

ERF 2429, 12 MCFARLANE STREET, ONRUS RIVER: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE ON BEHALF OF VSH INVESTMENTS PTY LTD

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

- ✚ **departure** in terms of Section 16(2)(b) of the By-Law to relax the following:
 - street building line from 4,0m to 0,65m to accommodate the existing carport.
 - eastern lateral building line from 2,0m to 0,6m to accommodate the existing carport.
 - western lateral building line from 2,0m to 0m to accommodate the existing pizza oven and chimney.
 - rear building line from 2,0m to 0m to accommodate the existing pizza oven and chimney.
- ✚ **determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law to accommodate the existing as-built pizza oven (and associated braai area) and as-built carport.

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 / loretta@overstrand.gov.za) on or before **19 June 2023**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the Town Planner, **Mr. H Olivier** 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 2429, MCFARLANESTRAAT 12, ONRUSRIVIER: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: PLAN ACTIVE NAMENS VSH INVESTMENTS PTY LTD

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

- ✚ **afwyking** ingevolge Artikel 16(2)(b) van die Verordening om die volgende te verslap:
 - straatboulyn vanaf 4,0m na 0,65m om die bestaande motorafdak te akkommodeer.
 - oostelike syboulyn vanaf 2,0m na 0,6m om die bestaande motorafdak te akkommodeer.
 - westelike syboulyn vanaf 2,0m na 0m om die bestaande pizza oond en skoorsteen te akkommodeer.
 - agterboulyn vanaf 2,0m na 0m om die bestaande pizza oond en skoorsteen te akkommodeer.
- ✚ **bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) van die Verordening om die bestaande pizza oond, soos gebou (en gepaardgaande braai area) en motorafdak, soos gebou 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 / loretta@overstrand.gov.za) voor of op **19 Junie 2023**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan die Stadsbeplanner, **Mnr. H Olivier** 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 ESINGU-ERF 2429, 12 MCFARLANE STREET, ONRUS RIVER: ISICELO SOKWAHLULA NENGQIKELELO YEPENALTHI YOBHALISO: NGABAKWAPLAN ACTIVE EGAMENI LIKA-VSH INVESTMENTS PTY LTD

Kukhutshwe isaziso esimayela nemiba yeSoloty lama-48 loMthethwana kaMasipala waseOverstrand OsisiHlomelo Zeziwangciso Zokusetyenziswa koMhlaba kaMasipala ku2020 isicelo eso sifunyenweyo sinale miba ilandelayo:

- ✚ **ulwahlulo** ngokwemiba yeSoloty le16(2)(b) loMthethwana ukunyenyisa oku kulandelayo:
 - umgca wesakhiwo ukusuka kwiimitha eziyi-4,0m ukuya ku-0,65m **ukulungiselela** ikhapoti esele ikhona.
 - Umgca wesakhiwo omelene necala elisempuma ngeemitha ezi-2,0m ukuya kwezi-0,6m ukulungiselela ikhapoti esele ikhona.
 - umgca wesakhiwo omelene necala elisentshona ukusuka kwiimitha ezi-2,0m ukuya- 0m ukulungiselela ioveni yepitsa netshimini.
 - Umgca wesakhiwo ongasemva ukusuka kwiimitha ezi-2,0m ukuya kwi-0m ukulungiselela ioveni yepitsa esele ikhona netshimini.
- ✚ **ingqikelelo yepenalthi yookubhalisa** ngokwemiba yeSoloty le16(2)(q) loMthethwana ukulungiselela ioveni yepitsa eyakhelweyo (ehambelana nendawo yokubhaya/yokoja inyama) nekhapoti eyakhiweyo.

linkcukacha ezipheleleyo mayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini phakathi kwentsimbi ye08:00 neye16:30 kwiSebe: Izicwangciso zeDolophu, Paterson Street, Hermanus. Naziphi na izimvo ezibhaliweyo zingangeniswa ngokwezibonelelo zeSoloty lama51 nelama-52 loMthethwana ochazwe ngentla kwaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / loretta@overstrand.gov.za) ngomhla okanye ngaphambi komhla wama-**19 kuJuni 2023**, uchaze igama lakho, idilesi neenkukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zakho zokuhlomla. Imibuzo ngefowuni ingabuzwa kuMwangcisi weDolophu, **uMnu. H Olivier** kwa- 028-313 8900. UMasipala angala ukwamkela izimvo ezifike emva komhla wokuvala. Nabani na ongakwazi ukufunda nokubhala angaya kwiSebe Leziwangciso ngeDolophu apho igosa likamasipala liza kunceda uhlomle ngokusemthethweni.



