



**MEETING OF THE  
MUNICIPAL PLANNING TRIBUNAL  
(MPT)**

**A G E N D A**

<b>DATE:</b>	<b>24 FEBRUARY 2022</b>
<b>VENUE:</b>	<b>ELECTRICAL CONFERENCE ROOM, ONRUS</b>
<b>TIME:</b>	<b>10:00</b>

# OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT  
Civic Centre  
HERMANUS  
7200

17 February 2022

**TO : THE MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL**

**CONVENING NOTICE : SESSION OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)**

**NOTICE IS HEREBY GIVEN** that the **Municipal Planning Tribunal (MPT)** will go into session on **Thursday, 24 February 2022 at 10:00** at the **Electrical Conference Room, Onrus** to consider the attached agenda.

**H JANSER (MS)**  
**CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL**

**Distribution:**

1. Ms H Janser (Chairperson)
2. Mr S Müller (Vice Chairperson)
3. Mr S Madikane (Member)
4. Mr H Blignaut (Member)
5. Ms R Louw (Member)
6. Mr R Kuchar (Authorised Official)
7. Mr S van der Merwe (Senior Town Planner)
8. Ms H van der Stoep (Senior Town Planner)
9. Mr P Roux (Town Planner)
10. Secretariat

**MUNICIPAL PLANNING TRIBUNAL  
(MPT)**

24 February 2022

**I N D E X**

<u>ITEM</u>		<u>PAGE NUMBER</u>
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4.1	<b>ERF 5559, 243 FIFTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE: MESSRS INTERACTIVE TOWN &amp; REGIONAL PLANNING ON BEHALF OF THE KIEPERSOL BELEGGINGSTRUST</b>	<b>1</b>
4.2	<b>ERF 6304, 28 NINTH STREET, KLEINMOND: APPLICATION FOR CONSENT USE: MESSRS FVS TOWN AND REGIONAL PLANNERS ON BEHALF OF L SINGLETON</b>	<b>27</b>
4.3	<b>ERF 2666, 201 PORTER DRIVE, BETTY'S BAY: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT AND DEPARTURE: MESSRS HIGHWAY CONSULTANTS ON BEHALF OF ASK SECURITY CC</b>	<b>71</b>
4.4	<b>ERF 428, 13 CENTRAL ROAD, PRINGLE BAY: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND DEPARTURE: HIGHWAY CONSULTANTS ON BEHALF OF C DOWNS / MESSRS ATC (PTY) LTD</b>	<b>232</b>

**1. OPENING**

**2. APPLICATIONS FOR LEAVE OF ABSENCE**

**3. CONFIRMATION OF MINUTES**

**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 15 December 2021**

**3.2 Minutes of a Municipal Planning Tribunal Meeting held on 3 February 2022**

**4. ITEMS FOR CONSIDERATION**

**4.1 ERF 5559, 243 FIFTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE: MESSRS INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF THE KIEPERSOL BELEGGINGSTRUST**

Report attached

**4.2 ERF 6304, 28 NINTH STREET, KLEINMOND: APPLICATION FOR CONSENT USE: MESSRS FVS TOWN AND REGIONAL PLANNERS ON BEHALF OF L SINGLETON**

Report attached.

**4.3 ERF 2666, 201 PORTER DRIVE, BETTY'S BAY: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT AND DEPARTURE: MESSRS HIGHWAY CONSULTANTS ON BEHALF OF ASK SECURITY CC**

Report attached.

**4.4 ERF 428, 13 CENTRAL ROAD, PRINGLE BAY: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND DEPARTURE: HIGHWAVE CONSULTANTS ON BEHALF OF C DOWNS / MESSRS ATC (PTY) LTD**

Report attached.

**4.1****ERF 5559, 243 FIFTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE: MESSRS INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF THE KIEPERSOL BELEGGINGSTRUST****5559 HVK****P Roux****21 December 2021****(028) 313 8900****Hermanus Administration**

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**1. EXECUTIVE SUMMARY**

An application was received on 20 January 2021 from Messrs Interactive Town and Regional Planning on behalf of the Kiepersol Beleggingstrust for a departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 (By-law) applicable to Erf 5559, Voëlklip, Hermanus for the relaxation of the height restriction from 8m to 8,7m to accommodate an existing roof ridge.

The Locality Plan of the property concerned is attached as Annexure A. The Motivation Letter from the applicant in support of the application is attached as Annexure B, while the Site Development Plan is attached as Annexure C.

**2. DECISION AUTHORITY**

Municipal Planning Tribunal

**3. BACKGROUND / SITE HISTORY**

Erf 5559 is situated in Voëlklip, Hermanus and is zoned Single Residential Zone 1. The subject property is situated in a predominant residential area. Erf 5559 measures 1400m<sup>2</sup> in extent. The subject property is developed with a double storey dwelling and a loggia. Building plans was approved in 2014. Erf 5559 gains access from Thirteenth Avenue west of the property. The roof of the main dwelling exceeds the height limit provided by the Land Use Scheme, 2020.

**4. SUMMARY OF APPLICANT'S MOTIVATION**

The motivation for the application is summarised as follows:

- ❖ In terms of the building plan in 2014 the ridge height of the roof would have been 7,98m. However, a height certificate was issued on the property, and it was found that the 8m height restriction was exceeded. Thus, the application entails for the relaxation of the building height restriction from 8m to 8.7m to accommodate the roof.
- ❖ The reason for the roof exceeding 8m is that the building contractor made a calculation error with the base level during the cut and fill process, and the natural ground level was filled which led to the base level being higher than indicated on the approved building plan.
- ❖ The application is considered desirable, for the following reasons:
  - the transgression is a calculation error by the building contractor of the physical mean level/average natural ground level on site during the cut and fill phase,
  - the owner wishes to bring the dwelling in line with the statutory requirements,

- the proposal is considered to be most cost-effective, practical and least destructive solution to the calculation error,
  - to the best of our knowledge no objections have ever been lodge regarding the potential of obstruction of ocean views,
  - the white colour of the roof blends in with the skyline and therefore supports the aesthetical value of the environment, and
  - the proposal will have no impact on the environment.
- ❖ There are no title deed restrictive conditions that prohibit the applicant to proceed with the application.
  - ❖ The owner does not plan to make changes to the land use of the property and the property will be utilised for residential purposes only.
  - ❖ Overstrand Municipal Spatial Development Framework, 2020: Erf 5559 falls within the urban edge.
  - ❖ Overstrand Municipality Growth Management, 2010: Erf 5559 is located in a 10 to 20 Dwelling Unit per Hectare Densification Zone. The proposed application does not contribute to any densification therefore the application is in line with the Overstrand Municipality Growth Management, 2010.
  - ❖ The application is motivated to be in line with the planning principles as set out in terms of SPLUMA.

