

ERF 2213, 66 TENTH STREET, VOËLKLIP, HERMANUS: OVERSTRAND MUNICIPAL AREA: APPLICATION FOR THE DETERMINATION OF AN ADMINISTRATIVE PENALTY AND DEPARTURE: MESSRS PLAN ACTIVE TOWN- AND REGIONAL PLANNERS ON BEHALF OF WITKLIP TRUST

Notice is hereby given in terms of Section 48, read with Section 16(2) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) that an application has been received for following:

- ❖ determination of an administrative penalty in terms of Section 16(2)(q) of the By-Law;
- ❖ departure in terms of Section 16(2)(b) for the following:
 - to relax the western lateral building line from 2m to 1,2m to accommodate the existing steel- and wood staircase, and
 - to relax the eastern lateral building line from 2m to 0m to accommodate the extended garage façade / screen wall with a height of 3,2m.

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) on or before **25 June 2021**, 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 2213, TIENDESTRAAT 66, VOËLKLIP, HERMANUS, OVERSTRAND MUNISIPALE AREA: AANSOEK OM BEPALING VAN 'N ADMINISTRATIEWE BOETE EN AFWYKING: MNRE PLAN ACTIVE STADS- EN STREEKBEPLANNERS NAMENS WITKLIP TRUST

Kennis word hiermee gegee ingevolge Artikel 48, saamgelees met Artikel 16(2) van die Overstrand Munisipaliteit Wysiging Verordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) dat 'n aansoek ontvang is vir die volgende:

- ❖ bepaling van 'n administratiewe boete in terme van Artikel 16(2)(q) van die Verordening;
- ❖ afwyking in terme van Artikel 16(2)(b) vir die volgende:
 - om die westelike laterale boulyne van 2m to 1,2m te verslap ten einde die bestaande staal en hout trap te akkommodeer, en
 - om die oostelike laterale boulyn van 2m to 0m te verslap om die bestaande motorhuis façade / skermmuur met 'n hoogte van 3,2m 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 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

25 June 2021 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 ESINGURF 2213, 66 TENTH STREET, VOËLKLIP, HERMANUS: UMMANDLA KAMASIPALA WASEOVERSTRAND: ISICELO SOKUQIKELELA IPENALTHI YOKWENZA UMSEBENZI NOLWAHLULO: NGABAKWA PLAN ACTIVE TOWN- AND REGIONAL PLANNERS EGAMENI LEWITKLIP TRUST

Kukhutshwe isaziso esimayela nemiba yeSoloty lama48, esifundeka neSoloty le16(2) nguMasipala waseOverstrand esingokuHlomela umthethwana ongeZicwangciso ZokuSetyenziswa koMhlaba ku2020 (Umthethwana) othi kufunyenwe isaziso ongale miba ilandelayo:

- ❖ ukuqinisekisa ukuba kukho ipenalthi yolawulo ngokweniam yeSoloty le16(2)(q) loMthethwana;
- ❖ ukwahlulahlula ngokwemiba yeSoloty le16(2)(b) kule miba ilandelayo:
 - ukunyeniyisa umgca wesakhiwo kwicala elisentshona yesakhiwo elingqamene nomgca wesakhiwo ukusuka kwiimitha ezi2m ukuya kwezi-1,2m ukulungiselela amanqwanqwa/izitepsi ezenziwe ngomthi,
 - nokunyeniyisa umgca wesakhiwo kwicala ukusuka kwiimitha ezim-2m ukuya ku0m ukulungiselela ukwandisa igaraji/ udonga lweskriini libe nokuphakama okuzimitha eziyi3,2m.

linkcukacha ezipheleleyo ngesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini, Phakathi kwentsimbi yesi08:00 neye16:30 kwiSebe: Izicwangciso ngeDolophu, Paterson Street, Hermanus. Naziphi na izimvo zingangeniwa ngokwezibonelelo zeSoloty lama51 nelama52 Omthethwana kaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) ngomhla okanye ngaphambi komhla **25 kaJuni 2021**, uchaze igama lakho, idilesi neenkukacha ofumaneka kuzo, umdla wakho kwesi siphakamiso nezizathu zokuhlomla. Imibuzo ngefowuni ingabuzwa ku**Mnu. P Roux** ku028-313 8900. UMasipala angala ukwamkela izimvo ezifunyenwe emva komhla wokuvala. Nabani na ongakwazi ukubhala nokufunda angandwendwela kwiSebe leZicwangciso ngeDolophu apho igosa likamasipala liza kumnceda afake izimvo zakhe ngokusemthethweni.

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

ERF 2213 HERMANUS

DIVISION: CALEDON

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

Plan Active Town & Regional Planners has been appointed by C. Neethling, on behalf of the Witklip Trust, the owner of erf 2213 Hermanus, to apply for the determination of an administrative penalty and departure of the subject property.

Erf 2213 Hermanus is 495m² in extent and is held by title deed no. T39982/2017.

There is an existing double storey dwelling with double garage situated on the subject property.

The previously constructed external concrete staircase, on the western erf boundary, was replaced with a steel and wooden staircase. The latter was done to lower the coverage of the existing structures on the subject property to meet the maximum coverage requirement of 50% for Residential Zone 1 properties. The new staircase is however still positioned within the 2m western lateral building line. In addition, the existing screen wall / extended garage façade wall positioned within the eastern lateral building line extends beyond the maximum height of 2,1m.