Scale: NTS
 Drawing Nr: onrus2429j.drw
 Date: MARCH 2023

Plan Description:
LOCALITY MAP

Property Description:
**ERF 2429
 ONRUSTRIVIER**

All distances approximate
 and subject to survey.
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PLAⁿActive
 Stads- en Streeksbeplanners
 Town & Regional Planners

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

ERF 2429 ONRUSTRIVIER

DIVISION: CALEDON

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

Plan Active Town & Regional Planners has been appointed by Mr Y. Heyns, on behalf of VSH Investments Pty Ltd, the new owner of erf 2429 Onrustrivier, to apply for the administrative penalty and departure of the subject property.

Erf 2429 Onrustrivier is 495m² in extent and is held by title deed no. T9818/2023.

There is an existing single storey dwelling with single garage and a carport situated on the subject property. The building plans for the existing dwelling and single garage on the subject property were approved in the past. The previous owners however deviated from the approved building plan by constructing a pizza oven and a carport on the subject property without the obtaining the necessary land use and building plan approval first. Our client bought the subject property in 2023 (property was registered in the new owner's name on 16 March 2023). It was a condition of the sale that the seller provide the purchaser with an approved building plan for all As Built structures on the subject property. This application therefore proposes to address the unlawful pizza oven and carport situated on erf 2429 Onrustrivier. No new additions or alterations are proposed.

2. APPLICATION DETAILS

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**;
- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the **departure** of erf 2429 Onrustrivier.

3. NEED AND DESIRABILITY

3.1 PROPERTY DESCRIPTION

Erf 2429 Onrustrivier is situated at 12 McFarlane Street, Onrus. Refer to the locality plan attached. Erf 2429 Onrustrivier is 495m² in extent and is held by title deed no. T9818/2023.

The subject property gently slopes in a southerly direction and is characterized by residential structures (single storey dwelling with single garage and a carport) and a garden area. The existing dwelling has a footprint (ground floor level) of 216m² in extent.

3.2 ZONING

Erf 2429 Onrustrivier has the following land use rights:

ERF NUMBER	ZONING
Erf 2429	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 single storey dwelling with single garage, carport, braai area and garden situated on erf 2429 Onrustrivier. The subject property is therefore used for single residential living purposes.

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

3.4 PROPOSAL

The following is proposed:

1. The determination of an **administrative penalty** for erf 2429 Onrustrivier to accommodate the existing As Built pizza oven (and associated braai area) and As Built carport 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 2429 Onrustrivier 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 street building line (McFarlane Street) from 4m to 0,65m to accommodate the existing carport;
 - relax the eastern lateral building line from 2m to 0,6m to accommodate the existing carport;
 - relax the rear building line from 2m to 0m to accommodate the existing pizza oven and chimney;
 - relax the western lateral building line from 2m to 0m to accommodate the existing pizza oven and chimney;

- deviate from the engineering standards with regards to an additional access on a SR1 zoned property to accommodate the existing second access point that gives access to the As Built carport.

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

There is an existing single storey dwelling with single garage and a carport situated on the subject property. The building plans for the existing dwelling and single garage on the subject property were approved in the past. The previous owners however deviated from the approved building plans by constructing a pizza oven and a carport on the subject property without the obtaining the necessary land use and building plan approval first. Our client bought the subject property in 2023 (property was registered in the new owners' name on 16 March 2023). It was a condition of sale that the seller provide the purchaser with an approved building plan for all As Built structures on the subject property. This application therefore proposes to address the unlawful pizza oven and carport on erf 2429 Onrustrivier. No new additions or alterations are proposed.

