Munisipaliteit • U-Masipala • Municipality
OVERSTRAND

**ERF 3887, 8 UNDER THE OAKS, ONRUSTRIVIER: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: WRAP PROJECT OFFICE ON BEHALF OF S & FN NOONE**

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 northern lateral building line from 2m to 0,22m to accommodate the existing pergola on ground floor level, and to relax the same building line from 2m to 0,8m and 0m respectively to accommodate the existing balcony and existing storage room on first floor level.
- **departure** in terms of Section 16(2)(b) of the By-Law to relax the street building line from 4m to 1,23m; 3,96m and 3,81m respectively to accommodate the existing pergola, the existing storage room and the existing covered drying yard.
- **determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law for the unauthorised building line encroachment as mentioned above.

Application is also made to depart from the Under the Oaks Architectural Design Guidelines.

Full detail regarding the proposal is available for inspection during weekdays between 08:00 and 16:30 at the Division: Town and Spatial Planning at 16 Paterson Street, Hermanus and on the municipal webpage at the following link https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/ .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 / (e) landuse@overstrand.gov.za) on or before **14 August 2026**, 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 Division: Town and Spatial Planning where a municipal official will assist them in order to formalize their comment.

*Please note that in terms of the Protection of Personal Information Act (POPIA), you will be entering into a public process and as such agree and consent to your name, surname, contact details and comment(s) may be disclosed / used in the (application) process.*

**ERF 3887, UNDER THE OAKS 8, ONRUSTRIVIER: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: WRAP PROJECT OFFICE NAMENS S & FN NOONE**

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 noordelike syboulyn te verslap vanaf 2m na 0,22m om die bestaande pergola op grondvloervlak te akkommodeer, en om dieselfde boulyn te verslap vanaf 2m na onderskeidelik 0,8m en 0m om die bestaande balkon en bestaande stoorkamer op die eerstevloervlak te akkommodeer.
- **afwyking** ingevolge Artikel 16(2)(b) van die Verordening om die straatboulyn te verslap vanaf 4m na onderskeidelik 1,23m; 3,96m en 3,81m om die bestaande pergola, die bestaande stoorkamer en die bestaande onderdak droogwerf te akkommodeer.
- **bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) vir die ongemagtigde boulynoorskreiding soos bo genoem.

Aansoek word ook gedoen om af te wyk van die Under the Oaks Argitektoniese Ontwerpriglyne.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weeksdae tussen 08:00 en 16:30 by die Afdeling: Stads- en Streekbeplanning, Hermanus en op die munisipale webtuiste by die volgende skakel https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/ .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 / landuse@overstrand.gov.za) voor of op **14 Augustus 2026,** 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** 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 Afdeling: Stads- en Streekbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

*U aandag word gevestig op die Bepalinge van die "POPI" Wet, en aangesien u opmerking deel sal uitmaak van 'n openbare deelname proses, u derhalwe toestem dat u naam, van en kontakbesonderhede openbaar gemaak mag word.*

**ISIZA 3887, 8 UNDER THE OAKS, ONRUSTRIVIER: ISICELO SOKUTENXA NGOKUSISIGXINA KUNYE NOKUMISELWA KWESOHLWAYO SOLAWULO: WRAP PROJECT OFFICE ON BEHALF OF S & FN NOONE**

Isaziso sinikwe apha ngokweCandelo lama-48 loMthetho kaMasipala oLungisiweyo we-Overstrand kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, wowama-2020 (uMthetho kaMasipala), sokuba isicelo sifunyenwe koku kulandelayo:

