

**ERF 3461, 16 RHEEZICHT CRESCENT, ONRUS RIVER: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF WJ VAN ZYL**

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) to relax the western lateral building line from 2m to 0,417m to accommodate the existing main bedroom and on-suite, and also to relax the eastern lateral building line from 2m to 1,748m to accommodate an existing built braai.
- **Determination of an administrative penalty** in terms of Section 16(2)(q) for unauthorised land use as mentioned above.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, Paterson Street, Hermanus. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) on or before **11 August 2023**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to **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 3461, RHEEZICHTSINGEL 16, ONRUSTRIVIER: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: INTERACTIVE STAD- EN STREEKBEPANNING NAMENS WJ VAN ZYL**

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) om die westelike syboullyn vanaf 2m na 0,417m te verslap om die bestaande hoofslaapkamer en en-suite te akkommodeer, en ook om die oostelike syboullyn vanaf 2m na 1,748m te verslap om 'n bestaande braai te akkommodeer.
- **Bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) vir ongemagtigde grondgebruik soos hierbo genoem.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) voor of op **11 Augustus 2023**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan **Mnr. H Olivier** at 028-313 8900. Die Munisipaliteit mag weier om die kommentaar te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

**ISIZA 3461, 16 RHEEZICHT CRESCENT, ONRUS RIVER: ISICELO SOKUNYENISWA NOKUGQITYWA KWESOHLWAYO: ABAKWA-INTERACTIVE TOWN & REGIONAL PLANNING EGAMENI LIKA-WJ VAN ZYL**

Kukhutshwa isaziso ngokumayela neCandelo 48 loMthetho Otshintshiweyo woMasipala waseOverstrand ongokuSetyenziswa koMhlaba kaMasipala, 2020 ukuba kufunyenwe isicelo sezi zinto zilandelayo:

- **Ukunyenyiswa** ngokumayela neCandelo 16(2)(b) ukuze kunyenyiswe umgca wokwakha kwicala elingasentshona ukusuka ku-2m ukuya ku-0.417m ukulungiselela igumbi lokulala elingundoqo kunye negumbi lokuhlambela kunye nokunyenyisa umgca wokwakha kwicala elingasempuma ukususela ku-2m ukuya ku-1.748m ukulungiselela indawo yokoja esele yakhiwe.
- **Ukugqitywa kwesohlwayo** ngokumayela neCandelo 16(2)(q) ngenxa yokusetyenziswa komhlaba okungasentla ngaphandle kwemvume.

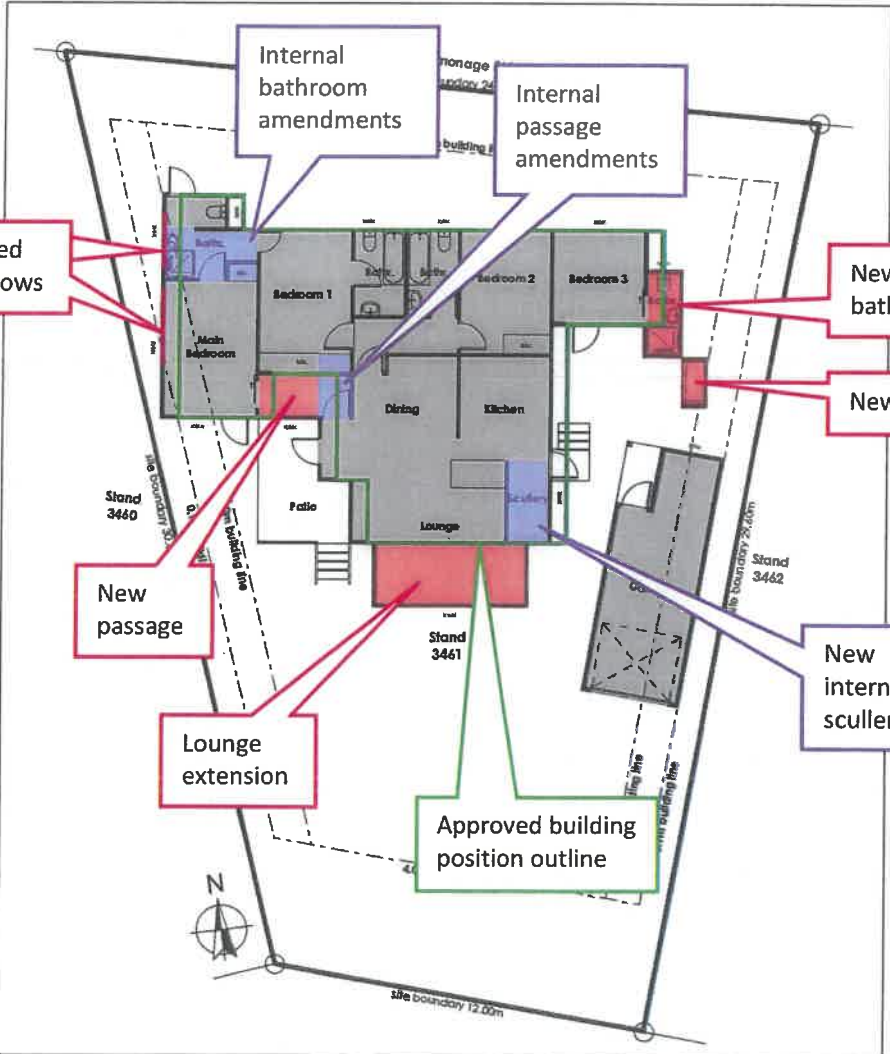
linkcukacha ezipheleleyo mayela noku kucetyiweyo ziyafumaneka ukuze zihlolwe phakathi evekini phakathi ko-08:00 no-16:30 kwiSebe: Town Planning, Paterson Street, Hermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe kuMasipala ngokwezibonelelo zeCandelo 51 neCandelo 52 loMthetho kaMasipala ochaziweyo (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) ingadlulanga i-**11 uAgasti 2023**, ubhale igama lakho, idilesi neenkukacha zoqhagamshelwano, umdla wakho kwisicelo nezizathu zokubhala izimvo zakho. Imibuzo ngefowuni ingabhekiswa ku**Mnu. H Olivier** ku 028-313 8900. UMasipala angangavumi ukwamkela amagqabaza okuhlomla afunyenwe emva komhla wokuvala. Nabani na ongakwazi kufunda okanye ukubhala angatyebilela iSebe lokuCeba iDolophu apho igosa lakwamasipala liya kumnceda afake amagqabaza okuhlomla.