To allow the property owner to keep the existing As Built structures on the subject property, this application intends to address the following As Built structures that encroach the Land Use Scheme Regulations (2020):

- The external staircase within the 2m Land Use Scheme western lateral building line;
- The height of the garage façade wall / screen wall as an extension of the garage façade positioned within the 2m Land Use Scheme eastern lateral building line.

2. APPLICATION DETAILS

1. Application is made in terms of:

- 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 for the unlawful As Built external staircase and extended garage façade / screen wall;
- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, for the departures from the Land Use Scheme Regulations building lines.

3. NEED AND DESIRABILITY

3.1 PROPERTY DESCRIPTION

Erf 2213 Hermanus is situated at 66, Tenth Street, Voëlklip. Refer to the locality plan attached.

Erf 2213 Hermanus is 495m² in extent and is held by title deed no. T39982/2017.

The subject property gently slopes from north to south and is characterized by residential structures (double storey dwelling with double garage) and a garden area. The existing structures have a combined footprint of 247,50m² in extent.

3.2 ZONING

Erf 2213 Hermanus has the following land use rights:

ERF NUMBER	ZONING
Erf 2213 Hermanus	Residential Zone 1: Single Residential

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

3.3 LAND USE

There is an existing double storey dwelling with double garage and garden area situated on erf 2213 Hermanus. The subject property is therefore used for single residential living purposes.

Land uses that surround the subject property are single residential dwellings, beaches, public open spaces and public roads.

3.4 PROPOSAL

The following is proposed:

1. The determination of an **administrative penalty** in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020;
2. The **departure** of erf 2213 Hermanus in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, to:
 - Relax the western lateral building line from 2m to 1,2m to accommodate the As Built external steel and wood staircase.

- Relax the eastern lateral building line from 2m to 0m to accommodate the extended garage façade / screen wall with a height of 3,2m.

The potential of the subject property is discussed in detail in *Section 3.5 Potential of the property*.

There is an existing double storey dwelling with double garage situated on the subject property. With the construction of the structures on site, an external concrete staircase was added to the western side of the dwelling that gives access to the scullery and kitchen. Although the access to the kitchen and scullery is interleading with the house, the need exists for an external entrance to be more accommodating towards the domestic work that must be done at the dwelling. The external staircase ensures flow from the scullery and kitchen to the laundry room, without intruding on the privacy of the house residents and guests.

In addition, the garage façade was extended towards the eastern erf boundary to create a screen wall. From an aesthetical point of view the façade must remain at the same height as the garage façade and to lower the extended façade wall / screen wall will not do justice to the design of the house. Although boundary walls are allowed within the 2m eastern lateral building line, the height of the extended garage façade / screen wall encroaches the maximum permissible height.

When building plans were finalized the total extent of the structures on site encroached the maximum allowable coverage for Residential Zone I properties. In addition, a land use application (departure) to accommodate the concrete flight of stairs, the extended garage façade and the exceeding coverage was refused in 2020 (refusal letter from Overstrand Municipality dated 16 January 2020 attached). Andrew Greeff Architects were appointed to consult our client on the way forward. It was proposed to replace the existing concrete staircase with a wooden and steel staircase to be more accommodating towards the total coverage of the site. In addition, the owners also intend to keep the As Built extended garage façade / screen wall that encroaches the 2m eastern lateral building line from an aesthetical and privacy perspective. All other contraventions were rectified.

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To allow the property owners to retain the existing As Built staircase and extended garage façade / screen wall, an application is submitted for the following:

- The determination of an administrative penalty for the existing external staircase and extended garage façade / screen wall to allow the owners to keep both these structures;
- The departure to:
 - relax the western lateral building line from 2m to 1,2m to accommodate the As Built external steel and wooden staircase;
 - Relax the eastern lateral building line from 2m to 0m to accommodate the As Built extended garage façade / screen wall with a height of 3,2m.

3.4.1 Rectification of contravention

In terms of Chapter 5, Section 90(1) a person who is in contravention of the Municipal Planning Amended By-Law (2020), 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.

As the application is for the rectification of a contravention of the By-Law (due to the existing staircase and extended garage façade / screen wall not being permitted by the current zoning scheme regulations), an application is submitted for the determination of an administrative penalty fee in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020. However, the Municipal Planning Tribunal (MPT) has the authority not to impose such a fee.

In terms of Section 90(3) of the MPBL, the MPT must at least consider the following factors when determining an appropriate administrative penalty:

- **The Nature, duration, gravity and extent of the contravention**

The existing owners recently bought and developed the subject property. A land use application was considered in 2019 / 2020 for departures to accommodate an extension to the approved garage, an external open flight of stairs and to exceed the maximum permissible coverage. The land use application was refused due to a lack

of desirability and various inconsistencies in the application. A new architect was appointed to assist the owner in re-evaluating the current development on site. Numerous demolition work was undertaken to make the already developed property more compliant with the relevant zoning scheme regulations. One of the works undertaken on the site was to replace the external concrete flight of stairs with a steel and wood staircase instead of removing the staircase completely. The As Built staircase was however constructed illegally and is also positioned within the 2m western lateral building line. The owner also would like to keep the existing extended garage façade / screen wall that encroaches the 2m eastern lateral building line. The height of the garage façade is 3,2m.