- utyeshelo lomqathango ngokweCandelo le-16(2)(b) loMthetho ukuyekelela umda wesakhiwo osecaleni osemantla ukusuka kwi-2m ukuya ku-0,22m ukulungiselela i-pergola ekhoyo kumgangatho osezantsi, kunye nokucuthwa komgca wesakhiwo omnye ukusuka kwi-2m ukuya kwi-0,8m kunye ne-0m ngokulandelelanayo ukulungiselela ibalcony ekhoyo kunye negumbi lokugcina elikhoyo kumgangatho wokuqala.
- utyeshelo lomqathango ngokweCandelo le-16(2)(b) loMthetho kaMasipala ukuze kucuthwe umda wesakhiwo ongasesitalatweni ukusuka kwisi-4m ukuya kwi-1,23m; 3,96m kunye ne-3,81m ngokulandelelanayo ukulungiselela i-pergola ekhoyo, indawo yokugcina ekhoyo kunye neyadi yokomisa ekhoyo egqunyiweyo.
- Ukumiselwa kwesohlwayo solawulo ngokweCandelo le-16(2)(q) loMthetho kaMasipala wophokelo lomda wesakhiwo olungagunyaziswanga njengoko kukhankanyiwe ngasentla.

Isicelo sikwasetyenziselwa ukutenxa ngaphantsi kwe-Oaks Architectural Design Guidelines.

Iinkcukacha ezipheleleyo malunga nesindululo ziyafumaneka ukuze zihlolwe phakathi evekini phakathi kwe-08:00 kunye ne-16:30 kwiSebe: UCwangciso lweDolophu, 16 Paterson Street, Hermanus nakwiphepha lewebhusaythi likamasipala kwelikhonkco lilandelayo https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/. Nawaphi na amagqabantshintshi abhaliweyo kufuneka angeniswe ngokungqinelana nezibonelelo zeCandelo 51 nelama-52 loMthetho kaMasipala oxeliweyo kwaye afikelele kuMasipala (16 Paterson Street, Hermanus / landuse@overstrand.gov.za) ngoLwesihlanu okanye ngaphambi koko, uLwesihlanu **14 Agasti 2026,** ucaphula igama lakho, idilesi kunye neenkcukacha zoqhagamshelwano, umdla kwisicelo kunye nezizathu zokuphawula. Imibuzo ngefowuni inokwenziwa**, uMnu. H. Olivier** ngo-028-313 8900. UMasipala usenokwala ukwamkela izimvo azifumeneyo emva komhla wokuvala. Nawuphi na umntu ongakwaziyo ukufunda nokubhala angatyelela iSebe loCwangciso lweDolophu apho igosa likamasipala liya kubancedisa ukuze benze izimvo zabo zibe sesikweni.

*Nceda uqaphele ukuba ngokoMthetho woKhuseleko lweNgcaciso loLwazi loBuqu (POPIA), uya kuba ungena kwinkqubo kawonke-wonke kwaye uvuma ukuba igama lakho, ifani, iinkcukacha zoqhagamshelwano kunye nezimvo zingabhengezwa / zisetyenziswe kwi (isicelo) inkqubo.*

OVERSTRAND MUNICIPALITY

Locality Map

Erf 3887, 8 Under The Oaks, Onrustrivier

N

Date: 2026/04/29

# ERF 3887 ONRUSTRIVIER

PERMANENT DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY

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## 1. PROPERTY DETAILS

| | |
|---|---|
| **Property description** | Erf 3887 Onrustrivier |
| **Extent** | 619m² |
| **Zoning** | Residential Zone 1: Single Residential (SR1) |
| **Title Deed** | T47869/2010 |

## 2. EXECUTIVE SUMMARY

Erf 3887 Onrustrivier, hereafter referred to as the subject property, is situated at 8 Under the Oaks, Old Main Road, Onrustrivier, as illustrated in **Plan 1: Locality Plan**. The property forms part of a private gated community known as Under the Oaks. The current owners have owned the property since 2010 and have undertaken several alterations and additions over time.

Following a site inspection by the Building Control Department of the Overstrand Municipality, it was observed that the garage had been altered in a manner that did not correspond with the approved building plans. Upon being made aware of this, the owner acted promptly by appointing a professional architect together with WRAP Project Office to investigate and address the non-compliance.

A comprehensive review of the property revealed that, in addition to the garage alteration, several other additions and modifications had been implemented without the necessary land use and building plan approvals. These works are historic in nature. The purpose of this application is therefore to regularise these contraventions and bring the property into full compliance with the applicable planning and building regulations. WRAP Project Office has been duly appointed to prepare and submit the required land use application, as confirmed in **Annexure A: Power of Attorney**.