Locality Map  
Erf 3461 Onrus River



## 1. Introduction

<p><b>a. Brief</b></p> <p>Refer to <b>Annexure B</b> for the Power of Attorney.</p>	<p>Interactive Town and Regional Planning was appointed by the owner of the property Willem Johannes Van Zyl to prepare and submit an application for building line departures of Erf 3461, Onrusrivier as well as the determination of an administrative penalty in terms of the relevant legislation.</p>
<p><b>b. Background</b></p>	<p>Building plans were approved for the dwelling on the application area in 1991 and was subsequently built on the incorrect location, being 0.5m closer to the western side boundary as approved.</p> <p>In addition to the above, a bedroom and bathroom window was moved and a braai was built which exceeded building lines. Internal changes were also made, partially exceeding building lines and a bathroom was added to a bedroom. The lounge was also extended and a passage added not affected by the building lines.</p>
<p><b>c. Development Objective &amp; Application Proposal</b></p>	<p>The application objective is to legalise the existing dwelling</p>  <p><b>Figure 1: Application illustration</b></p> <p>Subsequently the <b>application proposal</b> is for:</p> <ul style="list-style-type: none"> <li>• A departure to relax the western side building line from 2m to 0.417 to allow for the existing dwelling.</li> <li>• A departure to relax the eastern side building line from 2m to 1.748m to allow for the existing braai.</li> <li>• The determination of an administrative penalty.</li> </ul>

## 2. The Application

<b>a. Analysis: Title Deed</b>	The Conveyancer Monica Korf issued a certificate confirming that there are <u>no restrictive title deed conditions</u> against the application proposal.				
<b>b. Analysis: Development Criteria:</b>  The development parameters for Erf 3461 Onrusrivier, Hermanus as per the Overstrand Zoning Scheme Regulations, 2020, read with the subject title deed are summarised as follows:	<b>Parameters</b>	<b>Existing Zoning</b>	<b>Proposal</b>	<b>Comments</b>	
	<b>Zoning</b>	Residential Zone 1: Single Residential (SR1)	Residential Zone 1: Single Residential (SR1)	Consistent	
	<b>Primary Use</b>	Day care centre, dwelling house, guest rooms, home occupation, second dwelling unit;	Dwelling house	Consistent	
	<b>Consent Uses</b>	Crèche, green house, guest house, house shop, institution, place of instruction, place of worship, residential building, tourist accommodation.	None	Consistent	
	<b>Coverage</b>	50%	<50%	Consistent	
	<b>Height</b>	8m	<8m	Consistent	
	<b>Building lines</b>	<b>Street</b>	4m	<4m	Consistent
		<b>Side</b>	2m	0.417 west 0.9m east for garage 1.748m for braai	<b>Application includes departures</b>
		<b>Rear</b>	2m	<2m	Consistent
	<b>Parking</b>	Dwelling house: 2 bays	2 bays	Consistent	
<b>c. Application:</b>  The application form is attached as <b>Annexure A</b> .	Application is subsequently made in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, for: <ul style="list-style-type: none"> <li>• A departure to relax the western side building line from 2m to 0.417 to allow for the existing dwelling in terms of Chapter IV, Section 16(b).</li> <li>• A departure to relax the eastern side building line from 2m to 1.748m to allow for the existing braai in terms of Chapter IV, Section 16(b).</li> <li>• The determination of an administrative penalty in terms of Chapter IV, Section 16(q).</li> </ul>				

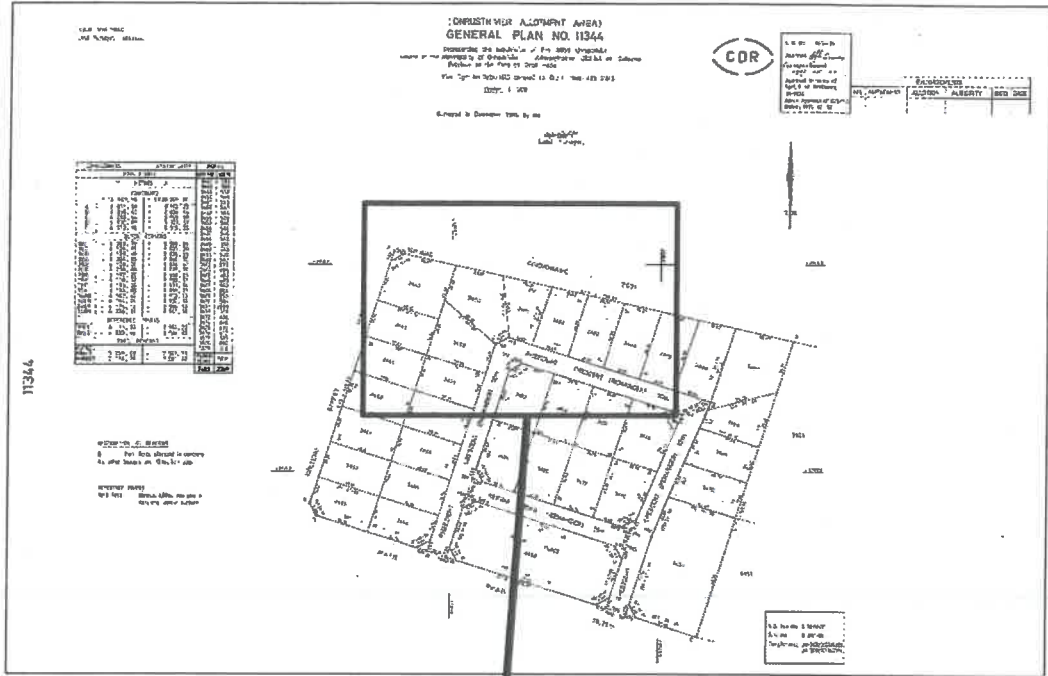
### 3. Contextual Site Information

**a. Property Description**

Property	Extent	Title Deed	Registered Owner
3461 Onrusrivier	520m <sup>2</sup>	T1261/2010	Willem Johannes Van Zyl

Refer to Annexure E for the SG Diagrams, Annexure C for the Title Deed of Erf 3461 Onrusrivier.

