

4.2**ERF 12221, 5 KWAAIWATER ROAD, EASTCLIFF, HERMANUS: APPLICATION FOR DEPARTURE: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF THE OGWINI TRUST****12221 HEC (3284/2019)****P Roux****19 October 2020****(028) 313 8900****Hermanus Administration****1. EXECUTIVE SUMMARY**

An application was received on 20 August 2019 from Messrs Plan Active Town and Regional Planners on behalf of the Ogwini Trust applicable to Erf 12221, Hermanus (Eastcliff) for a departure in terms of Section 16(2)(b) to exceed the height restriction from 8m to 8,76m to accommodate part of the existing roof structure of the dwelling on the property.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the proposed Elevation and Contour Plans are attached as Annexure C.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

Erf 12221, Eastcliff (hereafter known as the subject property) is zoned Residential Zone 1: Single Residential in terms of the Overstrand Municipality Zoning Scheme Regulations and is situated in Eastcliff, a suburb of Hermanus. A building plan was approved in 2019 - a condition was stated on the building plan approval that the property owner must submit a land surveyors diagram on completion of the construction work to verify that the dwelling is not built over the 8m height restriction. A land surveyor's diagram was submitted indicating that the structure is over the height restriction and therefore not compliant with the Zoning Scheme Regulations. Thus the reason for the application.

4. SUMMARY OF APPLICANT'S MOTIVATION

Due to the comprehensive nature of the Motivation Report only the main points of motivation are summarised as follows (the detailed report is attached as Annexure B):

- After construction Messrs Van Dyk Land Surveyors were appointed to survey the height of the dwelling on Erf 12221 after it was constructed. It was found that the height restriction was encroached by a minimal height of 0,76m.
- Only one section of the dwelling's roof encroach the 8m height restriction. This section was raised to allow for natural sunlight to the open plan kitchen, dining room and lounge. The section further measures 1,5m in width and 0,76m in height, when viewed from the North North-West direction.
- The height of Erf 12221 is similar to that of Erf 1563.
- The height restriction was encroached un-intentionally, and when the property owner became aware of it he took immediate action to address the issue.

- The proposal is compatible with the existing built character of the area and complies with all other land use restrictions applicable.
- The proposed height restriction encroachment will not have a negative impact on the current character and land values of the surrounding erven.
- The subject property is 992m² in extent and is held by Title Deed T23878/2017, which contains no restrictive condition pertaining to the application.
- The zoning of the property will remain unchanged.
- No additional services will be required.
- Values of the surrounding properties will not be affected.
- The applicant further motivates that the application is in line with the Overstrand SDF and Planning Principles of SPLUMA, 2013.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Notices	Yes	5 September 2019	11 October 2019
Internal Departments	Yes	4 September 2019	11 October 2019
Ward councillor	Yes	4 September 2019	11 October 2019
Total number of letters received from the public	Two (2)		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly?			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

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

Name	Date received	Summary of comments
Building Control	5/09/2019	Supported: Building plan application compliant with all applicable legislation required.
Overstrand Heritage and Aesthetics Committee	10/09/2019	No objection
Fire Department	16/09/2019	No objection.
Engineering Services	25/10/2019	See Annexure G.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Two (2) letters were received from the adjacent property owners.

Objection/comment

Mr S Cawbry on behalf of Mr RC Hartog, his father in law, owner of 28 Mossel River Drive (Erf 7505).

The letter states that they have no objection to the height relaxation, provided that they be afforded the same height restriction of 8,75m when the property (Erf 7505) is redeveloped. Otherwise their views will be obstructed as they will not be on equal footing with their direct neighbour.

Applicant's response

The applicant did not address the comment.

Town Planner's response

The comment from the property owner is noted, and it is stated that the owner does not make an objection provided that they be afforded the same height restriction of 8,75m when the property (Erf 7505) is redeveloped. The condition as stipulated by Mr Cawbry cannot be stipulated as a condition in the decision of this application due to the nature of the application. With the relaxation of a height restriction the merits and impact of the application is considered. The said merits and impact for an application can differ from one site to another, therefore each application must be presented to the Municipality for consideration on its individual merit. Further, the Zoning Scheme determines the height restriction and therefore contributes to the character of the residential suburb. Should other structures in the suburb be allowed to encroach the height restriction then the height restriction becomes obsolete and the character will change. It should be noted that Erf 7505 is not situated directly behind Erf 12221, but rather next to it on Erf 12221 western side. The main view of Erf 7505 is on its western and southern side.

Objection/comment

Mr J van Der Merwe on behalf of Ms FC van der Merwe, his wife, whom is a trustee of the Twee Rivier Trust. They own Erven 1549, 1541, 7336, 7337, 7338 and 7339 which is situated North-West from the subject property.

- **They cannot visit the sight to ensure that the encroachment does not impact on their sea views.**
- **The undeveloped erven will be directly at the back of Erf 12221, and ocean views may be affected once the properties are developed.**

Applicant's response

The applicant indicates in his response the relation of the structure's height on Erf 12221 with the location of the objector's erven.

Various photos are provided by the applicant indicating what the views are from various height points namely; $\pm 2\text{m}$, $\pm 4\text{m}$, $\pm 6\text{m}$, $\pm 8\text{m}$ and $\pm 10\text{m}$ above natural ground level, the roof section which encroaches upon the height restriction is only visible from of the $\pm 8\text{m}$ upwards.

Although the structure is visible it is still in line with the roof lines of the surrounding dwellings and does not obscure the views from this location.

The proposed encroachment will not have a negative impact on the properties mentioned by the objector due to the following:

- The maximum height measured from the base level to the top of the roof is 8m.
- The average first floor level is at a height of 6,9m and 7,1m above base level.
- With reference to the photographs the sea is not visible at a height of 6m above ground level and only becomes visible at a 7m to 8m above base level. The ocean views from the objector's property will be similar to the photos taken at 8m to 10m from base level (taking into account of the slope of the erven).
- The dwelling on Erf 1575 already obscures a portion of the sea view.
- The new dwelling built on Erf 12221 obstructs the sea views less than that of the previous dwelling. The pitch of the roof is now 9cm less than that of the previous dwelling.

Town Planner's response

The section of the roof which encroaches upon the height restriction faces north-west and directly towards the property of the objector, however the north-west façade (h 0,76m x w 1,5m = 1,14m²) is the smallest part of the encroaching roof's elevation. Further, the width of the façade is only 50cm wider than a chimney. Considering the dimensions and the photos as submitted by the applicant the opinion is held that the objector's ocean views will not be adversely affected by the encroachment and that the bulk of the existing dwelling has a greater impact than the portion of the roof which encroaches the height restriction.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See paragraph 7. above.

9. MUNICIPAL ASSESSMENT OF COMMENTS

No objections were received from the relevant municipal departments.

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

10.1 Background

N/A

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

The application is not completely in line with the planning objectives applicable to this application as set out below. The objectives relating to:

Spatial Justice

The application will not perpetuate spatial injustices.

Spatial sustainability

The application is located within the urban edge and thus will not lead to urban sprawl. No negative influence on the natural environment or prime and unique agricultural land will occur.

Efficiency

The application will optimise the use of existing municipal services and infrastructure.

Spatial resilience

The application will ensure that the existing resource (land) is utilised to its maximum in an affordable manner, but it is not in line with the Overstrand Municipality's forward planning documents.

Good administration

The application was processed in accordance with the applicable timeframes stipulated in the relevant planning legislation.