The external open staircase is used to give access to the scullery and kitchen. Although the access to the kitchen and scullery is interleading with the house, the need exists for an external entrance to be more accommodating towards the domestic work that must be done at the dwelling. The external staircase ensures flow from the scullery and kitchen to the laundry room, without intruding on the privacy of the house residents and guests. The staircase is situated 1,2m from the western erf boundary.

Although the staircase was constructed illegally, the plans were revised by Andrew Greeff Architects to ensure better compliance with the zoning scheme regulations. While the initial (refused) land use application included more departures, this application now only proposes to keep the new (wood and steel, not concrete as per the initial application) external staircase extending over the western lateral building line and the extended garage façade / screen wall that encroaches the eastern lateral building line. All other contraventions have been omitted.

The position and nature of the staircase and extended garage façade on the property are unobtrusive in nature and do not impact negatively on the surrounding properties, as no complaint from surrounding property owners has been received up to date. A building line departure application to accommodate the staircase on the 1,2m western lateral building line and the extended garage façade of 3,2m high on the 0m eastern lateral building line is included in this application.

- **The conduct of the person involved in the contravention**

The current unlawful land use is only due to the owner being not previously aware or informed that the departure application previously submitted to accommodate the staircase was in fact a high-risk application and will not be permitted by the zoning scheme regulations. The property owner was also unaware that the land use application previously submitted by their appointed consultant did not meet the desirability criteria as stipulated in the relevant land use planning bylaw. Only once the previous decision was issued it was evident that the consultant appointed at the time did not act in their best interest and had little knowledge of the land use application process. Hence a new architect and Plan Active were appointed to assist in the matter.

- **Whether the unlawful conduct was stopped**

The owner made significant changes to the initially (refused) application (some previous contraventions are now compliant: coverage). The owner now attempts to rectify the contravention by submitting the administration penalty application in order to legalise the As Built structures on the subject property.

- **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 works, we will submit a report from a quantity surveyor with reference to the unauthorised building works. 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.

- **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, they have never previously contravened this By-Law or any other previous planning law.

- **Summary**

We appeal to the Overstrand Municipality to take into consideration the low impact the new and improved external “open” staircase will have on the surrounding area. In addition, the As Built garage does not encroach the 2m eastern lateral building line. It is merely the As Built extended garage façade / screen wall that extends into the 2m eastern lateral building line. It should also be considered that no complaints from surrounding properties have been submitted with regards to the staircase and the extended garage façade / screen wall. Once the previous land use approval to accommodate the external flight of stairs were refused, the owner immediately gave instruction to other consultants to assist in the matter to rectify the contravention by submitting a complete (and fully motivated) departure application and submitting a determination of an administrative penalty application. We therefore respectfully request that a minimal penalty fee not be imposed on the property owner for the reasons given above.

3.4.2 Departure (building line relaxations)

With the previous land use application (2019/2020) the concrete staircase on the western erf boundary and the extended garage façade / screen wall were included in the application. The application was however refused due to a lack of desirability and inconsistencies in the application. A few of the reasons listed were that the proposed coverage as motivated and shown on the building plan did not consider the fact that the external (outside) staircase also adds to the total coverage of the site. In addition, since the property was being newly developed, the building plans were submitted simultaneously with the town planning application. Therefore, the architect at the time neglected to plan the proposed additions prior to submitting the building plan and neither attempted to revise the submitted building plans in order to confirm to the zoning scheme parameters.

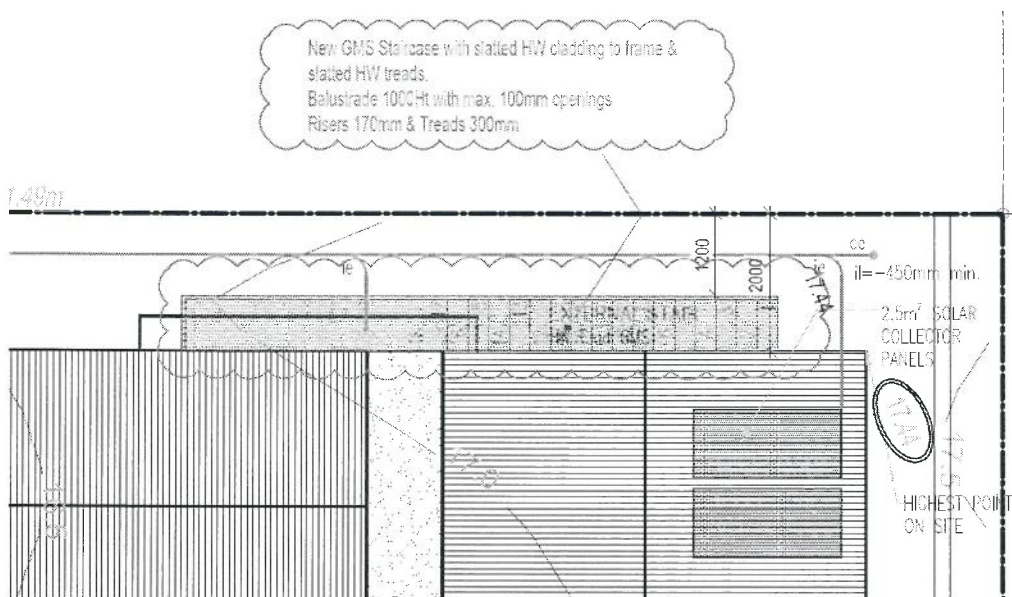
A new consultant team was appointed to attend to the matter, hence the new site development plan and land use application. All previous contraventions were removed, except for the external staircase and extended garage façade / screen wall. Instead of omitting the staircase, the concrete staircase was replaced with a steel and wooden

“open” staircase. The aforementioned, then no longer forms part of the coverage calculation of the site.