The following Surveyor General Plans reflect the application site:



Application Area

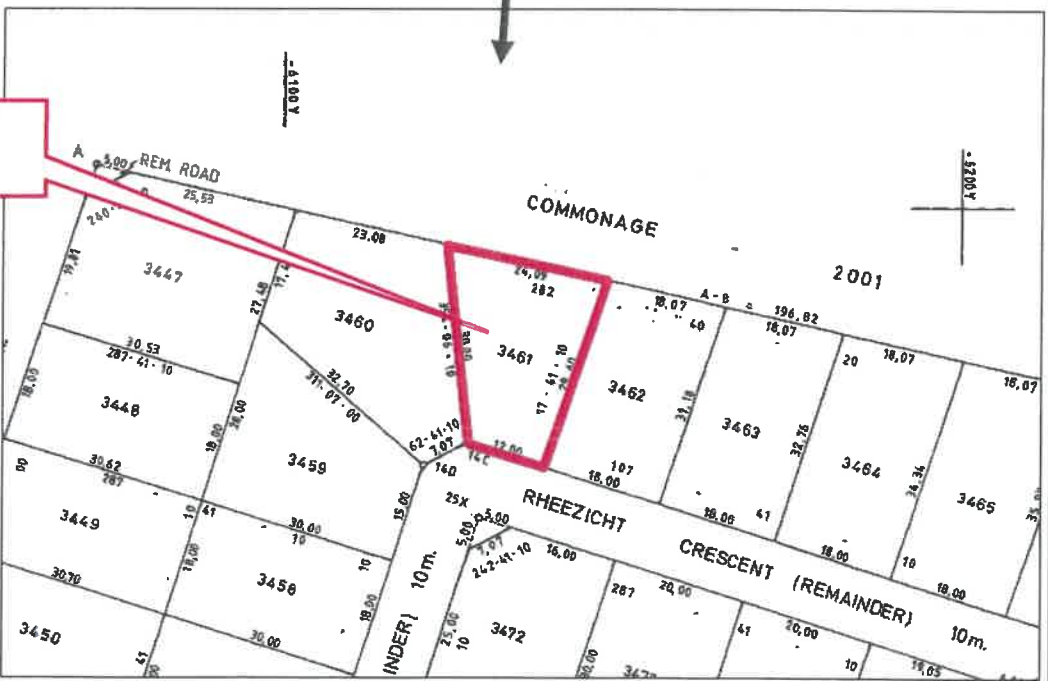


Figure 2: Extracts of the Surveyor General Plans of the application site

**b. Location:**

For the Locality Plans refer to Annexure F.

**Regional Context:**

Within the regional context, the application area is located within the Onrusrivier residential suburb. Onrusrivier is located approximately 5km west of the Hermanus CBD.

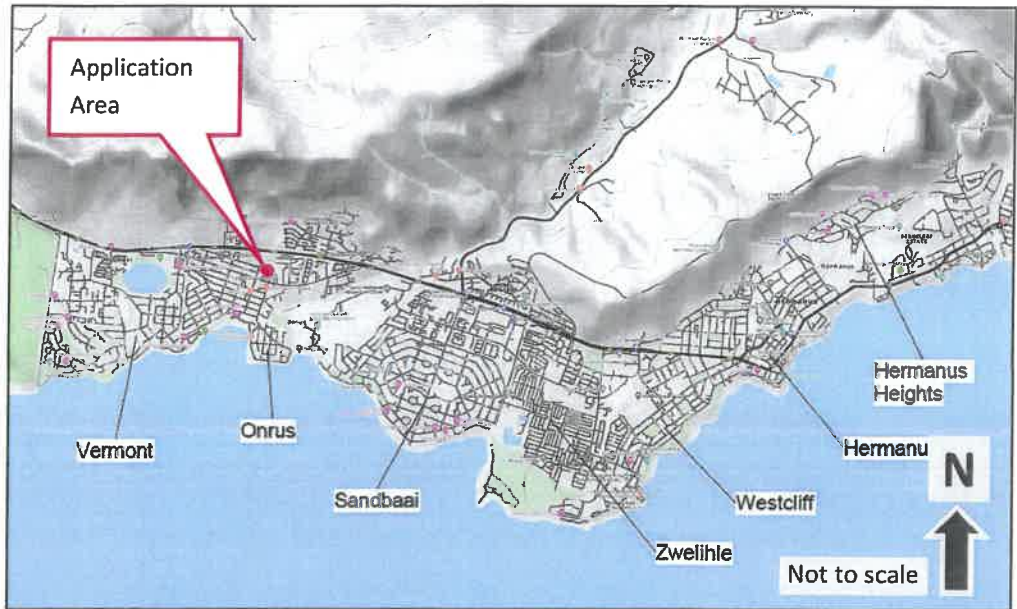


Figure 3: Locality Plan – Regional Context

**Local Context:**

Within the local context the application area is located at number 16 Rheeziht Crescent within Onrusrivier that forms part of the larger Hermanus West area.