#### 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Internal Departments	Yes	24 May 2021	02 July 2021
Ward councillor	Yes	24 May 2021	02 July 2021
Notices	Yes	24 May 2021	02 July 2021
Total number of letters	<b>None</b>		
Was public participation undertaken in accordance with Section 46 - 50 of the By-law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly?			<b>Yes</b>
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA?			<b>Yes</b>

#### 6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
Building Department	24/05/2021	No objection. A building plan application must comply with all applicable law.
Local Heritage	24/05/2021	No objection.
Engineering Services	28/05/2021	Annexure D.

Fire Services	07/07/2021	No objection.
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## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Overstrand Heritage Committee indicated that they have no objection.

## 8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

N/A

## 9. MUNICIPAL ASSESSMENT OF COMMENTS

The comments from the various departments have been positive.

## 10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

### 10.1 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is of a small scale and therefore the planning objectives applicable in terms of SPULMA and LUPA cannot be adequately discussed.

The objectives relating to:

#### Spatial Justice

The proposal will not further perpetuate historic spatial imbalances.

#### Spatial sustainability

The sustainability principle, entails ensuring the protection of prime and unique agricultural land. This application will be in line with this principle as it will not hinder or remove any prime or unique agricultural land. Erf 5559 is located within the urban edge and therefore does not contribute to urban sprawl.

#### Efficiency

The efficiency principle, entails optimizing the use of existing resources and infrastructure. The proposed application entails existing roof and therefore the proposed application makes use of existing resources and will be aligned with this principle. The proposal will facilitate the optimal use of the property and will not adversely impact the natural environment.

#### Spatial resilience

The proposal is consistent with the Site Development Plan that addresses to the principle of efficiency.

#### Good administration

The application followed the required planning procedures to ensure that land use activity is in line with Municipal By-Laws and the public process has been followed.

**10.2 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)**

Same as above.

**10.3 (In)consistency with the IDP/Various levels of SDF's/Applicable policies**

N/A

**10.4 (In)consistency with guidelines prepared by the Provincial Minister**

N/A

**10.5 Impact on Municipal engineering services**

The proposed application will not require additional services.

**10.6 Outcomes of investigations/applications i.t.o other legislation**

N/A

**10.7 Existing and proposed zoning comparisons and considerations**

The subject property is zoned Single Residential Zone 1 and therefore Single Residential Zone 1 parameters as prescribed in the Overstrand Municipal Zoning Scheme, 2020 are applicable. This includes a 8m height restriction.

**10.8 ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS**

N/A

**11. THE DESIRABILITY OF THE PROPOSAL**

The application entails the departure for the relaxation of the height restriction to accommodate the 8,7m roof. From a town planning perspective to approve the encroachment of the 8m height restriction to 8,7m is not considered desirable. The applicant states in the motivation that the building plans were submitted to the Building Department and were approved in accordance with the 8m height restriction. The applicant states that the contractor made a calculation error during the cut and fill process. However, this is not the full picture as there are several inconsistencies between the plans submitted with the application and the plans approved.

Firstly, the building plans approved were amended to indicate the base level and the 8m height restriction. However, at the time the architect did not correctly amend the building plans in order to account for the change in the height profile and indicated the base level without taking account of the filling that was proposed for the site. This is evident when scaling the height on section AA and BB of the approved plan dated 10/01/2014.

Secondly, the base level calculations differ between what was approved on the approved building plan in 2014 and the proposed revision. The base levels on the

approved building plan dated 10/01/2014 was indicated as 41m, whilst the new proposed plans indicate the base level as 41.3m. No record could be found on the approved plans of a contour survey and therefore the applicant was required to provide an overlay with the contours as indicated by the architect and contours by a land surveyor. Due to lack of information on the approved building plan one needs to work with the most accurate data and that is with the information from the land surveyor. Unfortunately, even though the new correctly calculated base level is 41,3m the dwelling was still constructed over the 8m height restriction.

Thirdly the dwelling is built higher as what was previously indicated on the building plans. On the approved building plan dated 10/01/2014 the dwelling measured approximately 7,7m from the finished floor level to the top of the roof. However, on the rider plan dated 24/02/2014 the height is measured approximately 7,98m from the finish floor level to the top of the roof, this is also reflected on the new plans. What is of note is this increase of height was not indicated on the rider plan and it would not have been queried as the rider plan was for minor internal changes.

Considering the above points, it is clear that the architect made miss representations on the original building plans which led to the current building being built higher than the 8m height restriction. This indicates that the encroachment could have been prevented and was caused by negligence.

What is of concern is that the dwelling was built over the width of the property (from west to east) and therefore the majority of the roof which extends over the 8m height restriction spans over the width of the property and will contribute to a higher cumulative impact. Around 87,12m<sup>2</sup> of the roof encroaches the restricted 8m height limit with 0,7m, with a length of approximately 15,5m.

Although no objection was received from the adjoining property owners the size and position of the dwelling weighs negatively on the character of the area. Therefore, from a Town Planning perspective, the size of the encroachment is considered extensive and can therefore not be supported.

Considering the abovementioned the application is considered as undesirable.

## 12. RECOMMENDATION

1. that the departure in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-law) applicable to Erf 5559, Hermanus (Voëlklip), for the relaxation of the 8m height restriction to accommodate an 8,7m roof, **not be approved** in terms of the provisions of Section 61 of the By-Law.
2. that the Building Control Office be informed of the decision.
3. that the necessary building plans, in line with the above, be submitted to the Building Department for consideration within 60 days from the date of the final decision and that structure be rectified within 6 months.
4. that the applicant be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

**13. REASONS FOR THE RECOMMENDATION**

- ❖ Around 87,12m<sup>2</sup> of the roof encroaches the restricted 8m height limit which is considered as an extensive encroachment, not in line with the character of the area and is undesirable.
- ❖ The dwelling is constructed over the width of the property which causes a large amount of the dwelling to be over the 8m height restriction.
- ❖ The architect made misrepresentation on the original building plans (including the rider plan) with regards to the base level and 8m height restriction, and the architect did not account for the changes in the height.
- ❖ The 8m height encroachment could have been prevented with careful planning from the building contractor and the architect.