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

Partially the same as Point 10.2 above.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable Policies

Usage of the property will remain consistent with the policies and objectives as provided in the Spatial Development Framework and the Overstrand Municipal Spatial Growth Management Strategy.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal engineering services

The existing services are available and are viewed positively by the Engineering Department.

10.7 Outcomes of investigations/applications i.t.o other legislation

N/A

10.8 Existing and proposed zoning comparisons and considerations

The property is zoned Residential Zone 1: Single Residential and therefore a 8m height restriction applies from base level (the average ground level of the highest and lowest ground level immediately abutting the outer perimeter of a building). The applicant seeks to depart from the 8m height restriction.

11. DESIRABILITY OF THE PROPOSAL

Development Proposal

A building plan was approved in 2017 which indicated a double storey dwelling with subsidiary outbuildings. A condition was stipulated on the building plan stating that the property owner submits a height certificate from a land surveyor indicating that the 8m height restriction will not be encroached. Messrs Van Dyk Land Surveyors were appointed to submit a Height Certificate and it was determined by them that the structure encroaches the height restriction by 0,76m.

While evaluating the application in preparation to draft the report for consideration it was noticed that the building plan submitted in 2017 had two base levels and that Messrs Van Dyk Land Surveyors only utilised one (1) base level. As built plans were also submitted indicating that the highest natural ground level of the main dwelling is 48,63m and the lowest natural ground level of the main dwelling is 48,13m which equals to a single base level of 48,38m (attached as Annexure C). The 8m height restriction was to be determined on 56,38m from the base level and the highest point of the dwelling is on 57,14m. Further should a double base level be considered as per the original plan then the base level would be calculated as below, when using the survey done by Messrs Van Dyk Land Surveyors;

- The first base level: 48,68m (for the highest point) and $\pm 48,38\text{m}$ (for the lowest point) which will have a base level of $\pm 48,53\text{m}$. Which will result that the 8m height restriction on this base level will be at $\pm 56,63\text{m}$, which means that the roof structure is still $\pm 0,23\text{m}$ over the height restriction as determined on the land survey.
- Second base level: $\pm 48,38\text{m}$ (for the highest point) and 48,13m (for the lowest point) which will have a base level of $\pm 48,25\text{m}$. Which will result that the 8m height restriction on this base level will be at $\pm 56,25\text{m}$, which means that the roof structure for this portion is compliant with the height restriction as determined on the land survey.

What is also noted is that the contour measurements used by Messrs Van Dyk Land Surveyors and contour plan which accompanied the building plan in 2017 differ vastly, although the measurements of the building remain unchanged. Therefore, the reason for the encroachment could be due to the incorrect calculation of the base level and contour lines and not due to error during the construction period. This observation was discussed with the applicant and the applicant confirmed that the levels taken by Messrs Geomatics Land Surveyors which accompanied the 2017 building plan was done prior to the new construction and the survey done by Messrs Van Dyk Land Surveyors was done after the construction took place and ground work was concluded and therefore they required to take a different approach. Thus the reason why the ground levels taken by the two different land surveyor companies differed.

Further, the updated "as built" building plan elevation measurements are exactly the same as the approved building plan. While considering the information provided by the applicant the opinion is held that the building was constructed in line with the approved building plan, but due to differences in measuring the ground levels and determining the base level, it seems that the height restriction is encroached, while complying with the approved building plan. Therefore, the proposed encroachment can be considered positively, provided that updated "as built" plans (with the new

contour lines) are submitted for consideration and that the dimensions on the building plan do not change.

Further, there are no title deed restrictions which prohibit the proposed encroachment.

The opinion is further held that the points of objection from the adjacent property owner has been dealt with and that the retention of the constructed structure will not negatively impact on their sea views.

12. RECOMMENDATION

1. that the application in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) to exceed the height restriction from 8m to 8,76m to accommodate part of the existing roof structure of the dwelling on Erf 12221, Hermanus (Eastcliff), **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions;
 - (a) that the approval is only for the departure as indicated on Plan No. *LAD_600* as submitted on *11 February 2020*;
 - (b) that revised "as built" building plans be submitted indicating the updated base level while retaining the original building plan measurements;
 - (c) that the conditions in the Services Report (attached as Annexure G), be complied with;
 - (d) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation, and
 - (e) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
2. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

13. REASONS FOR APPROVAL

- ❖ The structure was developed in line with the character of the area.
- ❖ The proposed departure does not exceed the height of the original dwelling which was demolished.
- ❖ The footprint of the portion of the roof has minimal impact on views from adjacent property owners.
- ❖ The objection which were received from the adjacent property owner was addressed by the applicant.
- ❖ No restrictive condition is contained in the Title Deed which prohibits the proposed departure.
- ❖ The use of the dwelling will remain for residential purposes and will not impact on the character of the area.
- ❖ No additional services will be required.

14. ANNEXURES

Annexure A: Locality Plan
Annexure B: Motivation Report
Annexure C: Elevation- and Contour Plans
Annexure D: Approved Building Plans
Annexure E: Comment received
Annexure F: Applicant's response to comments received
Annexure G: Engineering Services

