situated on Erf 1739 Sandbaai.

3.8 FORWARD PLANNING

Overstrand Municipal Spatial Development Framework (2020).

In terms of the Overstrand Spatial Development Framework the subject property is earmarked for business purposes. The business zoning of the subject property will be retained after the determination of an administration penalty and departure application have been concluded.



Overstrand Growth Management Strategy

With reference to the Overstrand Growth Management Strategy the subject erf falls within Planning Unit 7 which is located in the heart of Sandbaai which is located along the collector road, Hoof Street which provided access to Sandbaai.

The proposed application for determination of an administration penalty and departure application does not have any impact on the density for the proposed area of Sandbaai

It is therefore our opinion that the proposed determination of an administration penalty and departure application can be supported and that the proposal is also in line with the current land use trends for the area. We therefore respectfully request that a penalty fee **not** be imposed.

3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.9.1 HERITAGE VALUE

Erf 1739 Sandbaai is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). The property is developed and not earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009).

The subject property is not associated with any important persons or groups or important events and activities. The subject property has no association with the history of slavery and is not used for living heritage.

In the light of the above mentioned it is evident that the proposed departure will not have a negative impact on the heritage value of the subject property or the Greater area of Sandbaai.

3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed determination of an administrative penalty and departure do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

3.10 PLANNING PRINCIPLES

The planning principles of spatial justice, spatial sustainability, efficiency and spatial resilience of this application can be described as follows:

Spatial Justice: The proposed determination of an administrative penalty and departure will be in line with the current land use tendencies.

Spatial sustainability: The determination of an administrative penalty and departure are in line with the current character of the established residential flats on the subject property. The proposed applications will have no impact on the conservation worthy areas of Sandbaai. Spatially the land use will be in line with the residential character of the area.

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 manner in which 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 the applications at hand.

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 in order 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.

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 Amended By-law on Municipal Land Use Planning, 2020.

4. **RECOMMENDATION**

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

- As soon as the owner was made aware that an approval needs to be obtained from the Overstrand Municipality the owner immediately started the process of legalising the illegal building work;
- The proposed building line departure will not have a negative impact on the current character and land values of the surrounding erven;
- The proposed departure of Section No.9 of the Watsonia Park Sectional Title Scheme (S.G.No. 461/1999) situated on Erf 1739 Sandbaai falls within the existing land use tendencies in the area;
- No additional services is needed for the proposed application to be approved;
- The proposed departure will not have a negative impact on the current character and land values of the surrounding erven;

- The proposed application is in line with Spatial Planning Land Use Management Act, 2013 (SPLUMA) and the Land Use Planning Act, 2014 (LUPA);
- We request that a penalty fee not be imposed.

With regards to the above mentioned it would be appreciated if the Overstrand Municipality would consider the application favourably for the dismissal of an administrative penalty and the approval of the building line departure of Section No.9 of the Watsonia Park Sectional Title Scheme (S.G.No. 461/1999) situated on Erf 1739 Sandbaai.

NOTE:
 THIS DRAWING IS THE PROPERTY OF VICE DESIGNS. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. ANY REUSE OR MODIFICATION OF THIS DRAWING WITHOUT THE WRITTEN PERMISSION OF VICE DESIGNS IS STRICTLY PROHIBITED.