**14. Annexures**

Annexure A: Locality Plan  
 Annexure B: Motivation Letter  
 Annexure C: Site Development Plan  
 Annexure D: Approved building plan dated 10/01/2014 and 24/02/2014  
 Annexure E: Services Report

**SIGNATURES****AUTHOR:**

Name: **PETRUS ROUX**

Signature: \_\_\_\_\_

SACPLAN Reg No: **A/2246/2015**

Date: \_\_\_\_\_

**REGISTERED PLANNER**

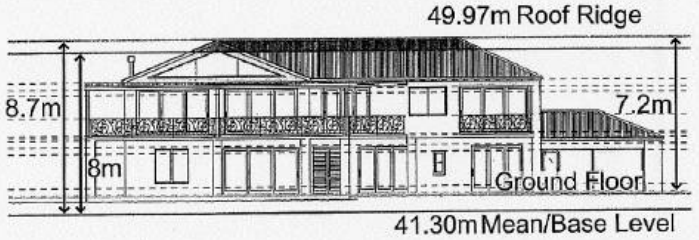
Name : **SW VAN DER MERWE**

Signature : \_\_\_\_\_

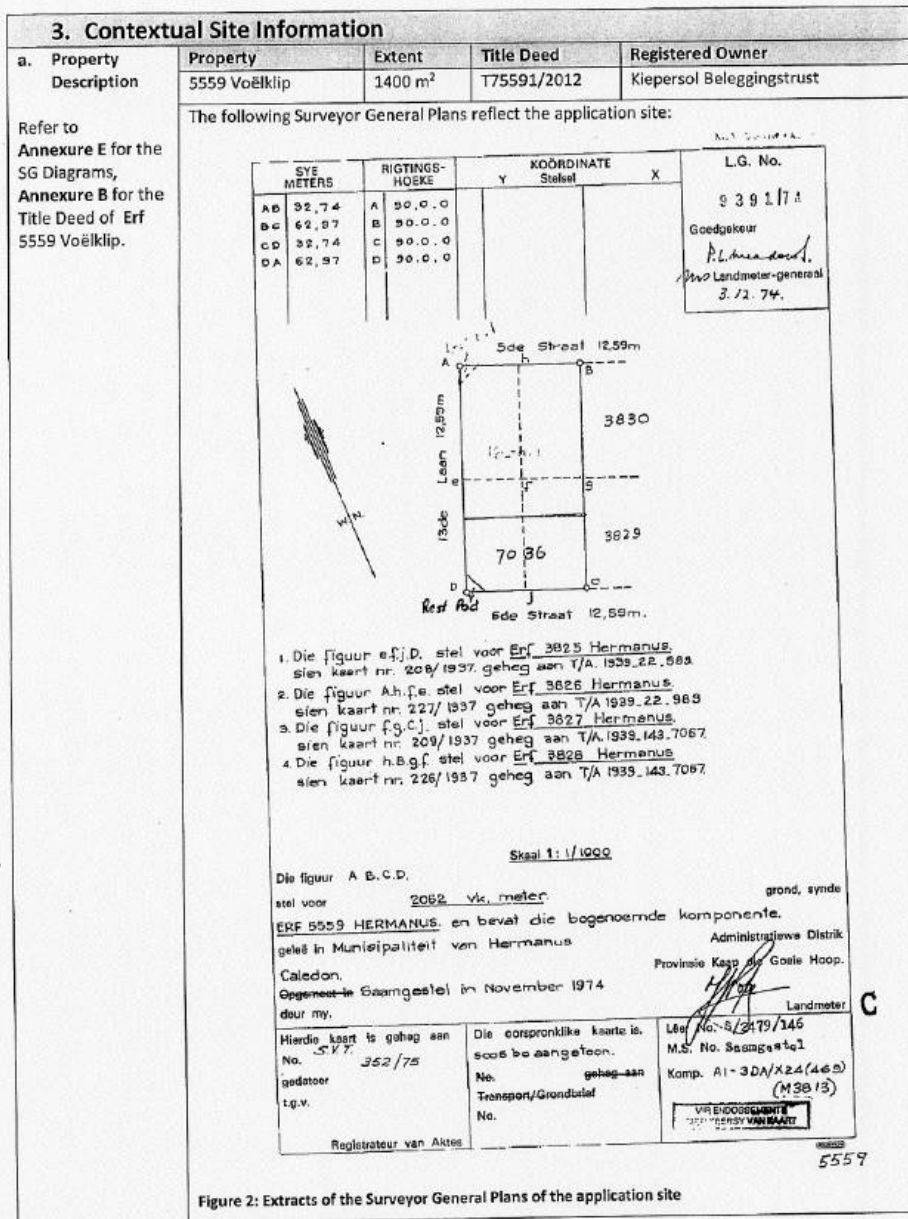
SACPLAN Reg No: **A/1850/2014**

Date: \_\_\_\_\_



1. Introduction	
<p>a. <b>Brief</b> Refer to <b>Annexure B</b> for the Power of Attorney.</p>	<p>Interactive Town and Regional Planning was appointed by the owner of the property Kiepersol Beleggingstrust to prepare and submit an application for a height departure on Erf 5559, Voëlklip in terms of the relevant legislation.</p>
<p>b. <b>Development Objective &amp; Application Proposal</b></p>	<p>The <b>development objective</b> is to legalize the unapproved height of the roof ridge to allow for the existing dwelling on the application area.</p>  <p>Figure 1: Building plan extract</p> <p>Subsequently the <b>application proposal</b> is for:</p> <ul style="list-style-type: none"> <li>• a <b>departure</b> to relax the roof ridge height from 8m to 8.7m to allow for the existing dwelling on the application area in terms of Chapter IV, Section 16(2)(b) of the Overstrand Amendment By-law on Municipal Land-use Planning, 2020.</li> </ul>
<p>c. <b>Background</b></p>	<p>The application area consists of a double-storey single residential dwelling with an <b>unapproved roof ridge height of 8.7m</b> and a separate approved loggia at nr 243 Fifth Street, Voëlklip.</p> <p>Resulting from a site inspection by ITRP, the analysis of the 2014 building plan and current measurements on the erf by the architect, it is concluded that the building contractor committed a calculation error regarding the physical mean level/ average natural ground level on site during the cut and fill phase and that the dwelling was therefore built too high.</p>