SIGNATURES**AUTHOR:**

Name: **PETRUS ROUX**

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

Signature: _____

Date: _____

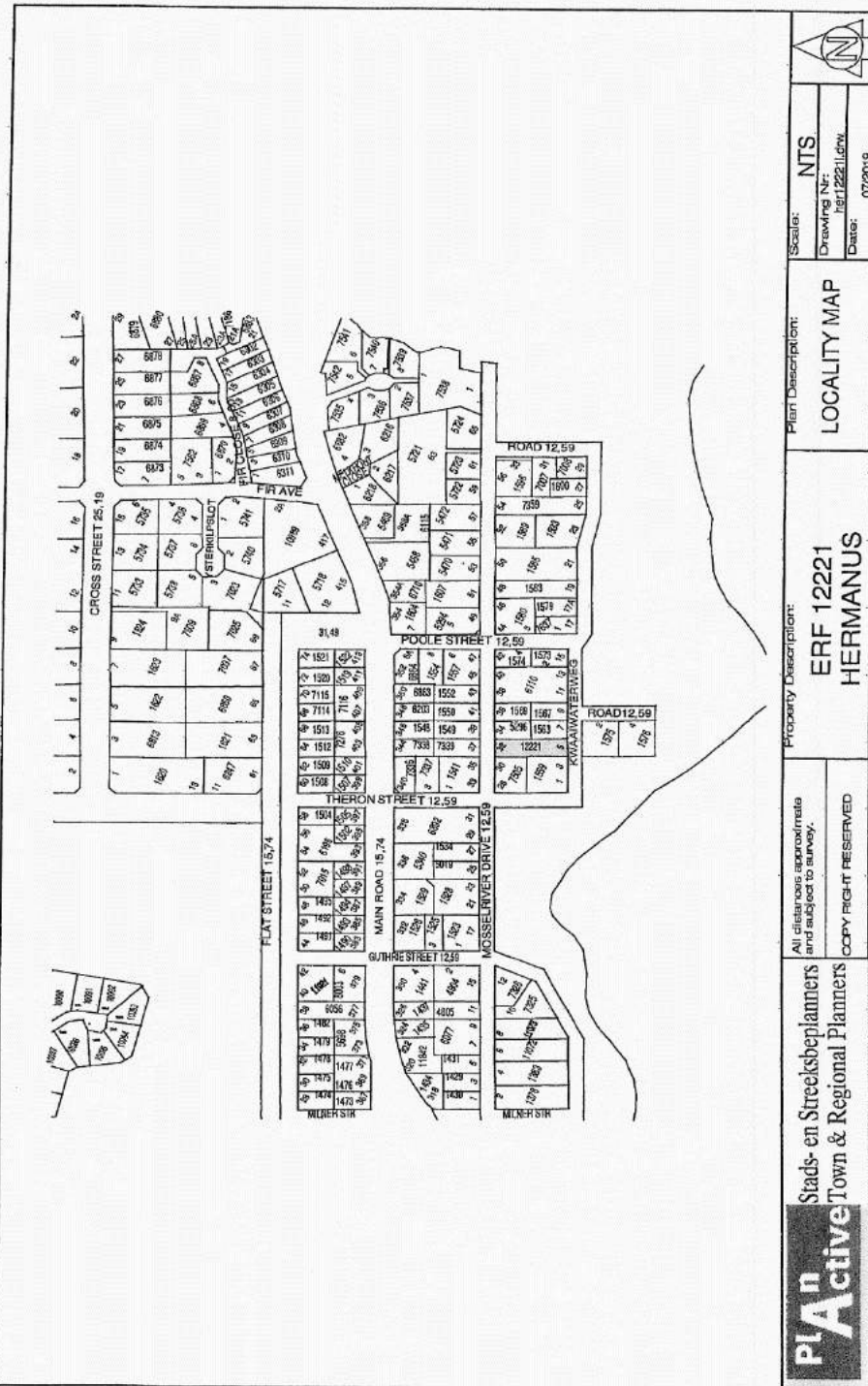
REGISTERED PLANNER

Name: **SW VAN DER MERWE**

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

Signature: _____

Date: _____



	Stads- en Streeksbeplanners Town & Regional Planners	All distances approximate and subject to survey.	Property Description: ERF 12221 HERMANUS	Plan Description: LOCALITY MAP	Scale: NTS Drawing Nr: her12221.dwg Date: 07/2019	
	COPY RIGHT RESERVED					

PROPOSED DEPARTURE

ERF 12221 HERMANUS

DIVISION: CALEDON
OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

Mr. David Mills, on behalf of Ogwini Trust, the owner of Erf 12221 Hermanus, instructed the company Plan Active to apply for a departure from the height restriction.

After the construction of their new dwelling on Erf 12221 Hermanus Van Dyk Land Surveyors were appointed to survey the height of the dwelling after it was constructed. It was found that a portion of the new dwelling exceeds the permissible 8m height restriction by 0.76m. Subsequently we were appointed to lodge an application on the owners behalf for a departure from the height restriction.

Erf 12221 Hermanus is 992m² in extent and is held by Title Deed No. T23878/2017.

Erf 12221 Hermanus is located in Kwaiwater between Mosselrivier Drive and Kwaiwater Road.

Detail of the application will be furnished below:

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for a departure from the height restriction applicable to Erf 12221 Hermanus.

3. GENERAL APPLICATION INFORMATION

3.1 PROPERTY DESCRIPTION

Erf 12221 Hermanus is situated at 32 Mosselrivier Drive / 5 Kwaiwater Road, Kwaiwater, Hermanus. Please refer to the enclosed locality map. Erf 12221 Hermanus is 992m² in extent and situated in an upmarket residential area of Hermanus.

3.2 ZONING

The subject property is zoned Residential Zone 1: Single residential and is utilized as such. Surrounding properties are also zoned for single residential land use purposes.

3.3 LAND USE

The property is currently developed as indicated on the enclosed set of building plans that were approved by the Overstrand Municipality. With reference to the building

plans a double storey residential dwelling, tandem garage, pool room and swimming pool are established on Erf 12221 Hermanus. The double storey dwelling consists of the following uses:

- Entrance Hall;
- Movie room;
- Staircase lobby and staircase;
- 5 bedrooms of which 3 bedrooms have en suite bathrooms and 2 bedrooms share 1 bathroom;
- Open plan dining room and lounge;
- Breakfast nook and scullery;
- A study and covered balconies.

The tandem garage and pool room are separate buildings located on the northern portion of the subject erf. The tandem double garage obtains access from Mossel River Drive.

Surrounding erven are also used for single residential purposes, subsequently the subject property is within a predominantly single residential land use area.

3.4 PROPOSED DEVELOPMENT

The following is proposed:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for a departure from the height restriction applicable to Erf 12221 Hermanus.

3.4.1 PROPOSED DEPARTURE FROM THE HEIGHT RESTRICTION

Building plans were compiled by Wynand Wilsenach Architect for the new dwelling that was constructed on Erf 12221 Hermanus. With reference to the plans that were

drafted the new dwelling was designed to comply with the land use restrictions in terms of the Overstrand Municipality Scheme Regulations. The building plans were submitted and approved before construction work commenced. Please refer to a copy of the building plans for easy reference.

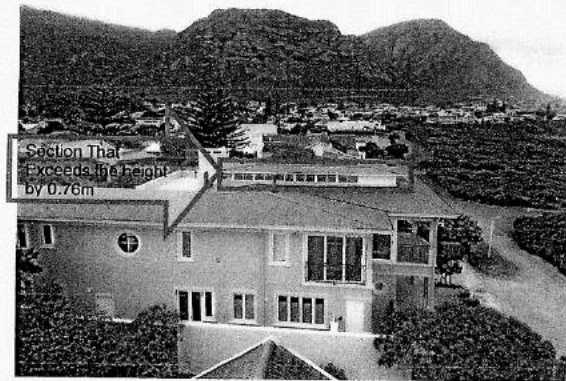
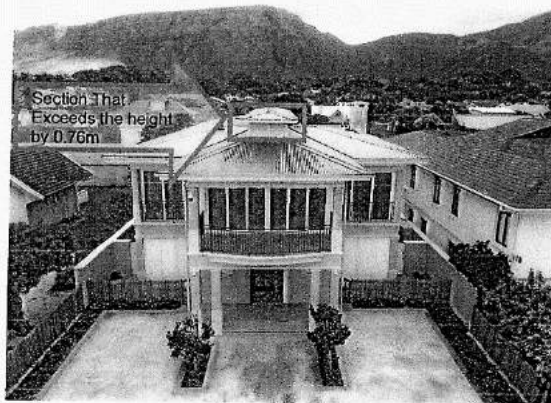
The new dwelling was constructed according to the plans that were submitted. On completion of the building, as a municipal requirement, the dwelling was surveyed by Van Dyk Land Surveyors in order to issue a height certificate. The survey calculations indicated that a portion of the roof structure exceeds the 8m height restriction by 0.76m. We have enclosed a copy of the height certificate for easy reference.

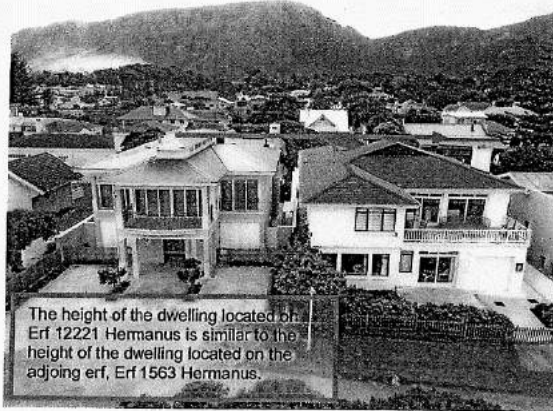
The double storey house was designed with a fairly flat roof, with a roof pitch of 12°. The majority of the dwelling's roof has a 12° pitch and is well below the 8m height restriction. The open plan kitchen, dining room, lounge and covered balcony are located on the first floor and are flanked by a breakfast nook on the eastern side and a study and private wine cellar on the western side. The total distance from the covered balcony to the far end of the kitchen is in extent of 13m. Subsequently the majority of the lounge, dining room and kitchen will not receive any natural sunlight. The architect made provision for high level windows above the kitchen, dining room and lounge by means of a raised roof section that is ±8.8m x ±1.5m in extent that allows natural light to enter the dwelling.