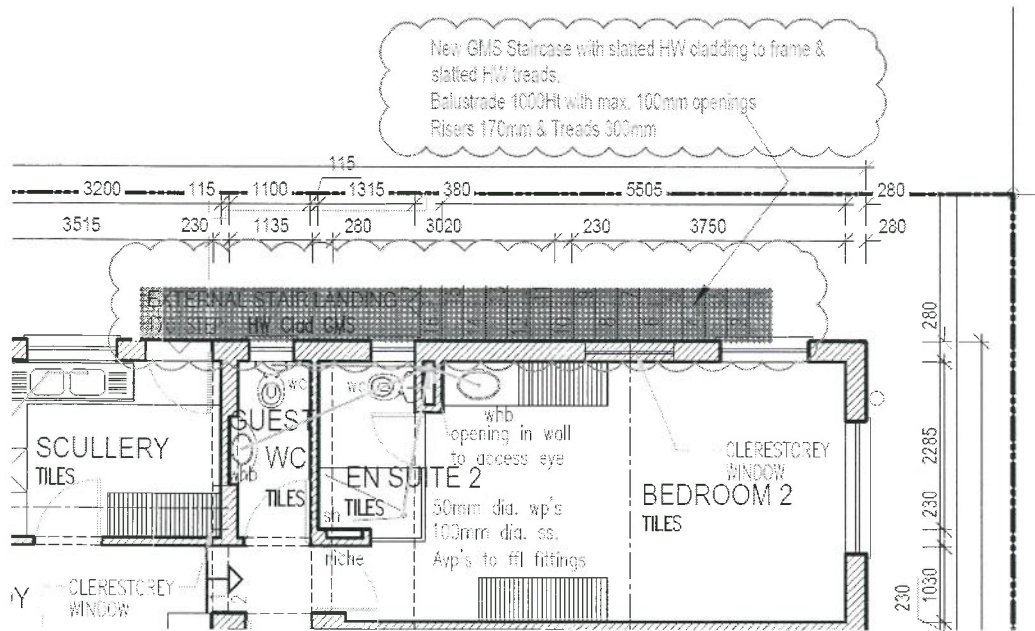
An application is submitted for a departure to relax the western lateral building line from 2m to 1,2m to accommodate the As Built external steel and wooden staircase. Refer to the site development plan attached.

The position of the staircase is indicated in the images from the site development plan below:

1. Position of the external staircase on the site plan



2. Position of the external staircase on the first-floor plan



3. Western elevation of the staircase



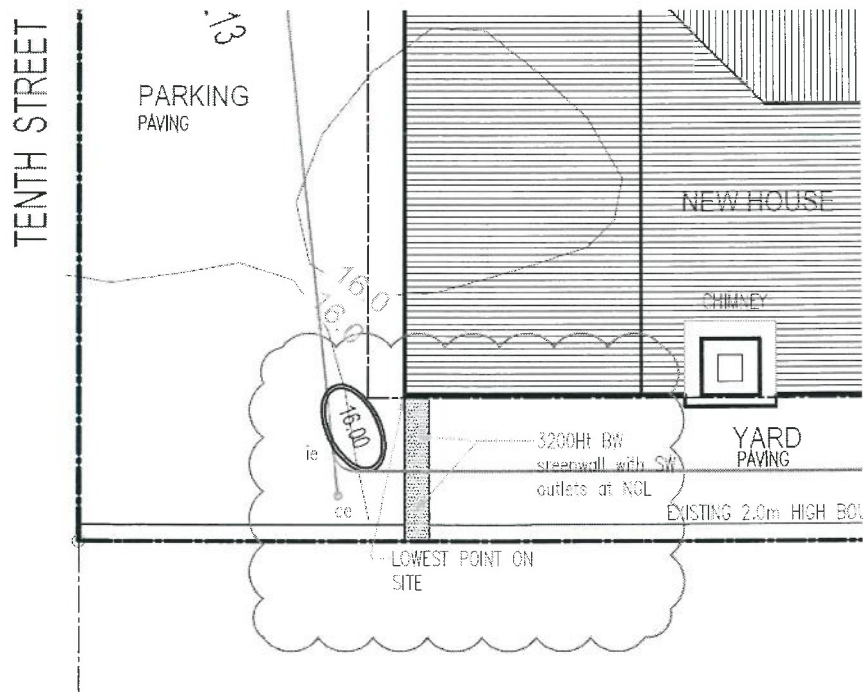
ELEVATION : WEST

The reason for keeping the staircase instead of demolishing the whole structure was already discussed in the previous paragraphs.

Stairs are usually permitted within the building lines as a general encroachment in the land use scheme, subject to a maximum height restriction. Since the staircase cannot meet the maximum height requirement, a departure application applies.