Here follows the detail of the proposed application for consideration:

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 (As Built pizza oven and carport), 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**

Our client bought the subject property in March 2023 with all existing structures As Built. It was a condition of sale that the seller provide the purchaser with an approved building plan for all As Built structures on the subject property. No alterations or additions were made to the existing structures since our client bought the property in March 2023. It is understood that the encroachment of the As Built pizza oven was the previous owner's work (the previous owner owned the property from 2020 until March 2023). The pizza oven was built in December 2020. The owner at the time was unaware that a building plan was a requirement for the construction of the pizza oven at its current position. The neighbours were consulted, and no complaints were raised or have been received up to date.

The carport was however constructed by J.F. & H.C. Crafford who owned the property from 2003 until 2020. The latest building plan for the subject property was approved in 2004 and does not show the carport. According to the previous owner the carport was constructed between 2004 and 2010. It is therefore evident that the existing As Built carport has been on the property for at least 13 or more years. The existing carport is $\pm 26\text{m}^2$ in extent. The existing As Built dwelling's floor area is 242m^2 in extent. The carport that encroaches the land use scheme building lines therefore takes up a mere $\pm 11\%$ of the total coverage. It should be noted that there is only a single garage on the property; therefore, the carport serves as the second parking bay for the dwelling.

The existing pizza oven and carport were part of the drawing / selling points of the subject property when our client bought the property earlier this year. It is therefore of utmost importance to our client that the structures be retained.

The As Built pizza oven and carport encroach the relevant street, rear and lateral building lines and a departure application is submitted simultaneously to address the building line encroachments.

Neither the pizza oven with associated braai area nor carport are considered habitable areas. The structures are used for cooking, relaxing and entertaining (pizza oven and area) and for the storage of a vehicle.

The position and nature of the As Built pizza oven and carport 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 As Built structures is included in this application.

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

The As Built structures were constructed by the previous owners of the subject property as set out above. The previous and current owners have never contravened the land use planning By-law in the past. They addressed the matter related to the unlawful structures as soon as they were made aware of the fact and appointed the relevant consultants (architects and town planners) to assist them to obtain the necessary approvals.

- **Whether the unlawful conduct was stopped**

The previous owner was unaware that the As Built carport described above was never previously approved. He was also unaware that land use and building plan approvals were required before constructing the pizza oven. The new owners now attempt to rectify the contravention by submitting the administration penalty application and subsequent departure application in order to legalise the As Built structures on the subject property (as specified in the sales agreement).

- **A report by a quantity surveyor in matters of unauthorised building / construction**

If the Overstrand Municipality finds it necessary that an administrative penalty fee needs to be enforced for the unauthorised building work, we will submit a report from a quantity surveyor / building contractor with reference to the unauthorised building

work. The reason being that if there is a chance that no penalty fee is imposed the report from a quantity surveyor will be unnecessary at this stage. The previous owner did however confirm that the construction cost for the pizza oven was ±R8 000.00 in 2020. The construction cost for the carport could not be confirmed since neither the previous nor the current owner constructed the carport.

- **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 landowners, 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 As Built carport and pizza oven have and will continue to have on the surrounding area (as further motivated in the building line relaxation application below). The As Built structures have a minimal impact on the neighbouring properties since the footprint of the structures will remain unchanged.

It should also be considered that no complaints from surrounding property owners were submitted with regards to the As Built structures.

The previous and current owners never hesitated to immediately give instruction to the 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 / no penalty fee be imposed on the property owner for the reasons given above.

3.4.2 Departure

It is proposed to retain the As Built pizza oven (with associated braai area) and

carport. The subject property was sold in March 2023 inclusive of these structures therefore it is of utmost importance to retain these structures.

The As Built pizza oven was constructed within the 2m rear and western lateral Land Use Scheme building lines. The As Built carport was constructed within the 4m street and 2m eastern lateral Land Use Scheme building lines.

To accommodate the As Built carport an application is submitted for a departure to:

- relax the street building line (McFarlane Street) from 4m to 0,65m to accommodate the existing carport;
- relax the eastern lateral building line from 2m to 0,6m to accommodate the existing carport;
- deviate from the engineering standards with regards to an additional access on a SR1 zoned property to accommodate the existing second access point that gives access to the As Built carport.

The existing carport is 4,6m wide and 5,7m in length. The structure is therefore $\pm 26\text{m}^2$ in extent. The carport is 2,55m high as indicated on the south elevation. The property only has a single garage for the storage of vehicles. Due to the position of the As Built structures a second parking bay (or carport) cannot be placed in front of the single garage. The carport serves as the second parking bay for the existing dwelling to ensure that it meets the minimum parking requirements for a dwelling.