2. The Application					
<p>a. <b>Analysis: Title Deed</b> Refer to Annexure D for the Conveyancer Certificate.</p>	<p>The Conveyancer Monica Korf issued a certificate confirming that no restrictive title deed conditions exist against the proposal on Erf 5559 Voëlkliip.</p>				
<p>b. <b>Analysis: Development Criteria:</b></p> <p>The development parameters for Erf 5559 Voëlkliip, Hermanus as per the Overstrand Municipality Land Use Scheme Regulations, 2020, are summarised as follows:</p>	<b>Parameters</b>	<b>Existing Zoning:</b>	<b>Proposal:</b>	<b>Comments</b>	
	<b>Zoning</b>	Residential Zone 1: Single Residential (SR1)	Residential Zone 1: Single Residential (SR1)	Consistent	
	<b>Primary Use</b>	Day care centre, dwelling house, guest rooms, home occupation, second dwelling unit;	Dwelling house	Consistent	
	<b>Consent Uses</b>	Crèche, green house, guest house, house shop, institution, place of instruction, place of worship, residential building, tourist accommodation.	None	Consistent	
	<b>Coverage</b>	50%	30%	Consistent	
	<b>Height</b>	8m	8.7m	<b>Application is for a departure</b>	
	<b>Heights</b>	<b>Street</b>	4m	4m north 3m west	Departure already approved Consistent
		<b>Side</b>	2m	2m	Consistent
		<b>Rear</b>	2m	2m	Consistent
	<b>Parking</b>	Dwelling house: 2 bays		Dwelling house: 2 bays	Consistent
<p>c. <b>Application:</b></p> <p>The application form is attached as Annexure A.</p>	<p>Application is subsequently made in terms of the Overstrand Amendment By-law on Municipal Land-use Planning, 2020, for:</p> <ul style="list-style-type: none"> <li>a <u>departure</u> to relax the roof ridge height from 8m to 8.7m to allow for an existing dwelling on the application area in terms of Chapter IV, Section 16(2)(b).</li> </ul>				



**b. Location:**  
For the Locality Plans refer to Annexure F

**Regional Context:**

Within the regional context, the application area is located within Voëlklip residential suburb. Voëlklip is located on the Eastern side of Hermanus.

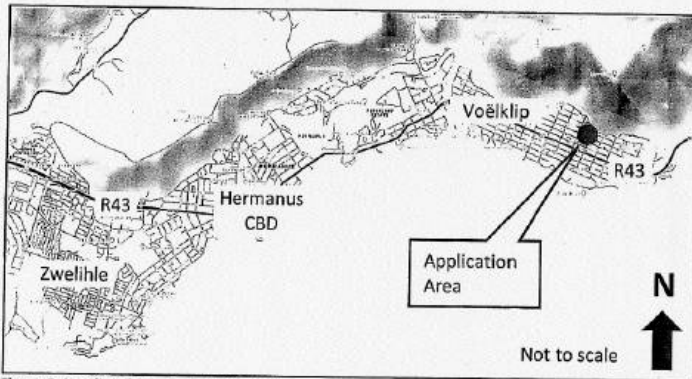


Figure 3: Locality Plan – Regional Context

**Local Context:**

Within the local context the application area consists of a residential erf within Voëlklip that forms part of the larger Hermanus West area. The application area is located at number 243 Fifth Street.

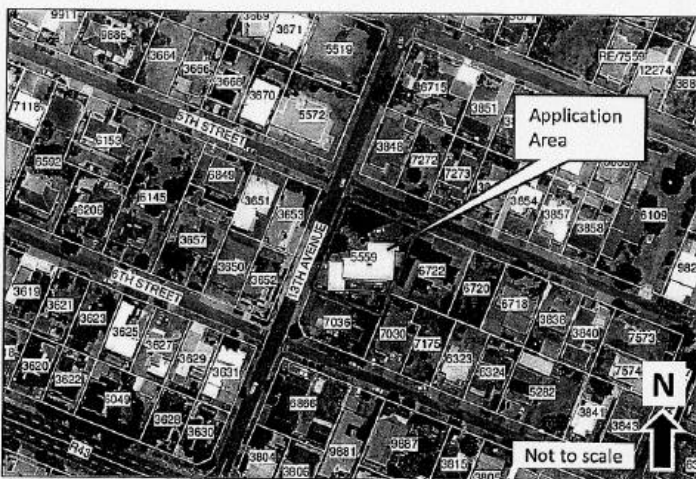


Figure 4: Locality Plan – Local Context

**c. Land Use:**

Refer to the Land Use Plan attached as Annexure H.

The application area accommodates a dwelling house on the property. The surrounding land-uses are single residential. No change in land use is proposed. The application proposal is consistent with the land use of the area.

Figure 5: Google Image illustrating the residential land-use activities of the application area and surrounding properties

**d. Zoning:**

Refer to the Extract of Hermanus Zoning plan attached as Annexure G.

The application area, Erf 5559, Voëlklip is zoned Residential Zone 1: Single Residential. The surrounding erven are zoned Residential Zone 1: Single Residential as well. No change in zoning is proposed. The application proposal is consistent with the zoning of the area.

Figure 6: Zoning Map

e. **Laws and policies relevant to the consideration of the application and forward planning and land use documents**

The following policy is applicable to the application area.


**i. Overstrand Municipal Spatial Development Framework, 2020**  
 The application area falls within a core urban residential area.

**ii. Overstrand Municipal Spatial Wide Development Framework, 2006**  
 In section 5.5.5 (i) it is mentioned that the SDF is inter alia concerned with the optimum use of land. The clause further mentions the need to provide satisfactory residential environments and further that a full range of residential needs must be catered for.  
 The application is consistent with the Overstrand Municipal Spatial Wide Development Framework, 2006.

**iii. Overstrand Municipality Growth Management Strategy, 2010**  
 The application area is within a 10 to 20 Dwelling Units Per Hectare Density Zone.