With reference to the architectural drawing the raised roof section was designed to be also within the prescribed 8m height restriction but after the construction of the dwelling it was found to be 0.76m above the prescribed height. The encroachment of the height restriction was unintentional and only became known after the height survey was completed by Van Dyk Land Surveyors after the completion of the dwelling.

Erf 12221 Hermanus is a consolidated erf and consists of consolidated erven 5295 & 5297 Hermanus. The dwelling is positioned parallel to the lateral boundaries and is located on the south-south-eastern half of the property. The primary views of dwellings in the vicinity are towards the ocean that is in the south-south-eastern direction that is the same direction of the lateral boundaries of the surrounding residential erven.

The portion of the roof that exceeds the 8m height restriction is perceived as being only 1.5m in width and 0.76m in height when viewed from the north-north-western direction into a south-south-eastern direction towards the ocean. The impact on views of the roof section that exceeds the height restriction by 0.76m would therefore be insignificant.





3.4.2 THE TITLE DEED

The Title Deed of Erf 12221 Hermanus, T23878/2017 has no restrictive title deed conditions that need to be addressed. No bond is registered over the subject property.

3.5 CHARACTER OF THE ENVIRONMENT

It is not proposed to change the primary land use of the subject property. The impact on the character of the area will therefore remain unchanged as being within a primary high income residential area. Furthermore the proposed encroachment of the 8m height restriction by 0.76m of a portion of a roof with a coverage of $\pm 13.2\text{m}^2$ in extent will not have a negative impact on the built character, land values and the privacy of the neighbours.

As mentioned above, the portion of the roof that exceeds the 8m height restriction is perceived as being only 1.5m in width and 0.76m in height when viewed from the north-north-western direction into a south-south-eastern direction towards the ocean and the impact on views of surrounding land owners will be insignificant.

3.6 POTENTIAL OF THE PROPERTY (DESIRABILITY OF THE PROPOSED UTILIZATION)

The subject property's zoning and land use will remain unchanged. The proposed departure from the prescribed height restriction will not handicap any future land use developments on erf 12221 Hermanus.

Since the primary land use and zoning will remain unchanged the impact on the surrounding properties will be kept to a minimum. Property values of surrounding erven will therefore not be negatively affected by the proposed application.

3.7 IMPACT ON EXTERNAL ENGINEERING SERVICES

3.7.1 PROVISION OF SERVICES

All services on the subject property already exist. This application constitutes an application for the departure from the prescribed 8m height restriction to accommodate a portion of an existing dwelling's roof. No additional services will be required and the proposal also does not have any impact on the existing services.

3.7.2 TRAFFIC IMPACT, PARKING AND ACCESS

Our application is for a departure from the height restriction that has no impact on traffic, parking and access. The existing access from Kwaawater Road will remain as is.

3.8 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.8.1 HERITAGE VALUE

Erf 12221 Hermanus is situated within the Heritage Overlay Zone (Special Area) as indicated in the *Overstrand Municipal Growth Management Strategy (OMGMS, 2010)*. Even though it is within the heritage Overlay Zone for Hermanus it should be noted that the building plans that are accompanying this application were approved by the Overstrand Building Department.

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 Kwaaiwater area.

3.8.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

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

3.9 FORWARD PLANNING AND LAND USE DOCUMENTS

The *Overstrand Spatial Development Framework (2006)* earmarks the area where erf 12221 Hermanus is situated, for residential purposes. The zoning of the subject

property will remain unchanged and therefore the proposed application falls within the existing planning for the area.

The **Overstrand Municipal Growth Management Strategy (OMGMS, 2010)** specifies that erf 12221 Hermanus is within Planning Unit 6 that consists of the Voëlklip area and a section of Kwaaiwater that is classified as a high income residential area. Provision is made for incremental development through subdivision to allow a second and third dwelling units respectively. This application does however not propose to create any additional land uses other than what is covered under the primary rights but to deviate from the prescribed height restrictions to accommodate a section of the roof.

It is therefore our opinion that the forward planning policies are not applicable to the proposed departure from the prescribed height restriction and that the land use of Erf 12221 Hermanus falls within the land use prescribed in the Overstrand Spatial Development Framework and the Overstrand Municipal Growth Management Strategy.

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: Spatial justice does not apply to this application.

Spatial sustainability: Spatial sustainability does not apply to this application.

Efficiency: "Efficiency" refers to the need to create settlements that optimise the use of space, energy, infrastructure resources and land. As previously mentioned, the double storey house was designed with a fairly flat roof, with a roof pitch of 12°. The

majority of the dwelling's roof has a 12° pitch and is well below the 8m height restriction.

Due to the layout of the balcony, lounge, dining room and kitchen the architect has made provision for high level windows above these areas by means of a raised roof section that is ±8.8m x ±1.5m in extent that allows natural light to enter the dwelling.

The raised roof section was designed to be within the prescribed 8m height restriction as per the approved architectural plans but after the construction of the dwelling the raised roof section exceeded the height restriction by 0.76m. The encroachment of the height restriction was unintentional and only became known after the height survey was completed.

Making provision for the high level windows renders the dwelling to be more energy sufficient and is a necessity for the function of the dwelling. The raised roof also breaks the large extent of the lower pitched roof and is aesthetically pleasing and does not have a negative impact on the surrounding residential erven.

Spatial Resilience: 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 By-law on Municipal Land Use Planning, 2016.

4. RECOMMENDATION

- The encroachment of the height restriction is minimal (0.76m);
- The height restriction was encroached un-intentionally, and when it came to light the owner immediately took action to address the matter.

- The proposal is compatible with the existing built character of the area and complies with all the other land use restrictions applicable;
- The proposed height restriction encroachment will not have a negative impact on the current character and land values of the surrounding erven.

With regards to the above mentioned it would be appreciated if Council would approve the proposed departure from the height restriction applicable to Erf 12221 Hermanus by 0.76m.

NOTES

1. THE ARCHITECT HAS CONDUCTED VISUAL VERIFICATION OF THE EXISTING CONDITIONS AND HAS FOUND THEM TO BE AS SHOWN ON THESE PLANS. THE ARCHITECT HAS NOT CONDUCTED A STRUCTURAL ANALYSIS OF THE EXISTING STRUCTURE AND HAS NOT OBSERVED THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A GEOTECHNICAL ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A HYDROLOGICAL ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A SEISMOLOGICAL ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A HISTORICAL ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A PALEONTOLOGICAL ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A BOTANICAL ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A ZOOLOGICAL ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A METEOROLOGICAL ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A CLIMATOLOGICAL ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A SOIL ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A WATER ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A AIR ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A NOISE ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A VIBRATION ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A LIGHT ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A THERMAL ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A SOUND ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A RADIATION ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A MAGNETIC ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A GRAVITATIONAL ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A COSMIC ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A PARTICULATE ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A METAL ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A NON-METAL ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A ORGANIC ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A INORGANIC ANALYSIS OF THE EXISTING FOUNDATIONS. THE ARCHITECT HAS NOT CONDUCTED A ANALYSIS OF THE EXISTING FOUNDATIONS.