In addition, the land use scheme allows for the consideration of a carport within the street building line subject to certain requirements. The As Built carport meets all the requirements for the consideration of a carport within the street building line:

- The carport does not exceed the maximum width of 6,5m (width of 4,6m);
- The carport is supported by metal / timber posts or brick, concrete or masonry pillars;
- The carport is not enclosed on any of the sides;
- The carport does not exceed the maximum height of 3m (height of 2,55m).

A second parking bay cannot be accommodated in front of the existing single garage. The carport serves as the second parking bay for the dwelling house to ensure compliance with the minimum parking requirements for a dwelling on a SR1 zoned property. However, the position of the single garage and carport on the subject

property requires that two access points be granted for erf 2429 Onrustrivier. It is noted that the second / additional entrance is non-compliant with the normal engineering standards and that the spacing between the two accesses is insufficient. We herewith request that the Engineering Services department allows for the deviation from the engineering standard requirements for access points on a SR1 zoned property to allow the property owner to keep the existing carport and meet the parking requirements for the SR1 zoned property.

The pizza braai area (inclusive of the planters, seat, counter and actual oven) is located on the rear and western lateral erf boundary. The structure takes up $\pm 8,9\text{m}$ of the rear erf boundary and $\pm 2,655\text{m}$ of the western erf boundary. The planters, seat and counter are however lower than the permissible 1m height for the consideration of a braai area within building lines. However, the pizza oven and chimney encroach the 1m permissible height for the consideration of a built braai within the building lines. The total height of the pizza oven with chimney is $\pm 3,27\text{m}$ (inclusive of the counter height, with the pizza oven on top and the chimney attached to the pizza oven). Since the height of the pizza oven is higher than 1m, an application is submitted for a departure as follows:

- relax the rear building line from 2m to 0m to accommodate the existing pizza oven and chimney;
- relax the western lateral building line from 2m to 0m to accommodate the existing pizza oven and chimney.

The pizza oven and chimney are located in the north-western corner of the subject property (on $\pm 1,865\text{m}$ of the rear erf boundary and $\pm 2,655\text{m}$ of the western erf boundary). The pizza oven is lower than the 1,9m rear boundary wall and as a result only the chimney is visible from the neighbouring erf 2428 Onrustrivier. The western erf boundary wall is 1,6m high and a small portion of the pizza oven and the chimney are visible from the neighbouring erf 2424 Onrustrivier.

The following should be noted when considering the carport and pizza oven:

- The carport and pizza oven (with associated braai area) have existed for a few years without any complaints from neighbours.
- The current property owners made no additions or alterations to the As Built structures.
- The visual impact is considered minimal. A carport is allowed within the

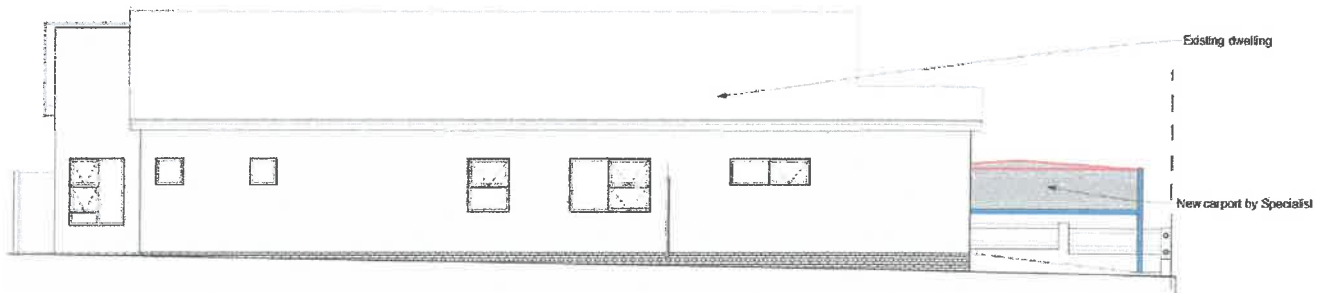
street building lines as described above. Although the pizza oven and chimney are visible to neighbouring properties, a braai area use is allowed within building lines. The height of the structure has no impact on the use within the building line that would have been permitted if the braai was lower than 1m in height. The northern and western erf boundary walls mitigate the impact of the As Built pizza oven and chimney, thus keeping the impact to a minimum.