**Figure 7: Spatial Development Framework Spatial Proposals Plan**  
 The application is consistent with the Overstrand Municipal Spatial Development Framework, 2020.

**Figure 8: Extract from the Overstrand Municipality Growth Management Strategy, 2010 reflecting the envisaged land-uses for the area.**  
 The application is consistent with the Overstrand Municipality Growth Management Strategy, 2010.

4. Motivation													
<p>Motivation for the application:</p> <p>Refer to Annexure I for the Building Plan and Annexure K for the southern neighbour's consent.</p>	<p><b>a. Introduction and Background</b></p> <p>The application area consists of a double-storey single residential dwelling with an <u>unapproved roof ridge height of 8.7m</u> and a separate approved loggia at nr 243 Fifth Street, Voëlklip.</p> <p>The architect appointed by the owner to draw up plans for the approval of additions on the application area, found the existing roof ridge height of the residential building to exceed the maximum permitted height of 8m by 0.7m, thus resulting in a height of 8.7m.</p> <p>According to the architect, the original plans for the residential dwelling submitted in 2014 by a previous architect and subsequently approved, indicated the height of the roof ridge to be lower than the permitted 8m maximum height namely 7.98m but the residential building was constructed higher than the height indicated on the plans as well as a further 0.7m over the maximum permitted 8m height.</p> <p>According to the Height Restriction Certificate extract in Figure 9 below, the highest natural ground-level for the house is 42.20m and the lowest natural ground-level is 40.40m, thus resulting in a mean natural ground level of 41.30m.</p> <div style="text-align: center;">  <p><b>geomatics africa</b> LAND SURVEYING CONSULTANTS</p> </div> <div style="text-align: right; font-size: small;"> <p>PO Box 2246 Hermanus 7200 Tel: 028-313 1236 Fax: 028-313 1237 info@geomaticsaf.co.za</p> </div> <hr/> <p>Date: 31 March 2020</p> <p>To Whom It May Concern:</p> <p><b>Height Restriction of Erf 5559 Hermanus</b></p> <p>A topographic survey was completed to determine natural ground level. The building has been surveyed and various levels taken.</p> <p>The results are as follows:</p> <table style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 80%;">House</td> <td></td> </tr> <tr> <td>Highest natural ground level</td> <td style="text-align: right;">42.20m</td> </tr> <tr> <td>Lowest natural ground level</td> <td style="text-align: right;">40.40m</td> </tr> <tr> <td>Mean Natural Ground Level</td> <td style="text-align: right;"><b>41.30m</b></td> </tr> <tr> <td>Maximum allowable height (8.0m restriction)</td> <td style="text-align: right;">49.30m</td> </tr> <tr> <td>Roof Pitch</td> <td style="text-align: right;">49.97m</td> </tr> </tbody> </table> <p><b>Figure 9: Height Restriction Certificate</b></p> <p>According to the 41.30m mean natural ground-level, the maximum height allowable for the roof pitch would be 49.30m. The actual roof pitch is 49.97m, thus exceeding the maximum allowable height by <u>0.7m</u>. <i>0,67m</i></p> <p><u>It is thus concluded that the building contractor committed a calculation error regarding the physical mean level/average natural ground level on site during the cut and fill phase and that the dwelling was therefore built too high.</u></p>	House		Highest natural ground level	42.20m	Lowest natural ground level	40.40m	Mean Natural Ground Level	<b>41.30m</b>	Maximum allowable height (8.0m restriction)	49.30m	Roof Pitch	49.97m
House													
Highest natural ground level	42.20m												
Lowest natural ground level	40.40m												
Mean Natural Ground Level	<b>41.30m</b>												
Maximum allowable height (8.0m restriction)	49.30m												
Roof Pitch	49.97m												

**b. Proposal**

The objective therefore includes to legalize the existing non-approved 8.7m roof ridge height of the residential dwelling, which is not only higher than on the approved 2014 building plans but furthermore exceeds the maximum permitted height of 8m by 0.7m, all due, as is concluded, to a calculation error during the construction phase.

The proposal is thus for a departure to relax the height from 8m to 8.7m to legally accommodate the existing single residential dwelling on the application area.

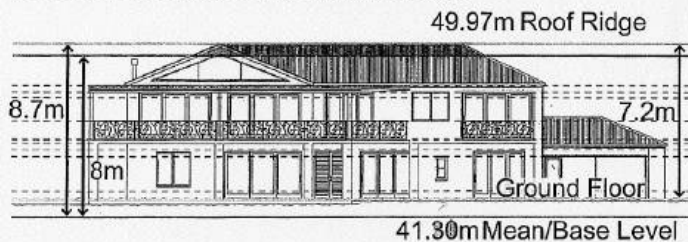


Figure 10: Development Proposal

**c. Desirability**

The application is considered desirable, for the following reasons:

- The transgression is concluded to be a result of a calculation error by the building constructor of the physical mean level/ average natural ground level on site during the cut and fill phase
- The owner wishes to bring the dwelling in line with the statutory requirements
- The proposal is considered to be the most cost-effective, practical and least destructive solution to the calculation error
- To the best of our knowledge no objections have ever been lodged by neighbours regarding the potential obstruction of ocean views by the proposal
- The white colour of the roof blends in well with the skyline and therefore supports the aesthetical value of the environment
- It is concluded that no material impact on the environment is caused by the proposal

**d. Planning Principles**

In terms of Chapter VI of the Spatial Planning and Land Use Management Act, 2013 the following Planning Principles have been applied to the application site:

- 1) **Spatial Justice** which refers to the need for redressing the past apartheid spatial development imbalances and aims for equity in the provision of access opportunities, facilities, services and land.