The owner also wishes to retain the As Built extended garage façade / screen wall for aesthetical and privacy reasons. The zoning scheme regulations allows boundary walls with a maximum height of 2,1m. The As Built extended garage façade / screen wall is 3,2m high. The wall extends up to the eastern lateral erf boundary. Since the wall that encroaches the 2m eastern lateral building line exceeds the maximum height of 2,1m, an application is submitted for a departure to relax the eastern lateral building line from 2m to 0m to accommodate the As Built extended garage façade / screen wall of 3,2m high. From an aesthetical point of view the façade must remain at the same height as the garage façade and to lower the extended façade wall / screen wall will not do justice to the design of the house. In addition, the screen wall creates the necessary privacy from the street. It is also worth noting that the extended garage façade / screen wall is positioned on the lowest point of the subject property (as indicated on the site plan). The slope of the site therefore favours the additional height of the As Built extended garage façade / screen wall and thus minimizes the impact on the adjacent properties and the street interface. From the south elevation plan below it is evident that almost half of the extended garage façade / screen wall is below the natural ground level.

4. Position of the extended garage façade / screen wall on the site plan



The subject property has the potential and allows for the deviations being applied for since the zoning scheme regulations' general encroachment provisions allows for the positioning of steps / staircases and boundary walls within building lines subject to the conditions specified.

Although the proposed staircase will be higher than 1m and does therefore not meet the requirements for general encroachments, the use of the structure within the western lateral building line is to give access only. In addition, a 1,2m western lateral building line will still be maintained. A 1,2m lateral building line was previously considered a sufficient building line in terms of the older Hermanus Scheme Regulations. The area of Voëlklip has smaller erf sizes and thus a 1,2m lateral building line has been favourably considered for various erven in the suburb. To allow a 1,2m western lateral building line to accommodate the staircase (not a habitable structure) is therefore not asking for more than what has been considered in the area previously.

The zoning scheme regulations allow boundary walls with a maximum height of 2,1m. The extension of the garage façade / screen wall has a height of 3,2m. From an aesthetical point of view the façade must remain at the same height as the garage façade and to lower the extended façade wall / screen wall will not do justice to the design of the house. In addition, the screen wall creates the necessary privacy from the street. It is also worth noting that the extended garage façade / screen wall is positioned on the lowest point of the subject property. The slope of the site therefore favours the additional height of the As Built extended garage façade / screen wall and thus minimizes the impact on the adjacent properties and the street interface.

The scale of the surrounding built environment, the low impact on the streetscape, the reduced coverage (in line with the land use requirements), the slope of the subject property, etc. are also factors that have to be considered when contemplating the potential of the property to accommodate the departure. The following factors confirm the potential of the property to accommodate the proposed lateral building line deviations:

- good quality materials were used;

- the architectural style of the As Built alterations / additions matches the architectural style of the existing approved structures.
- As Built alterations / additions indicated on the proposed site development plan will not encroach the Land Use Scheme's (2020) coverage.
- The dwelling will be used for residential purposes only (no change of use proposed – merely structural alterations).
- The alterations / additions will add value to the subject property as well as the area.

3.6 ECONOMIC IMPACT

The proposed Land Use Scheme relaxation of the western and eastern lateral building lines is to accommodate the existing external steel and wooden framed staircase and the extended garage façade / screen wall. The proposed departures will allow the owner to keep and legalise all structures on the subject property and this will favour the resale of the property in the future and have a positive impact on the adjacent properties. In addition, to demolish the existing staircase and extended garage façade / screen wall will have a great cost implication for the property owners. By accommodating the As Built structures the need for an external staircase is met. By accommodating the extended garage façade / screen wall the aesthetical value of the subject property will remain. Both the structures do not have a negative impact on the surrounding property owners as previously discussed.

The proposed deviations will have a low but positive impact on the local economy. One family will continue to reside on the property who will continue to invest in the local economy of the area.

3.7 SOCIAL IMPACT

The proposed departures will have no impact on the social status quo of the area. The deviations will however allow the owner to retain all existing structures on the subject property.

No negative impact on the social wellbeing of the surrounding community is anticipated. It is submitted that the property will be compatible with the character of the area and does not impact negatively on the rights of anyone else.

3.8 COMPATIBILITY WITH SURROUNDING LAND USES

The subject property is situated in an existing low-density residential area. The application does not propose to change the zoning or land use of the subject property and therefore the proposal is compatible with the surrounding land uses.

The surrounding properties are developed with single and double storey dwellings and the use of the surrounding properties is for permanent residences and holiday houses. The scale of the structures on erf 2213 Hermanus (and the respective uses thereof) merges well with the scale of the surrounding dwellings in the immediate area.

In addition, to accommodate the As Built alterations / additions will contribute towards the value of the subject property and consequently have a positive impact on the area. The use of the subject property will primarily remain for residential purposes (dwelling with outbuildings).

There is no substantial impact on the streetscape as discussed in detail in Sections 3.4, 3.5 and 3.11 of this report.

3.9 IMPACT ON EXTERNAL ENGINEERING SERVICES

All services on the subject property already exist. The As Built structures will have no impact on the scale and usage of the existing available services since no additional loading of the existing civil infrastructure is anticipated.

Additional services (if required) will be provided to the satisfaction of the Overstrand Municipality.