- The materials used are aesthetically pleasing.
- The As Built carport and pizza oven (braai area) are an integral part of the property thus to demolish the structures to make it compliant to the respective building lines, will diminish the aesthetic value and property value.

Refer to the attached site development plan, floor layout and elevations.

The elevations below indicate the As Built structures that must be addressed:

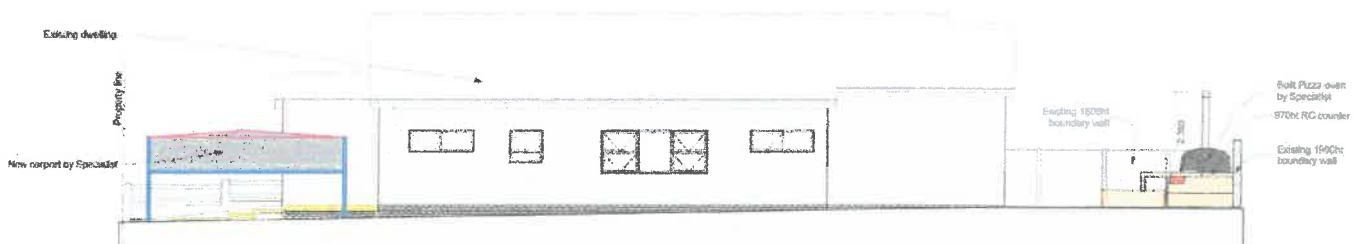
1. West elevation (view of the carport)



West Elevation

1:100

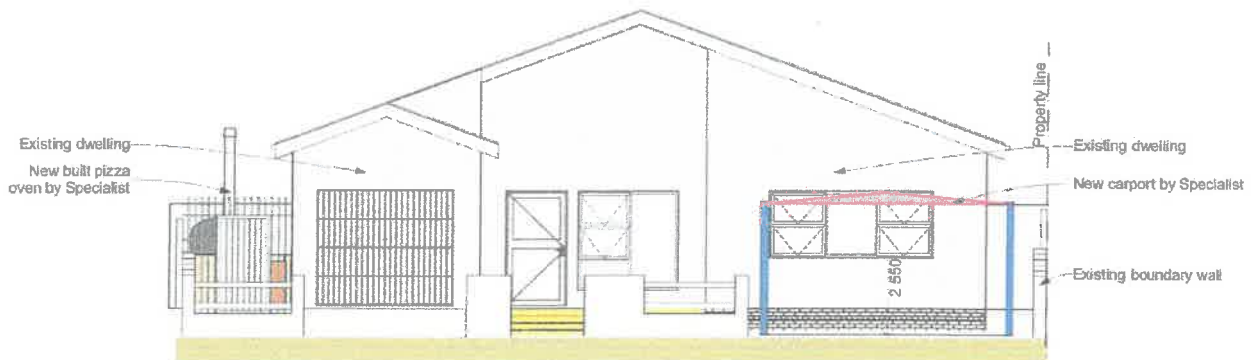
2. East elevation (view of the carport and pizza oven)



East Elevation

1:100

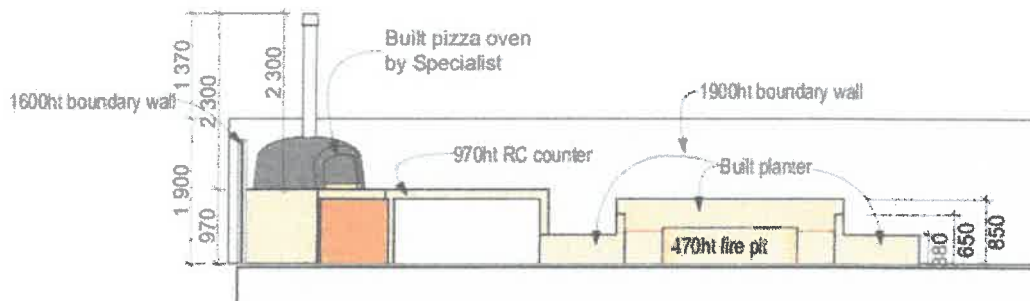
3. South elevation (covered patio and balcony as seen from McFarlane Street)



South Elevation

1:100

4. South (braai area) elevation



South (braai area) Elevation

1:100

The proposed application does not have any impact on the character or property values of the surrounding properties. The existing structures on the subject property do not create an infringement to any passing traffic or public activity due the position of the As Built structures on site in relation to the existing structures on the neighbouring properties and the low impact use of the respective structures.