**Possible results of the development**

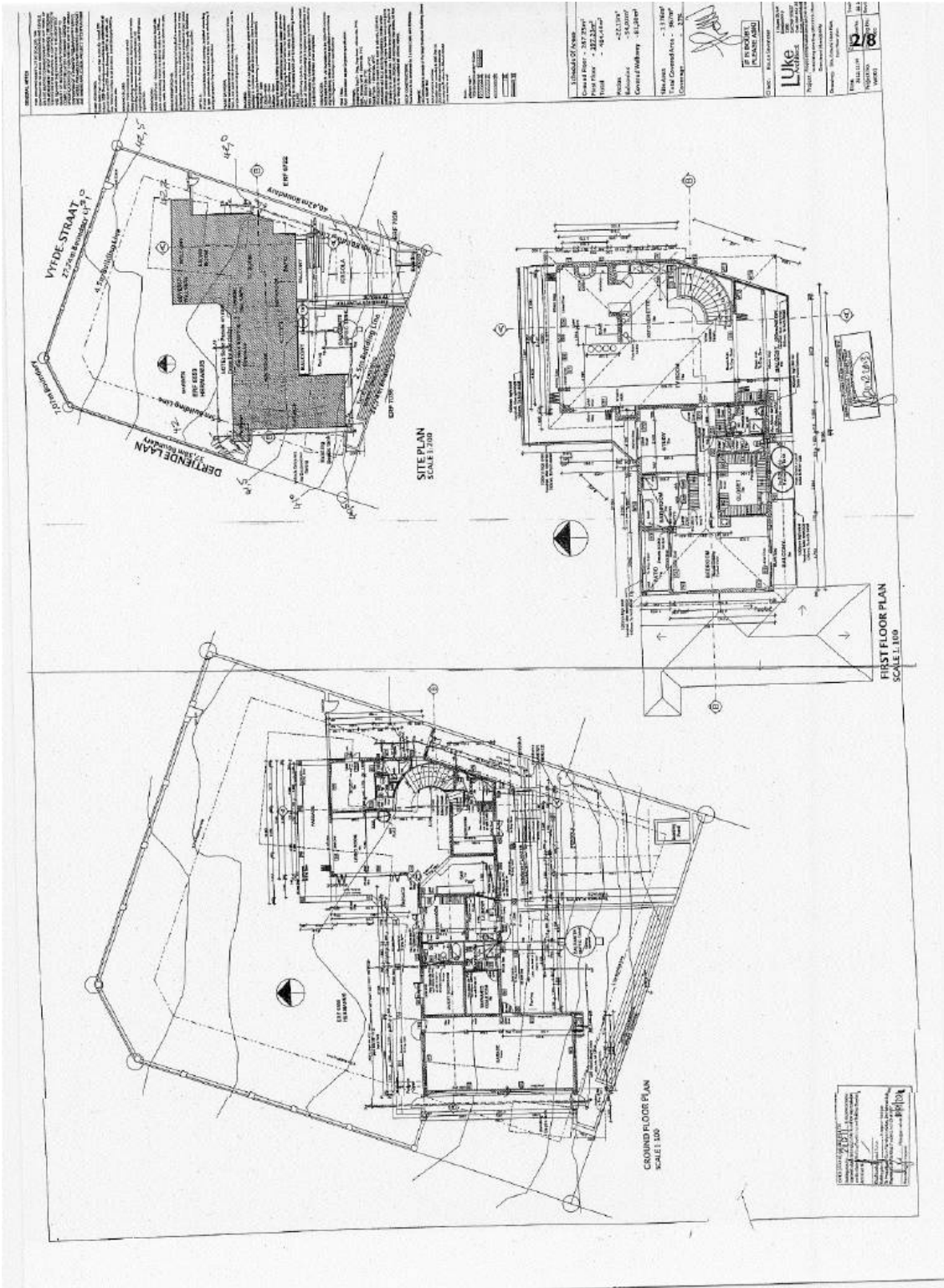
The proposed height relaxation will not in any way contribute to perpetuation of past apartheid spatial development imbalances as the application proposal will accommodate the legalization of a statutory requirement of an existing house. Furthermore, the previous Overstrand Municipal Spatial Wide Development Framework, 2006 is concerned with the optimal use of land and mentions the need to provide satisfactory residential environments and that a full range of residential needs be catered for.

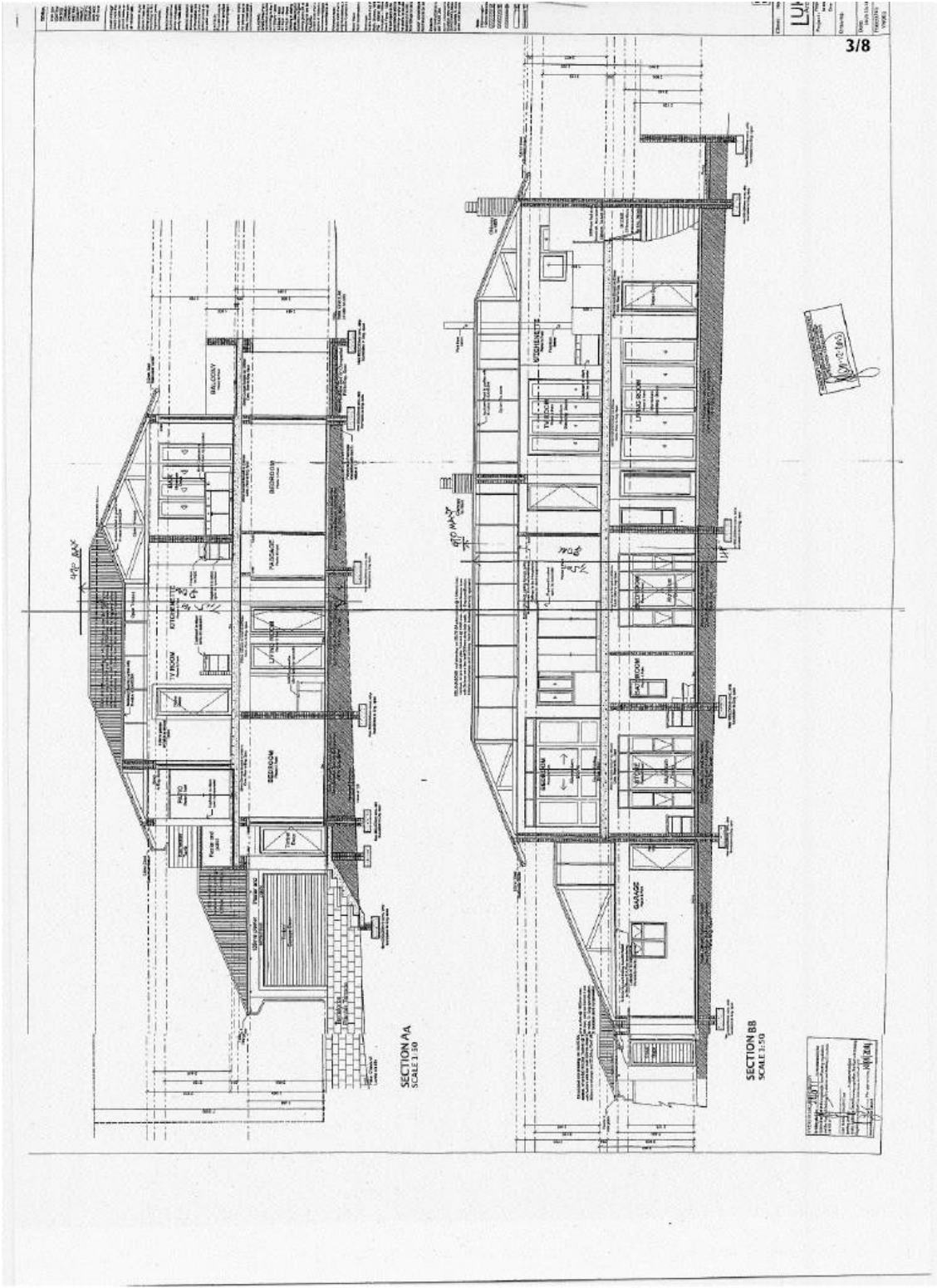
The application proposal is consistent with spatial justice.