3.10 IMPACT ON SAFETY, HEALTH AND WELLBEING OF SURROUNDING COMMUNITY

The proposed departures will have no impact on the general safety and wellbeing of the surrounding community. It is anticipated that a maximum of one family will continue to occupy the subject property. The As Built external staircase to be accommodated with a departure will not be used as a habitable area and thus the impact on the adjacent properties will be kept to a minimum. The footprint of the dwelling was slightly changed since the concrete staircase was replaced with a wood and steel framed staircase and an opening was cut into an existing RC slab. The latter was however done to ensure that the coverage complies with the maximum permissible coverage.

The extended garage façade / screen wall promotes the safety and privacy of the residents of erf 2213 Hermanus without compromising the safety and privacy of the adjacent property owners. All As Built alterations / additions still ensure that the dwelling remains aesthetically pleasing.

Since the proposed departures are not associated with a noxious trade with polluting air emissions the impact on the health of the community will be kept to a minimum.

3.11 IMPACT ON HERITAGE

The application does not involve changing the character of a site larger than 5 000m². Consequently, the proposed application for the departures does not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

Erf 2213 Hermanus is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality's Zoning Scheme Heritage Overlay Zone (2020). The subject property is also not earmarked for heritage conservation purposes with reference to the Overstrand Municipal Growth Management Strategy (2010).

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 departures will not have a negative impact on the heritage value of the Hermanus area.

3.12 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed departures do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

The subject property is not situated within the Overstrand Municipality's Zoning Scheme Environmental Overlay Zone (2020).

3.13 TRAFFIC IMPACT, PARKING AND ACCESS

Access to erf 2213 Hermanus will remain unchanged and will be from Tenth Avenue. Refer to the site development plan.

The Overstrand Municipality Land Use Scheme (2020) stipulates that a minimum of two parking bays are required for a dwelling house. There is an existing double garage on the subject property. The dwelling house on erf 2213 Hermanus will therefore comply with the minimum parking requirements for SR1 zoned properties.

The subject property will still be used primarily for single residential purposes and therefore the impact on the traffic flow in the area will remain unchanged.

3.14 TITLE DEED

Title Deed no. T39982/2017 has no restrictions that need to be removed for this application for the departure of the prescribed building lines to be approved.

There is a bond registered against erf 2213 Hermanus. The bond was paid in full and in the process of cancellation.

3.15 FORWARD PLANNING AND LAND USE DOCUMENTS

The *Overstrand Spatial Development Framework (2020)* earmarks the area where erf 2213 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 impact of the proposed departures on the spatial integrity of the area will be minimal and is therefore consistent with the Overstrand SDF (2020).

The *Overstrand Municipal Growth Management Strategy (OMGMS, 2010)* specifies that erf 2213 Hermanus forms part of Planning Unit no. 6 for Hermanus East. Densification from 8,6du to 11,6du is proposed for this planning unit. No additional portions or second dwelling units are proposed with this application. The

status quo of the area (low density residential) will remain unchanged. The land use application for the subject property therefore falls within the existing planning for the Hermanus East area.

The proposal will promote land development in a location that is sustainable. The proposed departures are to an improved erf within an established residential area and will not impact on urban sprawl or upon a sensitive environment.

The impact on the overall density of this part of Hermanus will therefore be kept to a minimum since the proposed application still promotes a low-density residential area.

From the above it is evident that the proposed development **adheres and complies** with the relevant municipal spatial planning policies.

3.16 PLANNING PRINCIPLES

The planning principle of spatial resilience does not apply to this application.

Spatial justice: The proposed land use application ties in with the existing character of the area and will not have a negative impact on the surrounding neighbours. The impact on the biophysical environment will be low as the subject property has been in existence since 1943.

The proposed application will not further promote the spatial development imbalances. This application is for an erf as per the establishment of the existing Hermanus Township. The proposed application is in character with the existing area (Voëlklip – Hermanus East) where similar applications have been approved in the past and therefore, the approval of the proposed application will not be spatially biased.

Spatial sustainability: The proposed departures will have no impact on the visual elements of the subject property and surroundings since the As Built staircase that encroaches the western lateral building line and the As Built extended garage façade / screen wall already exist. It is submitted that the existing As-built external “open” staircase and extended garage façade / screen wall are compatible with the character of the area (as motivated in previous sections of this report). The encroachment of the western and eastern lateral building lines has no impact on the massing of the buildings and the impact on the streetscape or passers-by is considered minimal. The As-built staircase and extended garage façade / screen wall merge well with the area. The impact on the biophysical environment will also be kept to a minimum since the structures already exist.

Factors such as the good quality materials used, the overall layout of the structures on the subject property, the scale of the surrounding built environment, the low impact on the streetscape, the changes made to the staircase and RC slab, the reduced footprint of the structures on the subject property to comply with the maximum permissible coverage, the slope of the subject property, etc. allow for the consideration and approval of the proposed deviation without having an adverse impact on the spatial sustainability of the area. The As-Built additions / alterations are to an improved erf within an established residential area and therefore will not impact on urban sprawl, or upon a sensitive environment.

The application is considered spatially sustainable as the existing property will be more optimally utilised. The existing structures are compatible with the character of the area and do not impact negatively on the rights of any adjacent property owner.

Efficiency: The subject property is easily accessible and conveniently located close to Hermanus CBD and major routes. It proves to be resourceful to consider the alterations to the subject property since it is compatible with the existing built environment and the way the As Built additions and alterations were done is aesthetically pleasing.