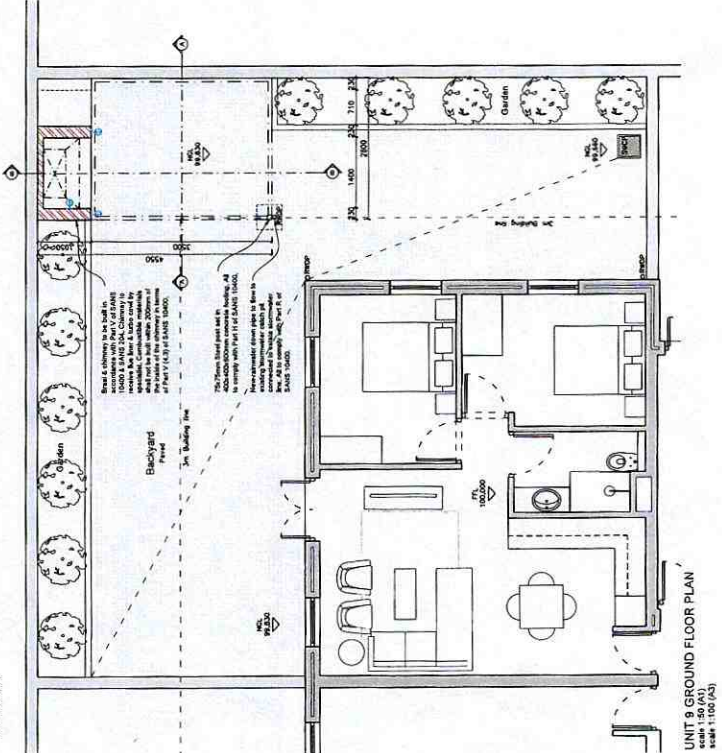
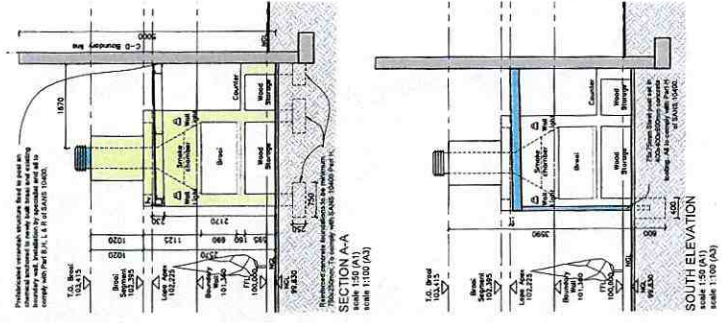
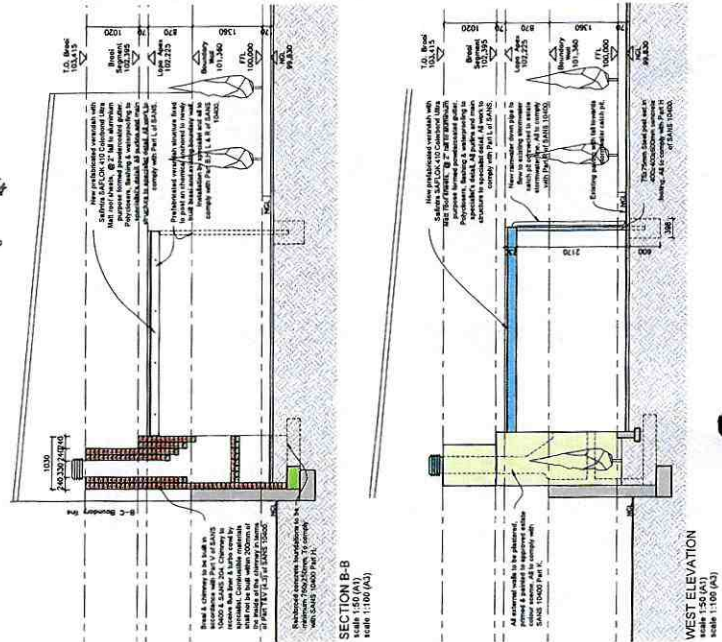
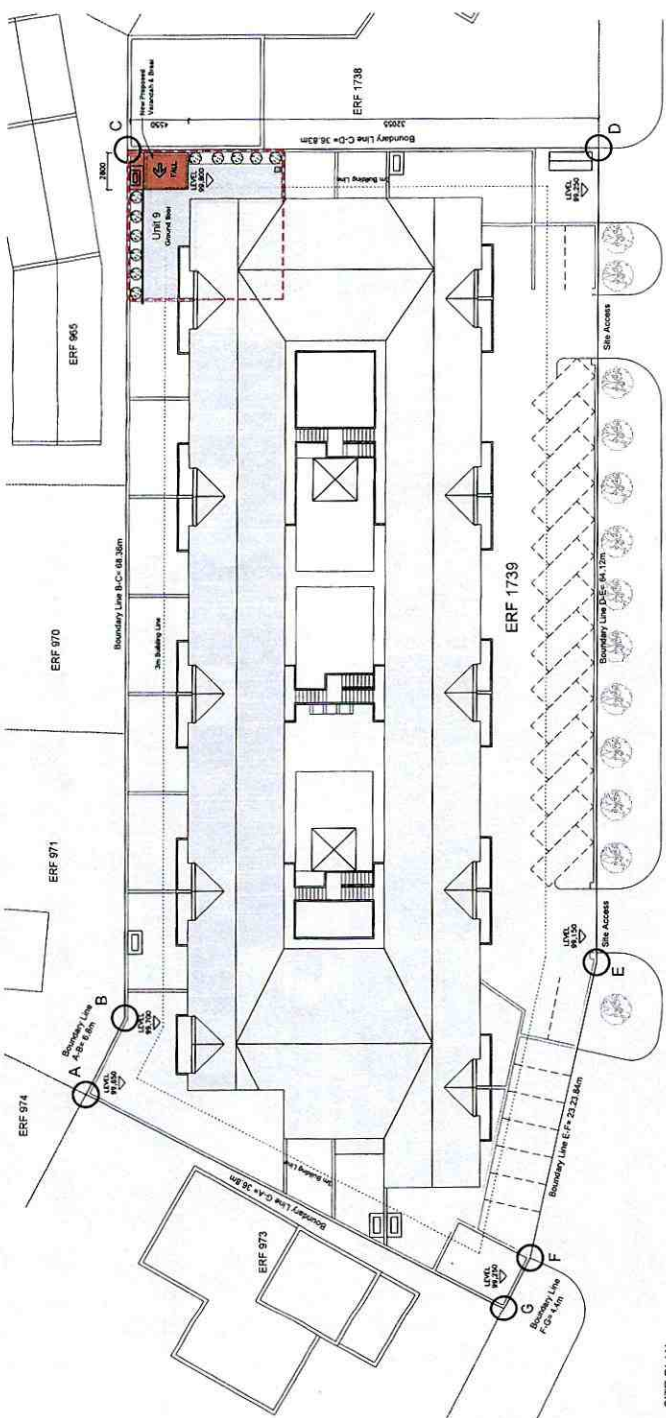
CLIENT: William Jacobus Nicolson Low
PROJECT NAME: Proposed Addition
DATE: 10/03/2021