It is submitted that the massing and height of the existing structures are compatible with the character of the area, regardless of the departure being applied for.

The zoning of erf 2429 Onrustrievier will remain unchanged (Residential Zone I: Single Residential) as well as the primary land use (single residential purposes). The height

of all the structures on the subject property complies with the permissible height requirements for SR1 zoned properties. All buildings and uses thereof that encroach the applicable building lines as indicated on the site development plan already exist and the application addresses existing structures that encroach the building lines. Consequently, the proposed departure will not have a greater visual impact on the surrounding properties. The impact on the adjacent property owners and the passers-by will therefore be marginally higher than if these structures did not exist.

The area schedule and coverage for the subject property are as follows:

ERF	495m ²
Existing Covered Area	216m ²
New Carport	26m ²
New Total Covered	242m ²
Footprint Coverage	242m ² 48,90%

The total coverage of 48,9% does not exceed the maximum permissible coverage of 50% for SR1 zoned properties.

It is submitted that the existing structures are compatible with the character of the area, do not impact negatively on the rights of anyone else and that no good reason exists for not approving this application. When considering the proposed building line deviations, the point of departure is the need to discourage the phenomenon of urban sprawl and to encourage densification and more compact towns and cities, all of which relates to more responsible resource use or sustainable development.

The proposed departure of erf 2429 Onrustvriër is not in contrast to the existing land use tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

3.5 THE POTENTIAL OF THE PROPERTY

The zoning and primary land use of the subject property will remain unchanged. The location of the subject property within a single residential area allows the property to

be developed for low impact land uses only (such as bed-and-breakfast establishments, day care, second dwelling, guest house and home occupation uses). The proposed departure will not hinder any possible future land use applications on erf 2429 Onrustvriër.

The subject property has the potential and allows for the deviations being applied for since the As Built structures have been on the subject properties for a considerable period without any complaints from neighbours. All existing structures meet the maximum of 8m height requirement for SR1 zoned properties as depicted on the site development plan.

The following should be noted when considering the potential of the site:

- The visual impact will be kept to a minimum since the structures have been on the property for a few years now and no new additions / alterations are proposed.
- The massing and scale of the As Built structures are compatible with the area.
- Except for the building line deviations, all other land use parameters are met.
- The As Built carport and pizza oven (with associate braai area) form an integral part of the property thus to demolish the structures to make it compliant with the scheme building lines, will have a detrimental impact on the provision of on-site parking and the value of the property as it was sold to the new owner (our client).

The scale of the surrounding built environment and the low impact on the streetscape are also factors that must 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 building line deviations:

- good quality materials were used when the existing structures were built;
- the height of the As Built and approved structures will remain unchanged;
- The As Built unlawful structures have been in existence for a few years, with no complaints from neighbours. No alterations or additions to these structures are proposed;

- The As Built structures add value to the subject property.

3.6 ECONOMIC IMPACT

The proposed departure is to accommodate existing structures and uses thereof. The proposed departure will allow the owner to legalise the existing structures in line with the condition of sale of the subject property. This will also favour the resale of the property in the future.

The approval of the existing structures will save our clients the cost of demolishing these structures. The proposed building line deviations will have a low but positive impact on the local economy.

3.7 SOCIAL IMPACT

The proposed departure will have no impact on the social status quo of the area. The building line deviations will however allow the owner to keep the existing As Built structures on the subject property.

No negative impact on the social wellbeing of the surrounding community is anticipated. It is submitted that the existing developed property is 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 2429 Onrustrivier (and the respective uses thereof) merges well with the scale of the surrounding dwellings in the immediate area.

In addition, to accommodate (legalise) the existing As Built structures that encroach the street, rear and lateral building lines 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).

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 departure 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.