It proves to be efficient to accommodate the As Built alterations / additions since the impact on the whole look and feel of the subject property will add value to the property and the area as a whole.

The proposed departures prove to be efficient since it discourages the phenomenon of urban sprawl, encourages densification and more compact towns and cities, all of which relates to more responsible resource and infrastructure use and sustainable development. Furthermore, the proposal is efficient in that it optimizes existing resources and infrastructure and continues the existing suburban development typology.

Good administration: Our firm 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.

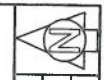
4. RECOMMENDATION

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

- The necessary alterations were made to the As Built structures to ensure greater compliance with the zoning scheme regulations. The owner intends to legalise the encroachments and obtain approved building plans from the building control department;
- The proposed determination of an administrative penalty and departures are to accommodate the As Built external staircase and extended garage façade / screen wall only;
- All services on the subject property already exist and no additional loading of the existing infrastructure is anticipated;
- The densification status quo of the area will remain unchanged;
- The zoning and primary land use of the subject property will remain unchanged;
- The proposal is compatible with the existing built character of the area;

- Impact on the traffic and services will be kept to a minimum;
- There are no environmental aspects that will negatively impact the application and the application will not have a negative impact on any environmental factors;
- The impact on the heritage value of the dwelling and site will be minimal;
- The proposal is compatible with the spatial planning strategies for the area;
- The application is fully compliant with the applicable planning principles described in the LUPA (2014) and SPLUMA (2013);
- We request that a minimal penalty fee not be imposed.

The application can be supported for your favourable evaluation. The opinion is held that this application will have no negative impact on the land values, privacy, built environment and character of the area.



Scale: NTS
 Drawing No: IEM22131.dwg
 Date: JANUARY 2021

Plan Description:
LOCALITY MAP

Property Description:
**ERF 2213
 HERMANUS**

All distances approximate
 and subject to survey.

Stads-en Streeksbeplanners
 Town & Regional Planners



COPY RIGHT RESERVED

Notes:
 The site



NOTE:

- 1. THE DRAWING IS TO BE USED IN CONJUNCTION WITH THE SPECIFICATIONS AND CONDITIONS OF CONTRACT.
- 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES.
- 3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES.
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- 9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES.
- 10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES.

No.	Revision	Date

Check _____
 Authorised _____

ANDREW OSBEY
 ARCHITECT

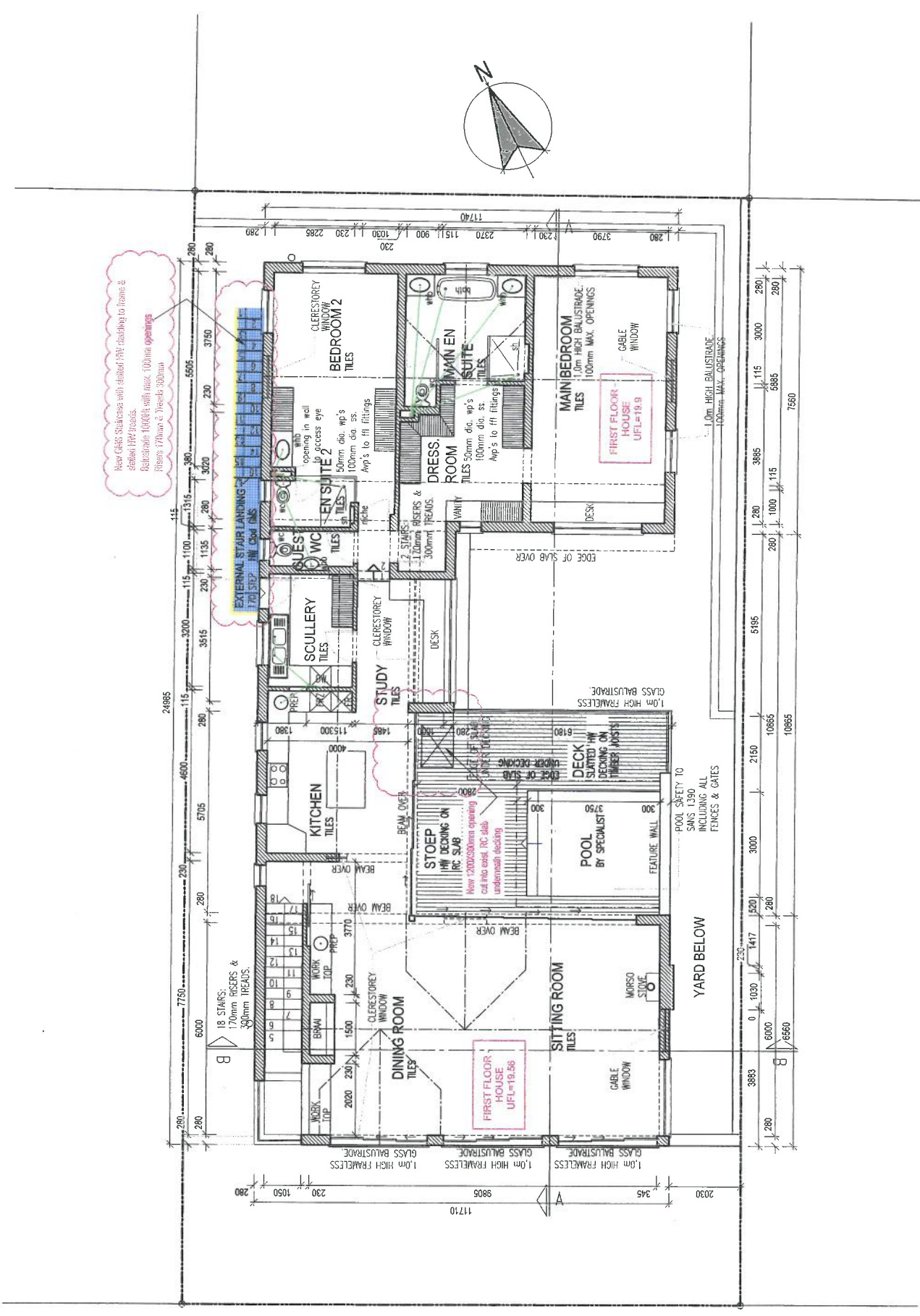
HOUSE REEHLING
 213 BENTON STREET
 HERMANUS
 OVERSTRAND