	<p>2) <b>Spatial Sustainability</b> which refers to the fact that a spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.</p> <p><b>Possible results of the development</b> The proposal will allow for the legalization of an existing single residential dwelling within the urban edge and will therefore have no impact on agricultural land, environmentally sensitive areas and biodiversity rich areas.</p> <p>The application proposal can thus be deemed to be <b>spatially sustainable</b>.</p> <p>3) <b>Efficiency</b> which refers to the manner in which settlements themselves are designed to function in such a way that there will be a minimum need to travel long distances to access services, facilities and opportunities.</p> <p><b>Possible results of the development</b> The proposal represents the most practical, cost-efficient and least destructive solution to the roof ridge height which exceeds the maximum permitted height for a single residential dwelling, without causing any material impact on the environment.</p> <p>The application proposal is <b>consistent</b> with the <b>efficiency principle</b>.</p> <p>4) <b>Spatial Resilience</b> which, in the context of land use planning, refers to spatial plans, policies and land use management systems which should enable communities to be able to resist, absorb and accommodate any economic and environmental shocks which might occur in a timely and efficient manner.</p> <p><b>Possible results of the development</b> The proposed development will not lead to any economical and/or environmental shocks as the application allows for an existing building within a residential suburb.</p> <p>The application proposal is <b>consistent</b> with the principle of <b>spatial resilience</b>.</p> <p>5) <b>Good Administration</b> which, in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure that a joint planning approach is pursued.</p> <p><b>Possible results of the development</b> Consultative practices are being followed in this application as it is done in consultation with the Planning Department of the Municipality who will also advertise the application in such a manner as to enable the relevant government tiers and the general public to participate in the eventual decision-making process.</p> <p>The application proposal is <b>consistent</b> with the principle of <b>good administration</b>.</p>
<b>5. Conclusion</b>	
<p><u>The proposal represents the most practical, cost-efficient and least destructive solution to the roof pitch which exceeds the maximum allowable height, without causing any material impact on the environment.</u></p> <p>The application as motivated in this report is regarded <b>desirable</b> within its local context and well-integrated within the existing community land-use activities. It is therefore recommended that the application <b>be approved</b> in terms of the Overstrand Amendment By-law on Municipal Land-use Planning, 2020, as follows:</p> <ul style="list-style-type: none"> <li>• a <b>departure</b> to relax the <b>roof ridge height</b> from 8m to 8.7m to allow for an existing dwelling on the application area in terms of Chapter IV, Section 16(2)(b).</li> </ul>	