Figure 4: Locality Plan – Local Context

**c. Land Use:**

Refer to the Land Use Plan attached as **Annexure H.**

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

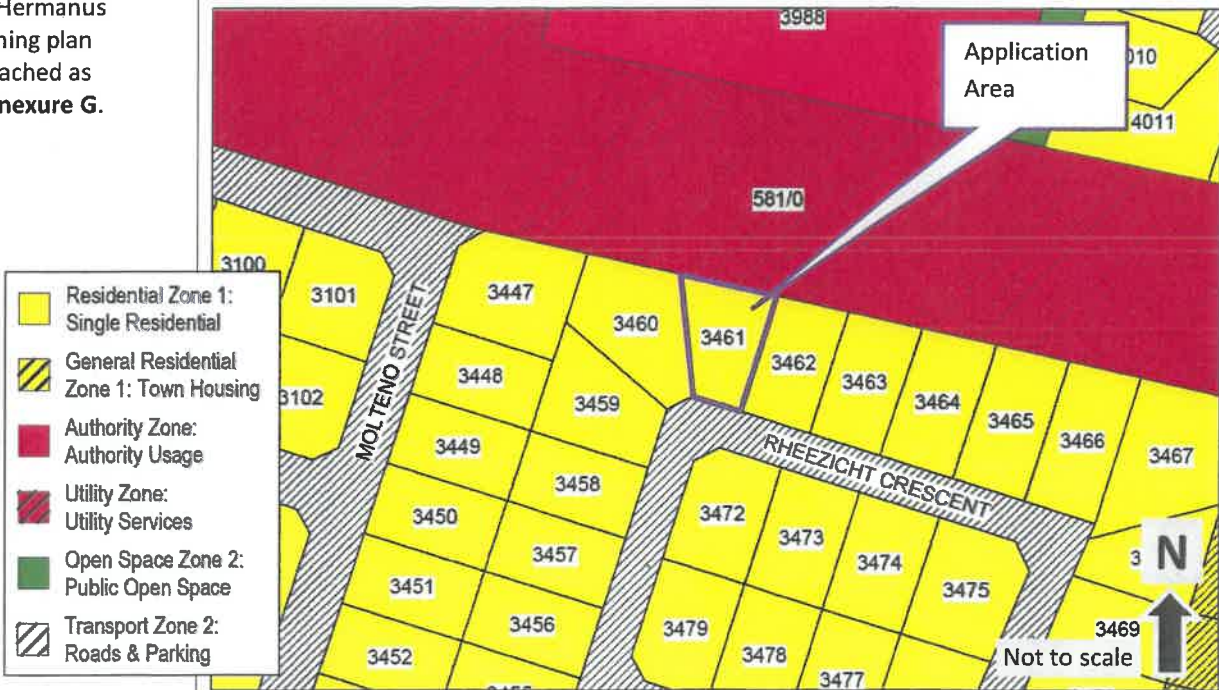


**Figure 5: Aerial Image illustrating the residential land-use activities of the application area and surrounding properties**

**d. Zoning:**

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

The application area, Erf 3461, Onrusrivier is zoned Residential Zone 1: Single Residential. The surrounding erven are zoned Residential Zone 1: Single Residential as well as Utility Zone. No change in zoning is proposed. The application proposal is **consistent** with the zoning of the area.



**Figure 6: Extract from the Overstrand Municipality: Online zoning viewer**

**e. Spatial Planning Policy**

The following policy guidelines from the following relevant policy documents are applicable to the application area.

**i. Overstrand Municipal Spatial Development Framework, 2020**

In terms of the Overstrand Municipal Spatial Development Framework, the application area is within an urban development area.

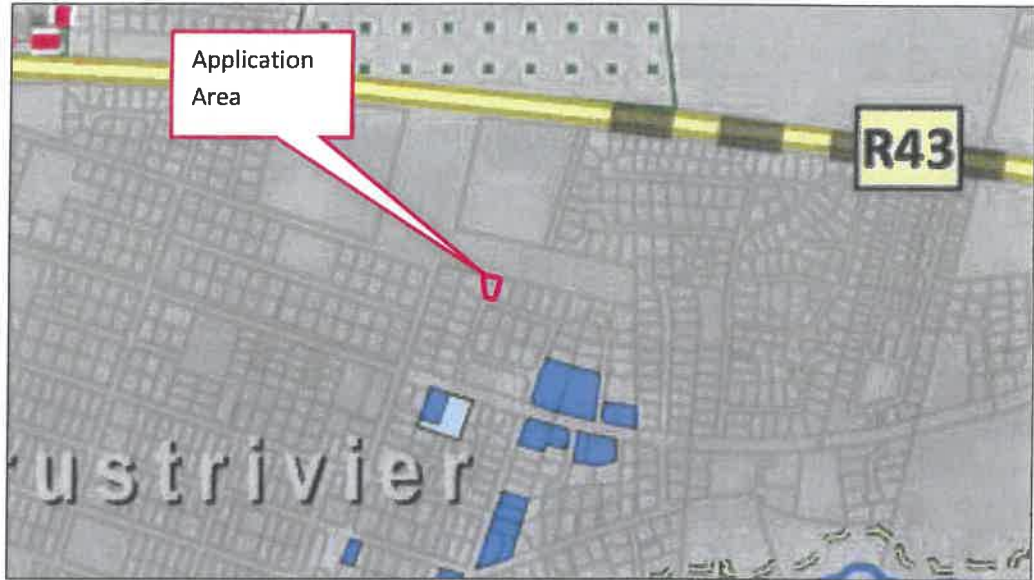


Figure 7: Overstrand Municipal Spatial Development Framework, 2020 extract

**Conclusion:**

The proposed amendments are consistent with this policy.

**ii. Overstrand Municipality Spatial Growth Management Strategy – 2010 (OMSGMS)**

In terms of the Overstrand Growth Management Strategy, the application area falls within a “No Densification” area as well as a Local Economic Opportunity area. No densification is proposed.