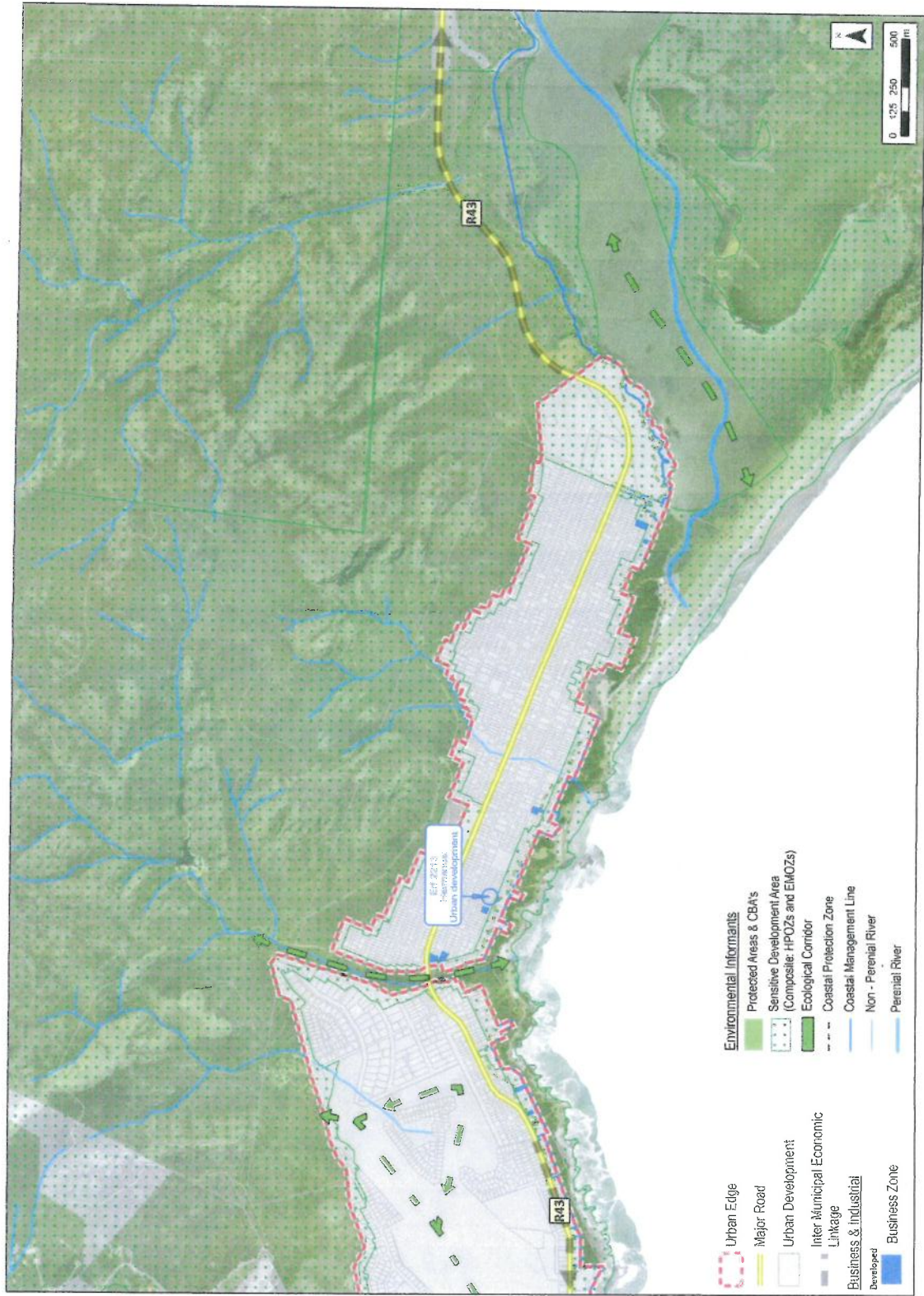
NEW DWELLING
RIDER PLAN
FOR APPROVAL

PLAN:
FIRST FLOOR

SCALE: 1:100
 DATE: 21/07/2020

DRG. NO. 1.3





Plan 60: Hermanus East Spatial Proposal 2020