ANNEXURE C 1/3

WYNAND WILSENACH ARCHITECTS

REGISTERED ARCHITECTS

PROFESSIONAL

REGISTERED

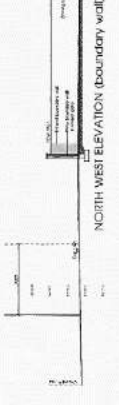
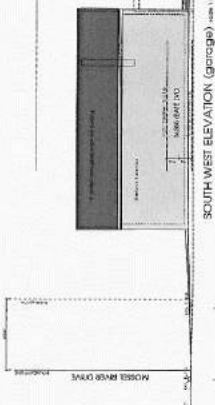
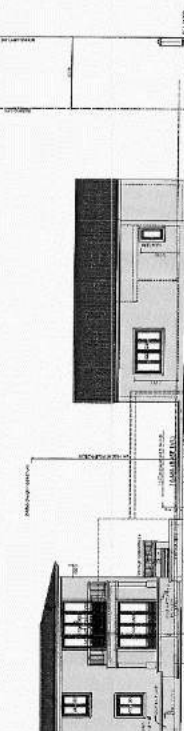
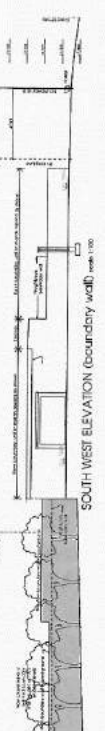
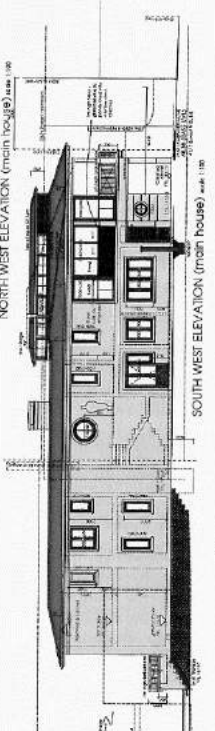
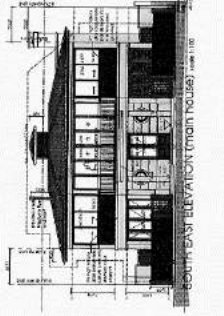
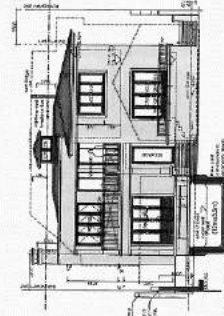
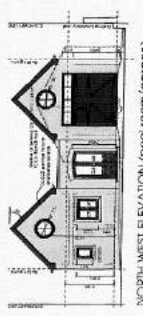
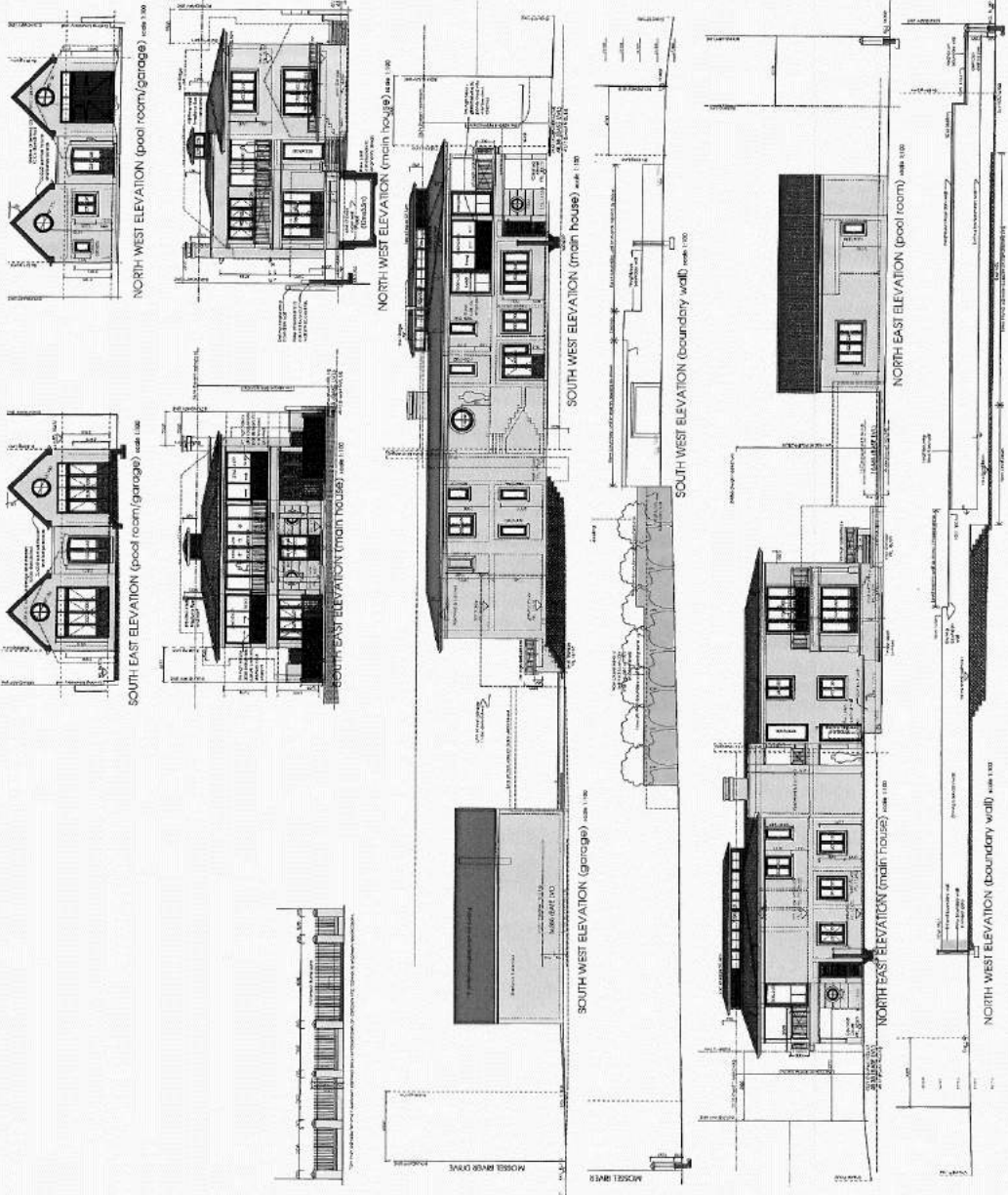
ARCHITECTS