The subject property is zoned Residential Zone 1: Single Residential and is currently developed with a single dwelling house and associated residential improvements. The surrounding properties are similarly zoned Residential Zone 1, with the broader area characterised by private internal streets within the estate. The zoning context is illustrated in **Plan 2: Zoning Plan**. The area is well established and residential in character, with dwellings typically positioned in relatively close proximity to common boundary lines, forming part of an accepted and consistent development pattern.

The departures sought as part of this application relate solely to the retention of existing structures that encroach over prescribed development parameters. These structures have been in place for a number of years and have not resulted in any adverse impacts on access, safety, or the amenity of the surrounding properties. The proposal is therefore aimed at formalising the current built form without introducing any new development or intensification of land use.

## 3. PROCEDURE TO ACHIEVE THE OWNERS' INTENT

**GROUND FLOOR**

**3.1 Permanent departure** from the Northern side building line from 2m to 0,22m to accommodate the Existing Pergola; and

**3.2 Permanent departure** from the Street building line from 4m to 1,23m to accommodate the Existing Pergola.

The owners have constructed a pergola structure in front of the existing garage and storeroom to accommodate parking for two vehicles. The pergola is not roofed in the conventional sense but rather consists of an open framework designed to support the growth of climbing vegetation. As such, the structure remains visually permeable and lightweight in nature.

The pergola encroaches over both the street and side building lines. In terms of Section 16.1.2(b) of the Overstrand Municipality Land Use Scheme, 2020 (OMLUS), carports may be permitted over the street building line, subject to compliance with specific development parameters. The proposal largely complies with these requirements, with only a minor deviation in respect of height.

While the structure functions similarly to a carport, it is of an even less intrusive nature due to the absence of a solid roof covering. This significantly reduces its visual bulk and perceived impact when compared to a typical carport structure.

| Section 16.1.2(b) - OMLUS | Comply or deviate |
|---|---|
| The width of such carport shall not exceed 6,5 m; | Comply, the existing pergola is only **5,35m** in width. |
| (ii) the roof of the carport shall be supported by a metal or timber post or brick, concrete or masonry pillars; | Comply, the pergola is supported by timber supports. |
| (iii) the carport shall not be enclosed on any side, except by:<br>- a boundary fence or wall;<br>- a wall which forms the external wall of a building; or<br>- a security or automated gate. | Comply, the pergola is proposed to be enclosed only on one side by the northern boundary wall. |
| The height of such carport, measured from the natural ground level to the highest point of the structure over the building line, may not exceed 3,0 m on the street boundary, but the height may increase at a 40-degree angle away from such boundary (roof). | Deviate, the pergola is proposed to be **3,02m** high. Which is just over the allowable height. |

The height of the pergola is 3,02m that exceeds the permitted height of 3,0 m by only 0,02m, which is negligible and imperceptible in practice. This slight variation does not result in any additional bulk, overshadowing, or loss of privacy, and has no material impact on the surrounding properties or streetscape.

The structure is consistent with the established character of the Under the Oaks estate, where buildings are commonly positioned in closer proximity to boundary lines, forming part of a coherent and accepted development pattern. In this context, the pergola does not appear out of place and integrates well with the existing built form. Furthermore, the open design ensures that sight lines are maintained, thereby not compromising vehicular or pedestrian safety.