COMPANYS CLASSIFICATION	NM
AREA SCHEDULE	4
SITE AREA	3000m ²
EXISTING GROUND FLOOR	500m ²
NEW GROUND FLOOR	1100m ²
TOTAL GROUND FLOOR	1600m ²
ENTRANCE BOUNDARY (1:100)	151.0m (495ft)
ENTRANCE BOUNDARY (1:100)	231.0m (758ft)

CONTRACT & TENDER NOTES:
 1. EXISTING TO BE DEMOLISHED: To be demolished in accordance with the relevant council rules and regulations.
 2. FOUNDATIONS: To be constructed in accordance with the relevant council rules and regulations.
 3. ROOFING: To be constructed in accordance with the relevant council rules and regulations.
 4. WALLS: To be constructed in accordance with the relevant council rules and regulations.
 5. FLOORS: To be constructed in accordance with the relevant council rules and regulations.
 6. SERVICES: To be installed in accordance with the relevant council rules and regulations.
 7. FINISHES: To be installed in accordance with the relevant council rules and regulations.
 8. LANDSCAPE: To be installed in accordance with the relevant council rules and regulations.
 9. SECURITY: To be installed in accordance with the relevant council rules and regulations.
 10. COMPLIANCE: To be in accordance with the relevant council rules and regulations.



REGISTERED ADDRESS	William Jacobus Nicolson Low Erft 1739, 49 Longhouth, Sandbaai
PROPOSED ADDRESS	Proposed Addition
PROJECT NAME	Proposed Addition
DATE	10/03/2021
SCALE	AS SHOWN ON A1
PROJECT NUMBER	201
REVISION	A



COPY OF A1