PROFESSIONAL

REGISTERED

ARCHITECTS

HOUSE MILLS



SOUTH EAST ELEVATION (pool room/garage) scale 1/80

SOUTH EAST ELEVATION (main house) scale 1/80

NORTH WEST ELEVATION (main house) scale 1/80

SOUTH WEST ELEVATION (main house) scale 1/80

SOUTH WEST ELEVATION (boundary wall) scale 1/80

NORTH EAST ELEVATION (pool room) scale 1/80

SOUTH WEST ELEVATION (garage) scale 1/80

SOUTH WEST ELEVATION (boundary wall) scale 1/80

NORTH EAST ELEVATION (main house) scale 1/80

NORTH WEST ELEVATION (boundary wall) scale 1/80

BM1 : 47.67m
Roofing screw in tar

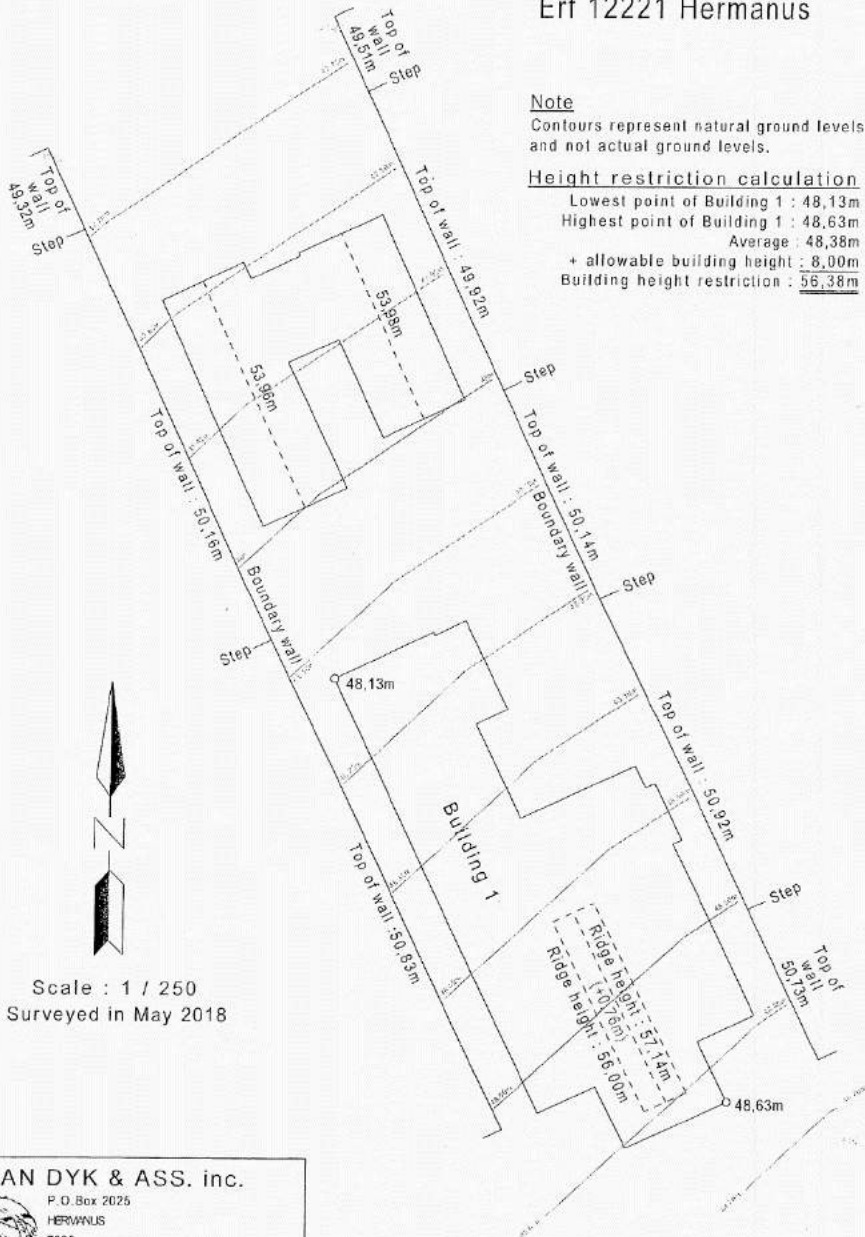
Erf 12221 Hermanus

Note

Contours represent natural ground levels, and not actual ground levels.

Height restriction calculation

Lowest point of Building 1 : 48,13m
 Highest point of Building 1 : 48,63m
 Average : 48,38m
 + allowable building height : 8,00m
 Building height restriction : 56,38m



Scale : 1 / 250
 Surveyed in May 2018

VAN DYK & ASS. inc.
 P.O.Box 2025
 HERMANUS
 7700
 SOUTH AFRICA
 TEL. (028) 313 0077
 FAX. (028) 312 1351

CLIENT
 New House, ERF 12221,
 HOUSE MILLS, 1259 MOSSEL RIVER DRIVE,
 HERMANUS

PROJECT
 SITE PLAN showing existing
 levels and structures
 DRAWING

WYNAND
 WILSENACH
 ARCHITECTS

JUN 2017
 DATE
 1259
 NO.
 1317
 NUMBER
 L.A.O. 04
 SCALE
 50
 PERCENT

AS SHOWN
 DATE
 1317
 NO.
 50
 PERCENT

HOUSE MILLS

NOTES

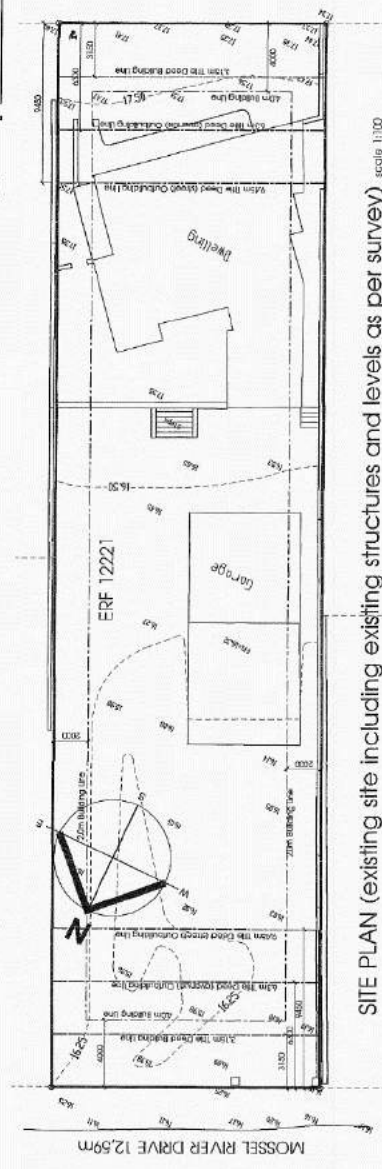
THIS DRAWING IS THE PROPERTY OF WYNAND WILSENACH ARCHITECTS AND IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED. ALL INFORMATION AND LEVELS ARE TO BE CHECKED ON SITE. ANY INFORMATION AND LEVELS MUST BE ALL IN THE WORK IS TO COMPARE TO NATIONAL GRID. THIS DRAWING IS TO BE READ WITH ALL RELATED DETAILS.

REVISIONS

CLIENT: _____
 ARCHITECT: _____

BY: _____
 DATE: _____

we do it for the joy it brings!



SITE PLAN (existing site including existing structures and levels as per survey) scale 1:100

TP N. Incaat
(I. Oliciet)
R. Fisher



Alida Conradie - Kommentaar op :Erf 12221, 5 Kwaiwater Road :Application for departure

From: Jan Van Der Merwe <janhvdmerwe@gmail.com>
To: <aconradie@overstrand.gov.za>
Date: 2019/10/04 04:18 PM
Subject: Kommentaar op :Erf 12221, 5 Kwaiwater Road :Application for departure
Cc: <provence@vdermerwe.co.za>

VIR AANDAG: Mnr Petrus Roux

Geagte Mnr Roux

Ek skryf namens my vrou, FC van der Merwe (eienaar van Erf 1549) en ook as trustee van Tweerivier Trust wat in besit is van erwe 1541, 7336, 7337, 7338 en 7339. Erf 1541 en Erf 7339 mag dalk gekonsolideer wees.