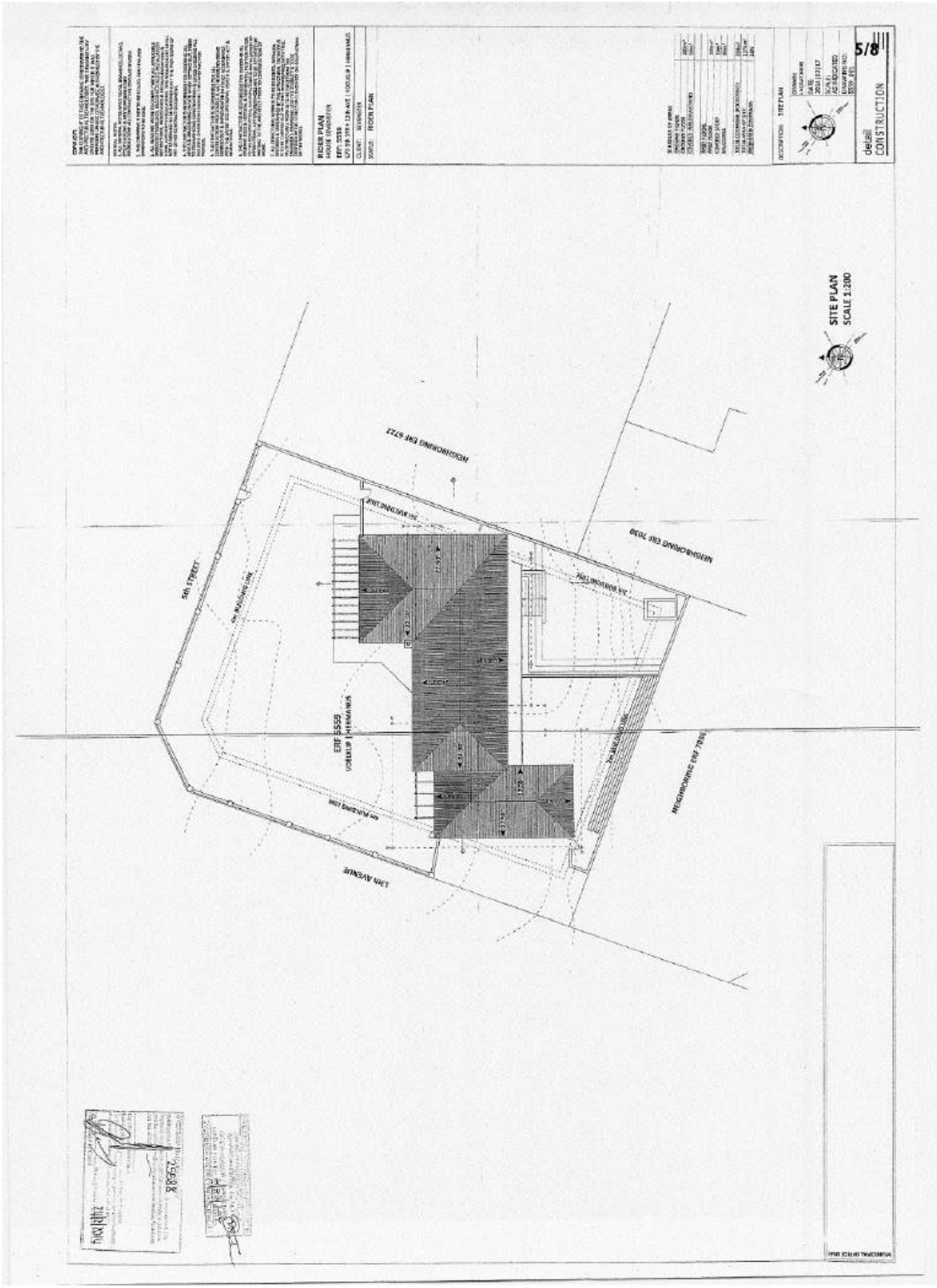


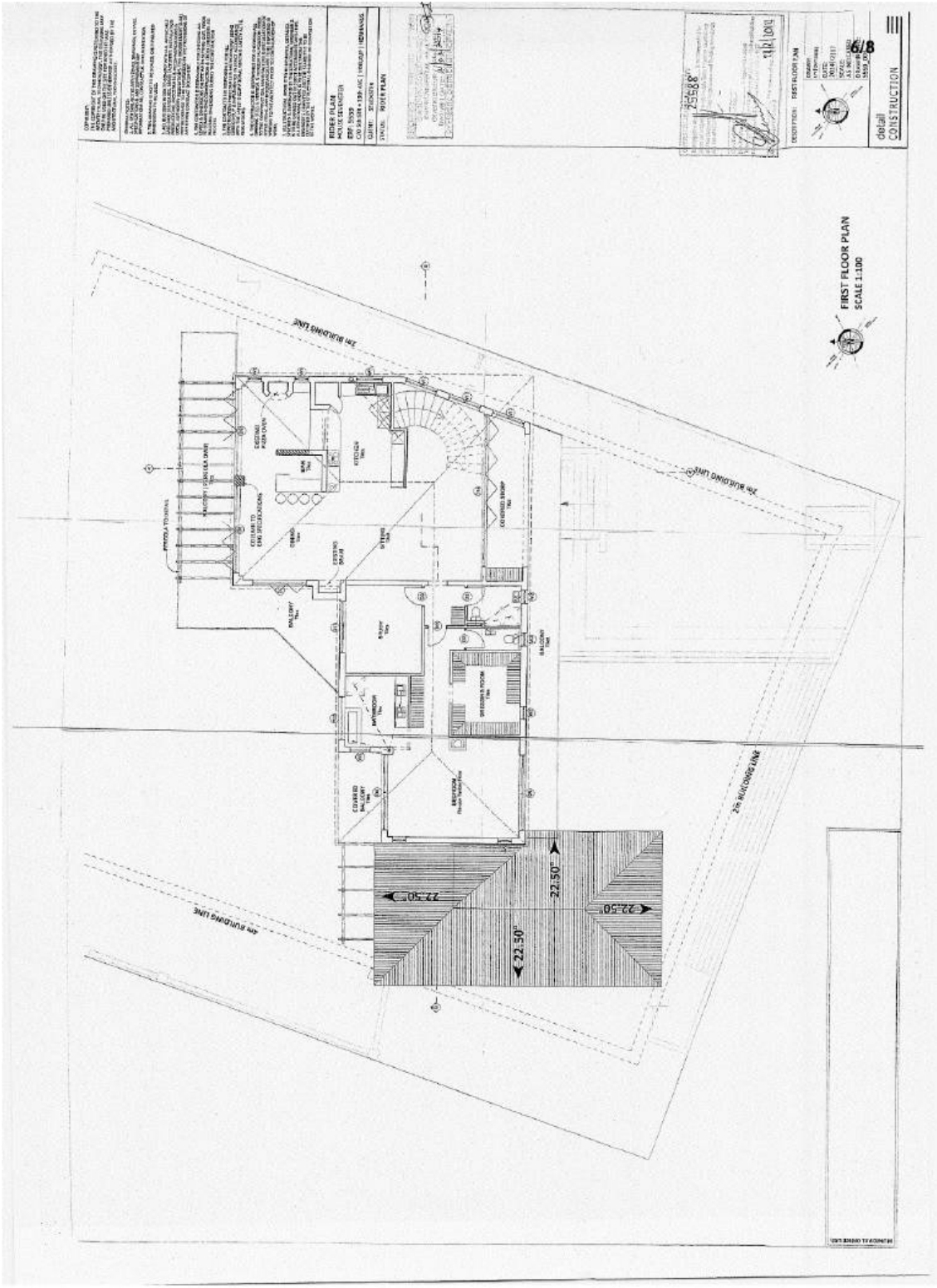












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 ARCHITECT: [illegible]  
 PROJECT: RESTAURANT  
 DATE: 11/11/11  
 SCALE: 1:100

PROJECT: RESTAURANT  
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 DATE: 11/11/11  
 SCALE: 1:100

FIRST FLOOR PLAN  
 SCALE 1:100

10/11/2011 11:00 AM





## ANNEXURE E

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR DEPARTURE: ERF 5559, VOELKLIP**

Stormwater (SW) : In Order  
Electricity : In Order  
Water : In Order  
Sewer : In Order  
Roads and traffic : In Order

**Conditions:**

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the owner's cost;
3. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*;
4. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Area Manager: Hermanus for written approval;
5. that any additional and / or extended vehicle entrances will be for the owner's account;
6. that stormwater be allowed to discharge through Erf 5559, Voelklip, unobstructed;
7. that no on-street parking be allowed.

  
**DENNIS HENDRIKS**  
**SENIOR MANAGER:**  
**ENGINEERING SERVICES**

28.05.2021  
DATE