Since the proposed departure is 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 departure does not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

Erf 2429 Onrustvriër is not situated within the Heritage Protection Overlay Zone as determined by the Overstrand Municipality's Zoning Scheme (2020). The subject property is also not earmarked for heritage conservation purposes with reference to the Overstrand Municipal Growth Management Strategy (2010).

The dwelling on the subject property is not older than 60 years. 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 Onrus or Greater Hermanus area.

3.12 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).

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

3.13 TRAFFIC IMPACT, PARKING AND ACCESS

Access to erf 2429 Onrustrivier will remain unchanged and will be from McFarlane Street. Refer to the access points as indicated on the site development plan. No new access points are proposed.

The Overstrand Municipality Land Use Scheme (2020) stipulates that a minimum of two parking bays are required for a dwelling house. There is an approved single garage on erf 2429 Onrustrivier. A second parking bay cannot be accommodated in front of the existing single garage. The carport serves as the second parking bay for the dwelling house to ensure compliance with the minimum parking requirements for a dwelling house on a SR1 zoned property. However, the position of the single garage and carport on the subject property requires that two access points be granted for erf 2429 Onrustrivier. It is noted that the second / additional entrance is non-compliant with the normal engineering standards and that the spacing between the two accesses is insufficient. We herewith request that the Engineering Services department allow for the deviation from the engineering standard requirements for access points on a SR1 zoned property to allow the property owner to keep the existing carport and meet the parking requirements for the SR1 zoned property.

Considering the existing single garage and As Built carport the dwelling house on erf 2429 Onrustrivier therefore complies 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. T9818/2023 has no restrictive title deed conditions that need to be addressed with this application. A conveyancer's certificate is not included with this application since the title deed is straight forward.

There is a bond registered against the subject property. The bondholder's consent was requested and will follow.

3.15 FORWARD PLANNING AND LAND USE DOCUMENTS

The *Overstrand Spatial Development Framework (2020)* earmarks the area where erf 2429 Onrustrivier 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 departure 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 2429 Onrustrivier forms part of Planning Unit no. 1. This planning unit stipulates that the density status quo for the area should remain (8,1du/ha). 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 Onrus / Hermanus West area.

The proposal will promote land development in a location that is sustainable. The proposed departure is 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 Onrus 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 1923.

The proposed application will not promote spatial development imbalances. This application is for an erf as per the establishment of the existing Onrus Township. The proposed application is in character with the existing area 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 departure will have no impact on the visual elements of the subject property and surroundings since all the structures that encroach the building lines already exist. It is submitted that the proposed application is compatible with the character of the area (as motivated in previous sections of this report). The encroachment of the building lines has no impact on the massing of the buildings and the impact on the streetscape or passers-by. The As-Built unlawful structures merge well with the approved structures. 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 existence of the structures on the subject property for the past few years, etc. allow for the consideration and approval of the proposed deviations without having an adverse impact on the spatial sustainability of the area. To accommodate the As Built structures to an improved erf within an established residential area 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 without affecting natural vegetation. The property will be 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 and major routes. The massing and height of the property will be in line with the relevant zoning scheme regulations. It proves to be resourceful to approve the As Built structures with the proposed uses thereof to the subject property since it is compatible with the existing built environment and the way the additions were done is aesthetically pleasing.

It proves to be efficient to accommodate the existing structures and its proposed uses by approving the proposed departure of erf 2429 Onrustrivier instead of demolishing the structures and as a result negatively impact on the whole look and feel of the subject property.

The proposed departure proves 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:

- 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 deviations from the applicable scheme regulations' building lines are to accommodate As Built structures only;
- The proposal is compatible with the existing built character of the area;
- Impact on the traffic will be kept to a minimum;
- There are no heritage aspects that will negatively impact the application;
- 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 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 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.

Building type and location
 All plans to be used for building
 construction must comply with the
 relevant building regulations &
 engineering standards in force at the
 time of issue. The architect is not
 responsible for any other
 requirements or standards.
 All dimensions are in mm.
 Use of standard details is permitted
 unless otherwise stated.
 Any alterations to be proposed to
 the design must be shown on a
 separate sheet with a reference to
 the relevant detail.
 All structural concrete work to
 be shown on a separate sheet.
 Copyright reserved in this drawing

ADDITIONS &
 ALTERATIONS
 BY
 ON TAYLOR
 ARCHITECTS
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