Mag ek ook vra dat jul die Pos Adres van al bogenoemde erwe verander vir toekomstige kennisgewings vanaf:

Posbus 310
Cornwall Hill
0178
na:

Posbus 276
Stellenbosch
7599

FILE NO:	Erf 12221
SCAN NO:	Hermanus 2/6/19
	HMS 12221
COLLABORATOR NO:	1331182

Indien jul epos wil stuur gebruik asseblief die volgende adres:
janhvdmerwe@gmail.com

My kommentaar op kennisgewing, wat ek ongelukkig eers gister ontvang het, is as volg:

Die oorskryding van die hoogte op Erf 12221 is tussen die huidige huise wat op erwe 1549 en 1541 staan en die see. Daar word ook beplan om op Erf 7339 te bou in die toekoms. Wat dan in dieselfde posisie sal wees.

Op die stadium kan ek nie sê of oorskryding 'n probleem is, al dan nie, alvorens ek nie in persoon op die persele kom en die situasie kan besigtig nie. Dit is egter nie moontlik om voor die sperdatum vir kommentaar, 11 Oktober, die persele te besoek nie. Dit mag wees dat die seeuitsig vanaf die erwe geaffekteer word deur die oorskryding en dus moet ek beswaar aanteken teen "application for departure" op die stadium.

Ek sal waardeer indien jul ontvangs sal erken op die skrywe.

Laat weet asseblief wat my verder te doen staan. Ek is vir groot gedeeltes van Oktober en November in die buiteland en het eers beplan om Desember weer op Hermanus te wees.

Skakel gerus indien daar enige onduidelikhede is.

- 8 OCT 2019

file:///C:/Users/aknoetze/AppData/Local/Temp/XPgrwise/5D9770DCHermanusMun... 2019/10/08

Groete
Jan van der Merwe
0832505835
Sent from my iPad



TP (I.)/heora
(I.)Olivia

Alida Conradie - RE: Erf 12221, 5 Kwaaiwater Road, Eastcliff, Hermanus: Application For Departure: Plan Active (obo Ogwini Trust)

From: Scott Cawdry <scott.cawdry@smh-group.co.za>
To: "aconradie@overstrand.gov.za" <aconradie@overstrand.gov.za>
Date: 2019/10/03 08:28 AM
Subject: RE: Erf 12221, 5 Kwaaiwater Road, Eastcliff, Hermanus: Application For Departure: Plan Active (obo Ogwini Trust)
Cc: Ricky Hartog <ricky.hartog@smh-group.co.za>

RE: NOTICE TO AFFECTED PERSONS, 4 SEPTEMBER 2019

Good day,

I am responding on behalf of my father-in-law, Mr. RC Hartog (cell number: 082 469 4773), owner of no. 28 Mossel River drive, Kwaaiwater - a direct neighbor to the above mentioned property.

Please be advised that we have no objection to the height relaxation, provided that we are afforded the same height restriction of 8.76m when we redevelop our said property. Otherwise our views would be obstructed as we will not be on equal footing with our direct neighbor.

Kind regards,

Scott Cawdry
 Group Property Portfolio & Development Manager
 SMH Group
 Cell: 072 456 4776
 Tel: 011 540 3200

FILE NO:	OF 1221
	Hermanus
SCAN NO:	
COLLABORATOR NO:	1330379

04 OCT 2019

ANNEXURE F 1/6

Plan Active
Town & Regional Planners
Stads- en Streeksbeplanners

6 Magnolia St / Str
PO Box / Posbus 296
HERMANUS

7200
Tel: (028) 313 1673
Fax / Faks: (028) 312 1351

Email: planactive@hermanus.co.za

Website: www.planactive.co.za



30 October 2019

Our reference: PA19050
Your reference: 12221 HEC

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

TP - N. Ahearne
CH. Olivier

For attention: Mr. Petrus Roux

Sir,

FILE NO:	CF 12221
	Hermanus ✓
SCAN NO:	HMS 12221
COLLABORATOR NO:	1347049

COMMENTS ON OBJECTION: ERF 12221 HERMANUS: PROPOSED DEPARTURE

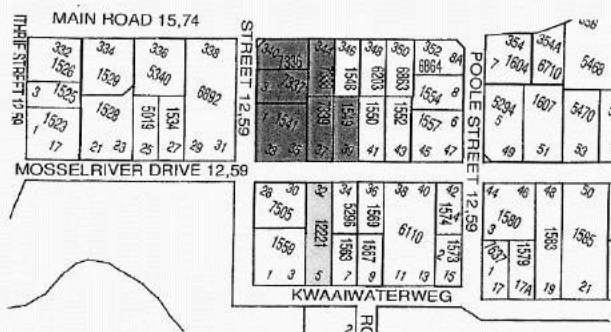
Your letter dated 16 October 2019 with 1 letter of support and 1 objection attached thereto refers. The letter of support is self-explanatory and we would like to make use of our opportunity to comment on the objection received. Our comments on the objection is as follows:

- The objector represents his wife Mrs. F.C van der Merwe whom is also a trustee of the Tweerivier Trust. They own erven 1549, 1541, 7336, 7337, 7338 and 7339 Hermanus. The objector cannot visit the site in order to ascertain if the encroachment of the height restriction has a negative impact on the properties mentioned, and subsequently submitted an objection. The main concern is that the roof might have an impact on their sea view.

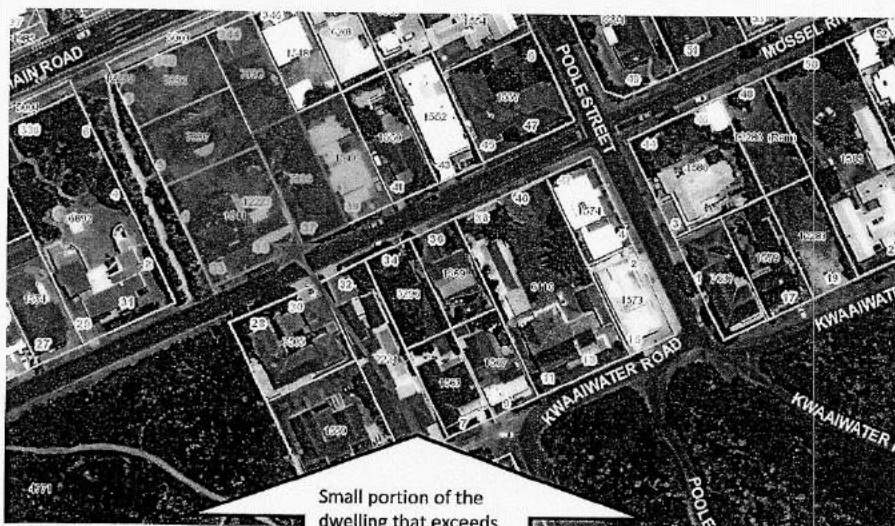
These abovementioned erven are located in Main Road and Mossel River Drive. Please refer to the map below indicating the position of the erven in relation to the subject erf.

Divine Inspiration Trading 329 (Pty) Ltd. trading as Plan Active
Reg. No. 2006/030921/07
Vat. No. 4770250340

John Mc Lachlan: Ndiip (Town Planning) Tech Witwatersrand; MSAPI Nr.10908; SACPLAN Tch.Pln B/8250/2014
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)
Meriké Lerm: B. Art et Scien Cum Laude (Town Planning) UNW; SACPLAN Pr.Pln A/158/2009



The aerial photograph below indicates the small section of the roof that encroaches the prescribed height restriction by 0.76m in red, in relation to the properties mentioned by the objector that are indicated in a transparent red hatch.