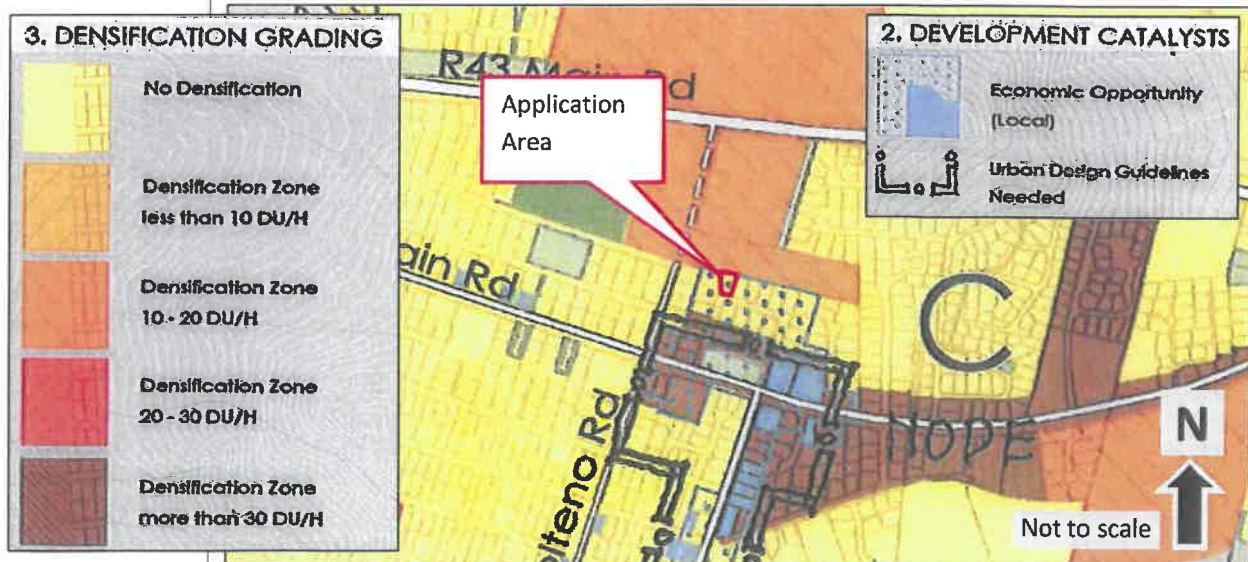


Figure 8: Extract from the Overstrand Municipality: Growth Management Strategy

**Conclusion:**

The application is for the legalisation of existing structures and does not impact on the land-use or spatial planning policies and therefore the proposal is fully **consistent** with the requirements of the spatial development policies of the Overstrand Municipality.

iii. **Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020**

***“90. Application for administrative penalty***

- (1) A person who is in contravention of this By-Law, and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned.*
- (2) A person making an application contemplated in Subsection (1) must –*
  - (a) submit an application;*
  - (b) pay the prescribed fee;*
  - (c) provide the information contemplated in Subsections (3); and*
  - (d) comply with the duties of an applicant in Section 84.*
- (3) The applicant must, to the satisfaction of the Municipality, provide the following information such as-*
  - (a) the nature, duration, gravity and extent of the contravention;*
  - (b) the conduct of the person (allegedly) involved in the contravention;*
  - (c) a report by a quantity surveyor in matters of unauthorised building/construction;*
  - (d) whether the unlawful conduct was stopped; and*
  - (e) whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.”*





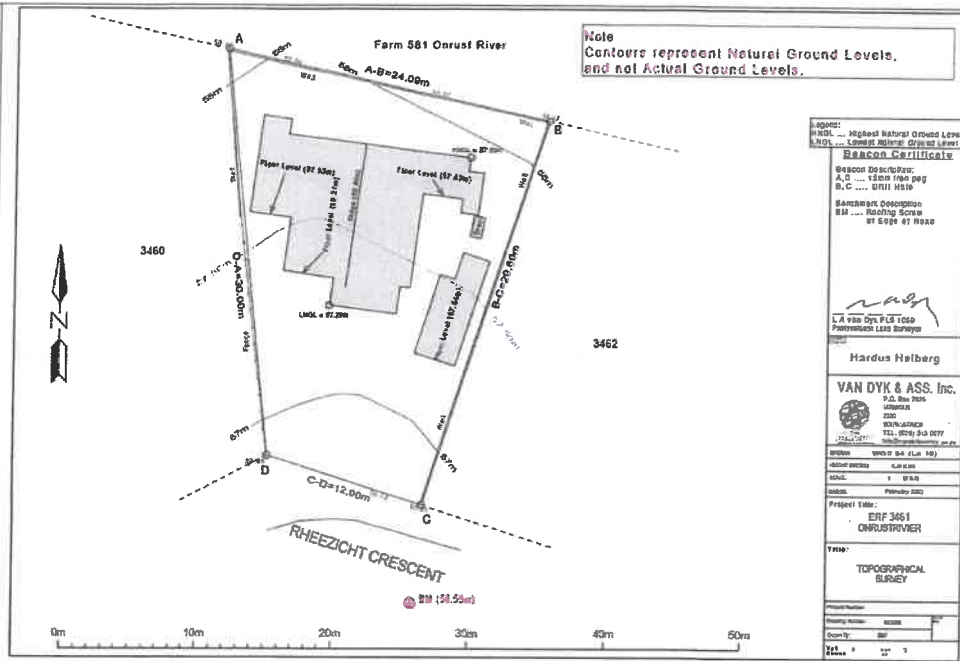


Figure 10: Site Survey reflecting the correct position of the dwelling on the Erf

**b. Proposal**

The application objective is to legalise the existing dwelling.