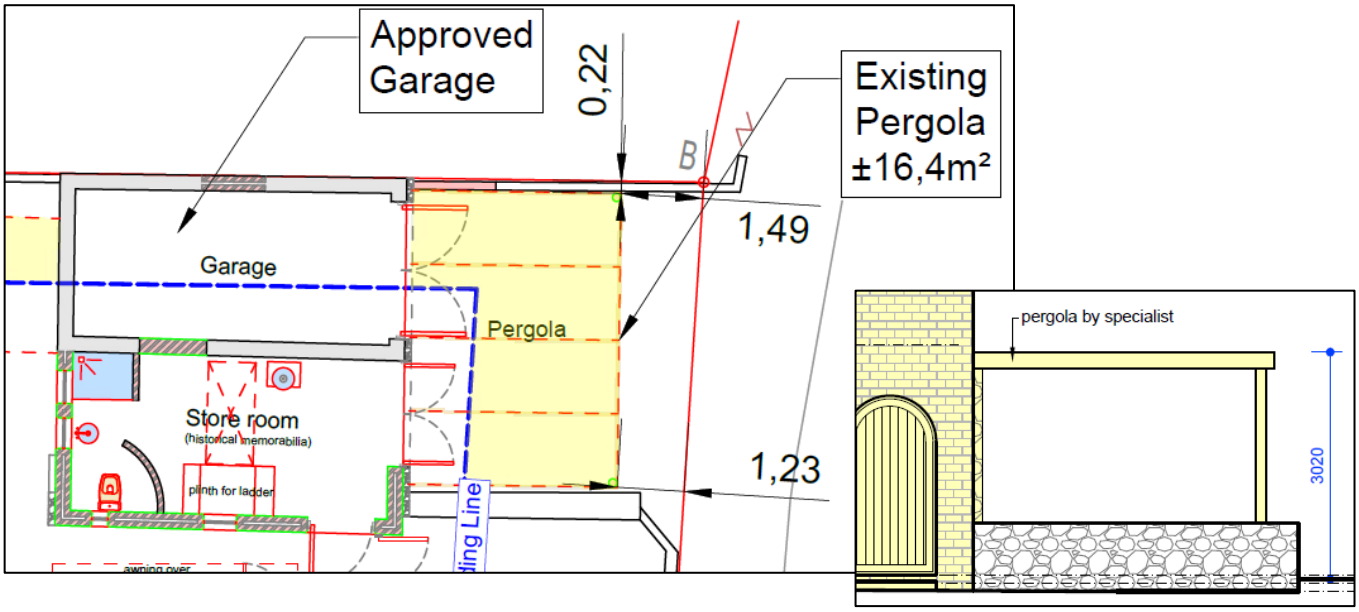



***Figure 1: Existing Pergola***

Importantly, the pergola has been in place for a number of years without giving rise to complaints or any known negative impacts on adjoining properties. Its scale, design, and location ensure that it does not create a nuisance or adversely affect neighbouring amenity. The application therefore seeks to regularise an existing structure rather than introduce new development, and approval of the departure will formalise the current situation without altering the established character of the area.

**3.3 Permanent departure** from the Street building line from 4m to 3,96m to accommodate the Existing Storage Room; and

**3.4 Permanent departure** from the Street building line from 4m to 3,81m to accommodate the Existing Covered Drying Yard.

The two departures sought relate to minor encroachments over the 4,0m street building line to accommodate an existing storage room and a covered drying yard, respectively. These departures are extremely limited in extent and were only identified following the appointment of a professional land surveyor, which confirmed that portions of these existing structures marginally encroach beyond the prescribed building line.

The encroachments measure only 0,04m and 0,19m respectively, which are negligible in both physical and visual terms. Such minor deviations are imperceptible on site and do not alter the spatial character of the property or its interface with the street. The scale of the encroachments is such that they do not compromise the intent of the building line, which is to maintain adequate spacing, ensure visibility, and protect streetscape character.

Importantly, both structures are non-habitable and serve a purely ancillary function to the main dwelling. The storage room was introduced to address practical storage needs associated with the residential use of the property, while the covered drying yard provides a functional service area for everyday household activities. Neither structure is utilised for living purposes, nor do they generate additional activity, overlooking, or any form of nuisance.