Small portion of the dwelling that exceeds the prescribed height restrictions.



Position and direction from where the photos below were taken at various heights measured from current ground level from the indicated position to determine the impact of the height encroachment of the existing dwelling on Erf 12221 Hermanus.



Photo taken ±2m above ground level

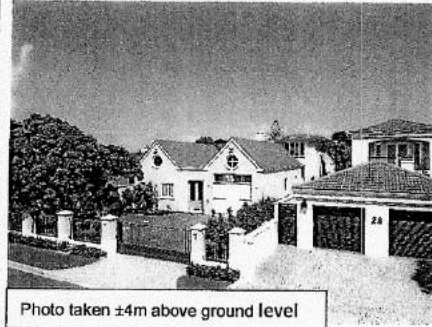


Photo taken ±4m above ground level

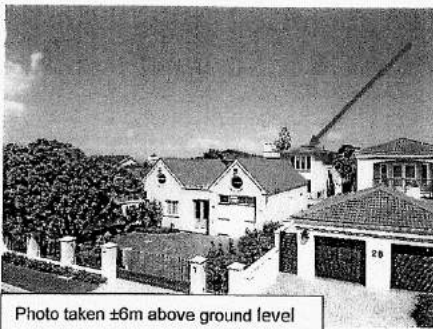


Photo taken ±6m above ground level

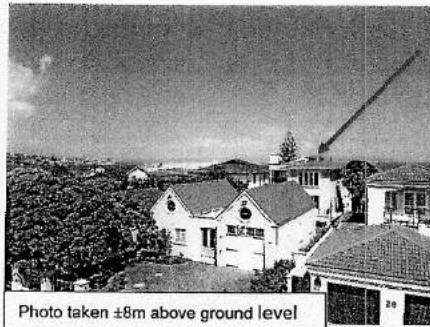


Photo taken ±8m above ground level

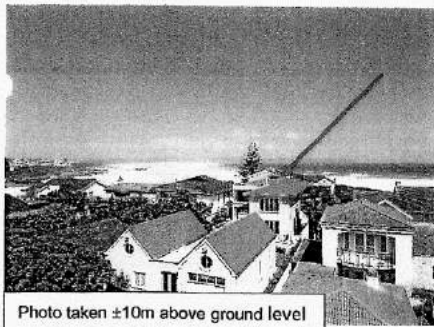


Photo taken ±10m above ground level

With reference to the photographs above it is clear that the small portion of the roof that protrude the 8m height restriction by 0.76m is only partially visible at a height of ±6m above ground level from where the photographs were taken. The section of the roof that protrude the 8m height restriction is visible on the photograph taken at a height of ±10m above ground level from where the photograph

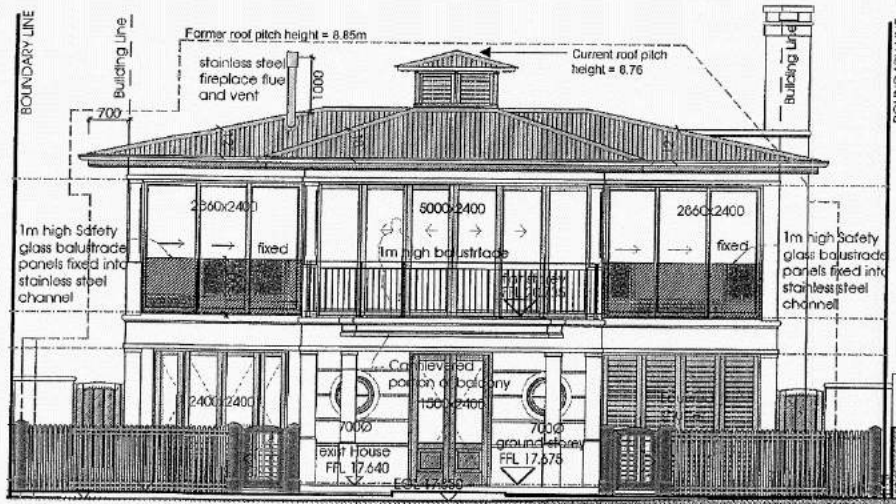
was taken. Even though it is clearly visible, it does not protrude the roof line of existing surrounding dwellings and it also does not obscure the views from this location. With reference to the photo taken at a height of 10m above ground level the roof gable height of the existing dwelling on Erf 1575 Hermanus located south of Erf 12221 Hermanus is perceived to be higher than the top of the roof of the existing dwelling located on the last mentioned erf.

Taking the following fact into consideration it is clear that the portion of the roof that protrudes the maximum height restriction by 0.76m will definitely not have a negative impact on the properties mentioned by the objector :

- The maximum height of a dwelling measured from the base level to the top of the roof is 8m.
- In order to gain the most height a dwelling must have a flat roof. The floor level of the first floor can therefore be calculated to be at a height of $\pm 5.3\text{m}$ above base level. (8m roof height – 0.3m roof structure – 2.4m floor to ceiling height of first floor). It can also be calculated that eye level on the first floor will be at average 6.9m to 7.1m above base level.
- With reference to the photographs above that were taken in the direction of Erf 12221 Hermanus, the sea is not visible at a height of 6m above ground level from where the photograph was taken and the protrusion only becomes visible from 7- 8m above ground level, the same height when portions of the sea becomes visible. The views of the ocean from the objector's property in the direction of Erf 12221 Hermanus would be similar to the photographs taken at a height of 8 and 10m taking the slope of the erven towards Main Road into consideration.
- Should the dwelling located on Erf 12221 Hermanus be within the height restriction the current dwelling located on Erf 1575 Hermanus already obscures a portion of the sea view from this location.

Please take note of the following:

- Now that the previous house situated on Erf 12221 Hermanus has been demolished and the new house built, the view from the objector's properties would have improved, as the roof structure was changed.
- Geomatics Africa Land Surveyors surveyed the former dwelling and the height thereof. With reference to the survey the highest point of the pitched roof is 9cm lower than the former roof. Please refer to the enclosed survey report and the drawing below depicting the current dwelling and the outline of the former building as a dashed red line:



As depicted on the above photographs and drawing above is it clear that the portion of the roof that encroaches the height restriction does not have a negative impact on the view of the properties mentioned by the objector.

We trust that you would find our comments and information above in order and that the application will be dealt with favourably.

Yours faithfully

John Mc Lachlan



geomatics africa
LAND SURVEYING CONSULTANTS

PO Box 2245
Hermanus, 7200
Tel: 028-313 1236
Fax: 028-313 1237
info@geomaticsafrica.co.za

Date: 28 May 2018

To Whom It May Concern:

Height Restriction of renovated buildings on Erf 12221, Hermanus.

A topographic survey was conducted prior to the commencement of building renovations. Natural ground level contours were generated from the aforementioned survey. An as built height restriction survey was performed on the 28 May 2018 and the results are as follows:

Highest natural ground level	17.40m
Lowest natural ground level	16.40m
Mean natural ground level	<u>16.90m</u>
Maximum allowable height (8.00m restriction)	24.90m
Roof pitch height	25.75m

Yours faithfully
geomatics africa

NA Clark (PLS 1072)
Pr. Land Surveyor

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR DEPARTURE: ERF 12221, EASTCLIFF (3284/2019)**

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 any additional and / or extended vehicle entrances will be for the owner's account;
5. 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;
6. that stormwater be allowed to discharge through Erf 12221, Eastcliff, unobstructed;
7. that no on-street parking be allowed.

p.p. R. Hendriks
DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES

25/10/2019
DATE