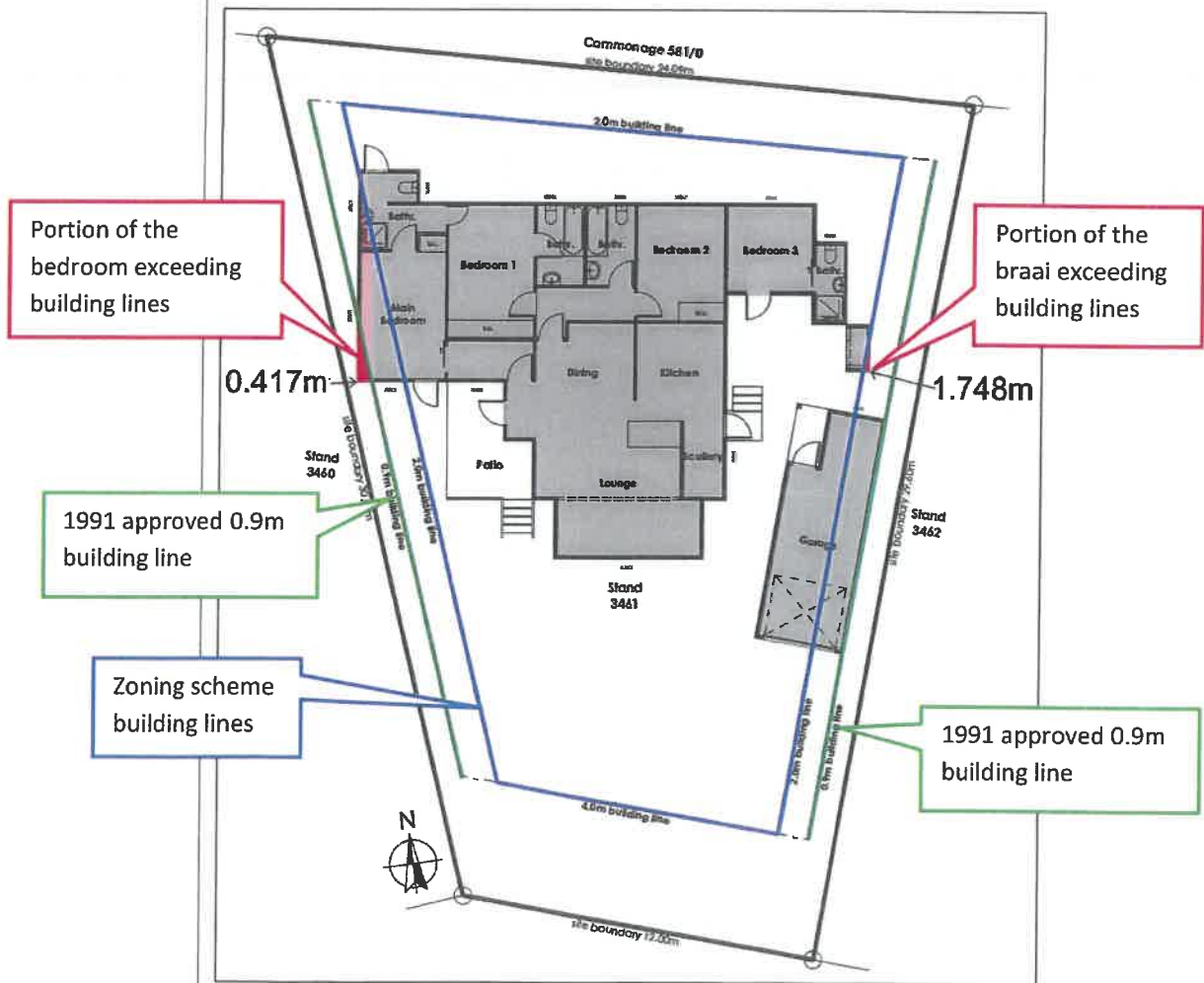


Figure 11: Building line encroachment illustration

Subsequently, application is made for:

- A departure to relax the western side building line from 2m to 0.417 to allow for the existing dwelling. (main bedroom)
- A departure to relax the eastern side building line from 2m to 1.748m to allow for the existing braai.
- The determination of an administrative penalty.

**Departure to relax the western building line**

The existing dwelling was approved 0.9m from the western side boundary but was erroneously built 0.417 from the western boundary. The zoning scheme side building lines was at the time of the original approval 0.9m and in terms of the current zoning scheme 2m. The bedroom and bathroom window moved slightly within the same walls some and internal changes were made in terms of the bathroom and bathroom door.

The dwelling is single storey and the portion exceeding the building line is located directly adjacent to the garage of the neighbouring property, thus not negatively impacting on light, view lines, or privacy. The moving of the windows and internal bathroom changes has no impact on the neighbouring properties.

Enough space is still available on the eastern side of the application area for access for emergency services.

The use exceeding the building line is a bedroom which is the same use as approved in 1991.

**Departure to relax the eastern building line**

A braai was constructed 1.748m from the eastern boundary.

The braai does not have a negative effect on light, view lines or privacy. The remaining opening of 1.748m provides sufficient access for emergency services and potential future services.

**Determination of Administrative Penalty**

The following information with regards to the administrative penalty is provided as required according to Chapter X, Section 90(3):

(a) The nature, duration, gravity and extent of the contravention

The previous building approvals were in 1991. The existing property owner purchased the property in 2010 when the dwelling was already built and the contraventions already existed on the property. The unapproved additions are visible on a 2002 Google satellite photo and 2010 Google street view for confirmation thereof.

The existing dwelling was approved 0.9m from the western boundary but built 0.417 from the boundary. A braai was also built 1.748m from the eastern boundary.

In addition to the above, a bedroom and bathroom window was moved within the same walls exceeding the western building line.

The lounge was also extended, a bathroom was added and a passage was added that does not exceed building lines.

Internal changes were also made, partially exceeding building lines, being a bathroom, passage and a scullery.

The additional areas exceeding building lines are 3.4m<sup>2</sup> for the bathroom, 1.3m<sup>2</sup> for the braai, 10m<sup>2</sup> lounge extension and 2.7m<sup>2</sup> for the passage. The total areas exceeding the building lines amount to 17.4m<sup>2</sup>.

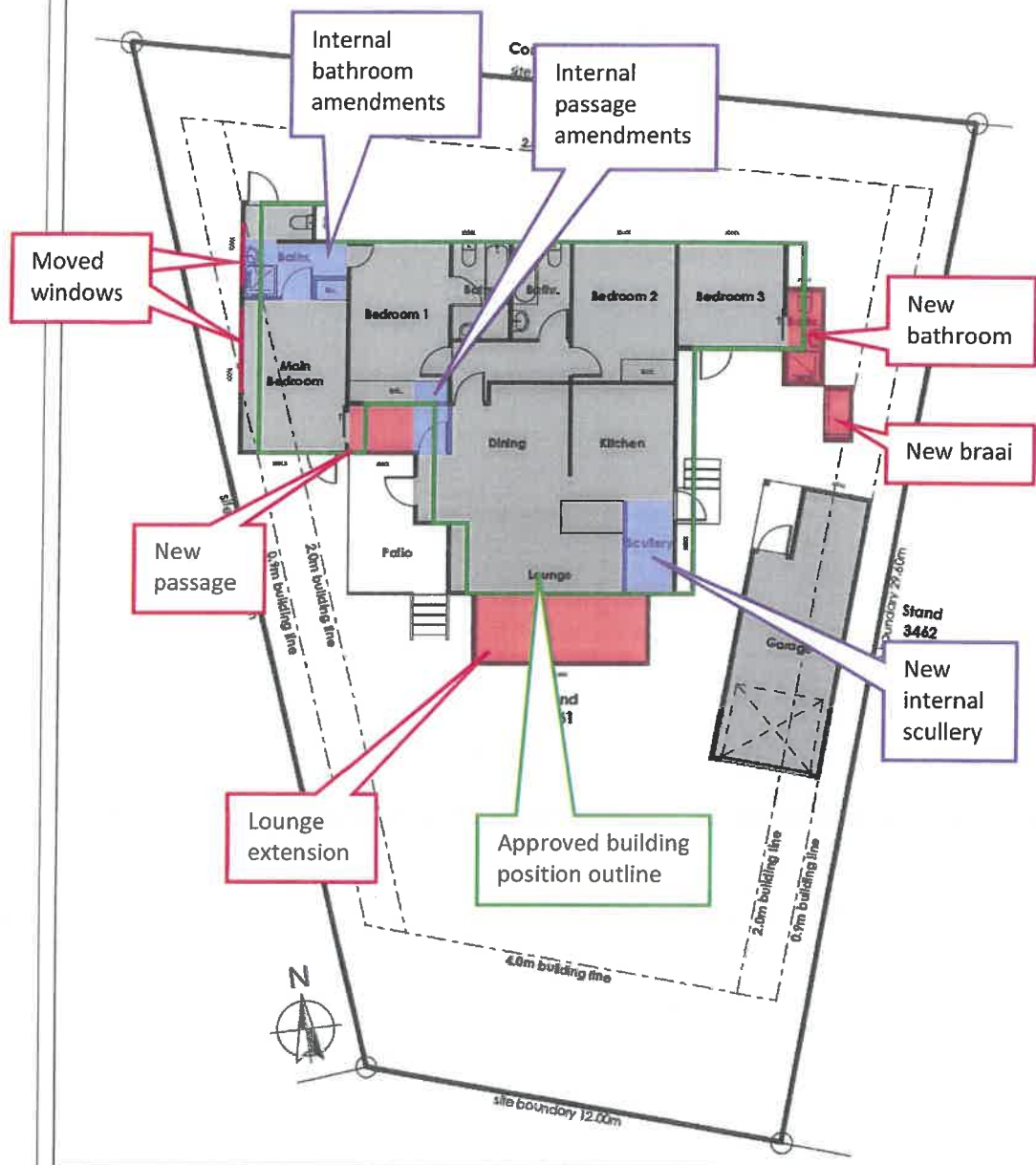


Figure 12: Unapproved dwelling amendments illustration

- (b) The conduct of the person (allegedly) involved in the contravention  
 The unapproved building amendments were made by a previous property owner prior to 2002.
- (c) Report by a quantity surveyor in matters of unauthorised building/construction  
 Due to the extent and origin of the contraventions, a report by a quantity surveyor is not considered applicable.
- (d) Whether the unlawful conduct was stopped  
 This application is for the legalisation of existing building structures. The unapproved buildings are in use.
- (e) Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law  
 No, according to our knowledge, the applicant/owner has not previously contravened this By-Law or a previous planning law.

**c. Desirability**

- The owner wishes to rectify previous incorrect building work.
- The existing unapproved building amendments, especially being a single storey dwelling does not have any significant negative impact on privacy, light or views of neighbouring properties.
- The unapproved building amendments does not have any negative impact on services or safety.
- The unapproved building amendments does not have a significant negative impact on the character of the area.
- This application does not impact on municipal future planning documents.
- The existing unapproved dwelling amendments contributes to the functionality of the dwelling.
- Legalisation of the existing dwelling is the lowest impact solution in contrast to demolition or building amendments, especially considering low existing impact versus the cost, reduction in property value, reduction in property functionality and construction noise nuisance to the surrounding properties.

**d. Planning Principles**

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

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

**Possible results of the development**

The application is to accommodate an existing dwelling which will not have an impact on redressing the past apartheid spatial development imbalances.

The application proposal is **consistent with spatial justice**.

- 2) **Spatial Sustainability** which refers to the fact that a spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.

**Possible results of the development**

The application is to accommodate an existing dwelling on a single residential property and will therefore not have an impact on agricultural land or biodiversity rich areas.

The application proposal can thus be deemed to be **spatially sustainable**.

- 3) **Efficiency** which refers to the manner in which settlements themselves are designed to function in such a way that there will be a minimum need to travel long distances to access services, facilities and opportunities.

**Possible results of the development**

The application is to accommodate an existing dwelling and therefore does not influence on how efficient a settlement is designed.

The application proposal is **consistent with the efficiency principle**.

- 4) **Spatial Resilience** which, in the context of land use planning, refers to spatial plans, policies and land use management systems which should enable communities to be able to resist, absorb and accommodate any economic and environmental shocks which might occur in a timely and efficient manner.

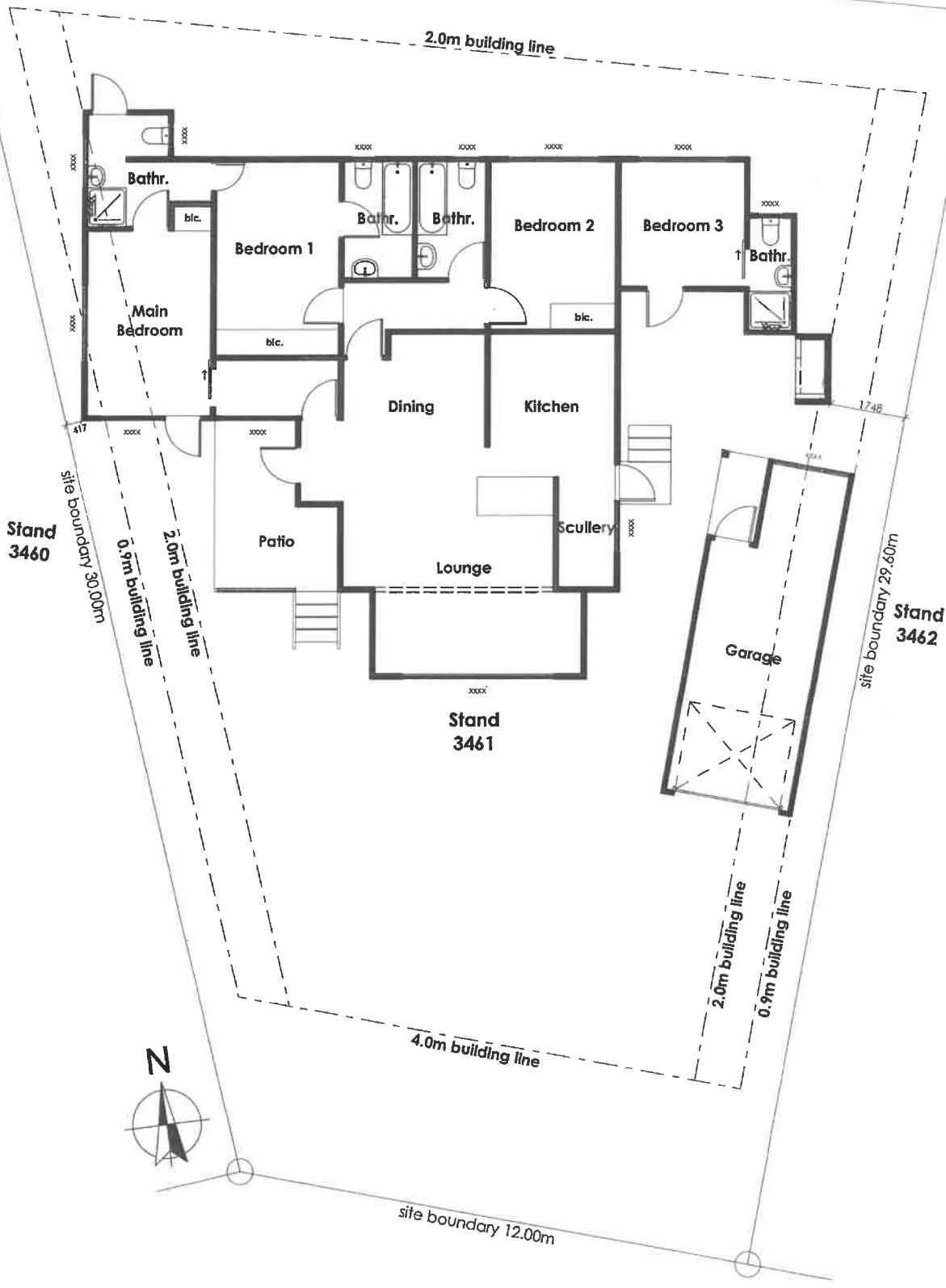
	<p><b>Possible results of the development</b> The proposed development will not lead to any economic and/or environmental shocks as the application allows for the existing dwelling.</p> <p>The application proposal is <b>consistent</b> with the principle of <b>spatial resilience</b>.</p> <p>5) <b>Good Administration</b> which, in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role-players ensure that a joint planning approach is pursued.</p> <p><b>Possible results of the development</b> Consultative practices are being followed in this application as it is done in consultation with the Planning Department of the Overstrand Municipality who will also advertise the application in such a manner as to enable the relevant government tiers and the general public to participate in the eventual decision-making process.</p> <p>The application proposal is <b>consistent</b> with the principle of <b>good administration</b>.</p>
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## 5. Conclusion

The application as motivated in this report is regarded **desirable** within its local context and well-integrated within the existing community land-use activities. It is therefore recommended that the application **be approved** in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, as follows:

- A departure to relax the western side building line from 2m to 0.417 to allow for the existing dwelling in terms of Chapter IV, Section 16(b).
- A departure to relax the eastern side building line from 2m to 1.748m to allow for the existing braai in terms of Chapter IV, Section 16(b).
- The determination of an administrative penalty in terms of Chapter IV, Section 16(q).

Commonage 581/0  
site boundary 24.09m



16 RHEEZICHT CRESCENT

12 JUN 2023

House Van Zyl | Site & Ground Floor

Thursday, 08 June 2023