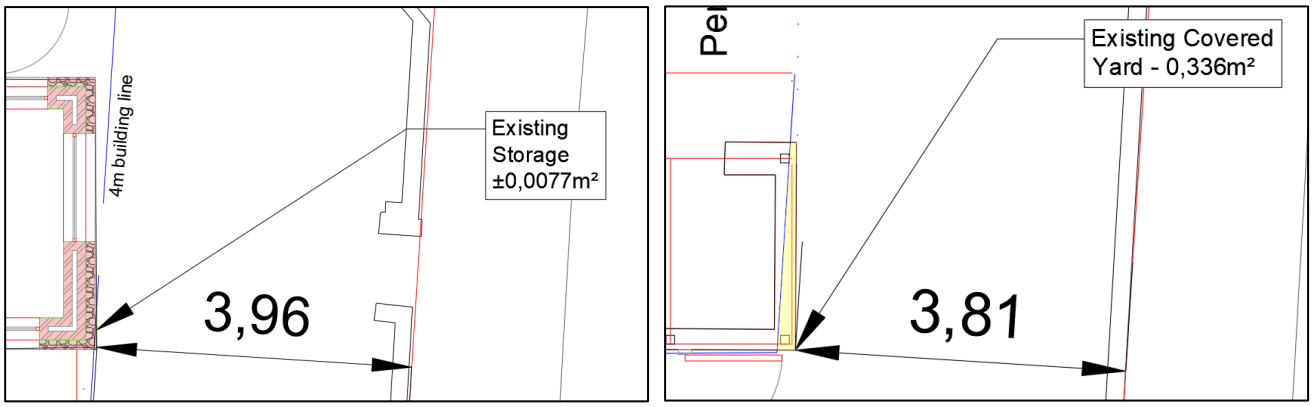



***Figure 2: Existing structures that require departures***

Due to their ancillary nature, these structures do not contribute to increased bulk, density, or intensity of use on the property. Their presence does not impact on neighbouring properties in terms of privacy, noise, or visual intrusion. Furthermore, the structures have been in place for some time without any complaints or adverse impacts being reported.

The application therefore seeks to regularise these minor historical encroachments. Given their negligible extent, functional necessity, and lack of impact, the departures are considered reasonable and desirable within the context of the property and the surrounding area. Obtaining approval will simply formalise the existing situation without altering the character of the streetscape or undermining the objectives of the development parameters.

**FIRST FLOOR**

**3.5 Permanent departure** from the northern side building line from 2,0m to 0,8m to accommodate the existing balcony; and

**3.6 Permanent departure** from the northern side building line from 2,0m to 0m to accommodate the existing storage room on the first floor.

The departures sought relate to encroachments over the northern side building line to accommodate an existing balcony and an associated storage area both of which are on the first floor. These structures form part of the existing dwelling and have been in place for a number of years.

The balcony encroaches the 2,0m side building line to 0,22m, while the storage area encroaches fully to the boundary. Although the departure appears significant, the actual impact is limited due to the nature, scale, and positioning of these structures.

The balcony is an open architectural element and does not constitute a fully enclosed habitable space. Its design allows for light and air permeability, thereby reducing any sense of bulk or visual intrusion. In addition, balconies are typical features on residential properties and are generally accepted as elements that may extend closer to boundaries, particularly where they do not result in adverse impacts.

The storage area is non-residential and will be utilised for day-use purposes only, with no provision for overnight accommodation or permanent occupancy and serves a purely ancillary function to the dwelling. It was constructed as an extension to the existing garage in 2017 with the addition of the ground floor storage area and was designed to comply with the necessary structural and engineering standards. Importantly, the extension makes use of the existing external garage wall as a structural base. Had the structure been required to step

back to comply with the building line, it would have resulted in an impractical and visually disjointed form which would have required a significant beam to support the structure. The current design ensures structural efficiency while maintaining a cohesive and aesthetically integrated building form.

From a contextual perspective, the surrounding properties within the Under the Oaks estate are developed with structures positioned close to common boundaries, forming part of an established and accepted development pattern. The subject property is therefore not out of character with its surroundings.

Importantly, the existing structures have not resulted in any known objections or complaints from adjoining property owners. There is no evidence of negative impacts in terms of privacy, overshadowing, or visual intrusion due to the neighbouring property's dwelling being position away from the common boundary. The orientation of the structures further limits any potential overlooking, and the scale remains consistent with a single residential dwelling.

The application therefore seeks to regularise these existing encroachments. Given their longstanding presence, ancillary nature, structural integrity, and lack of impact on neighbouring properties, the departures are considered reasonable and supportable.

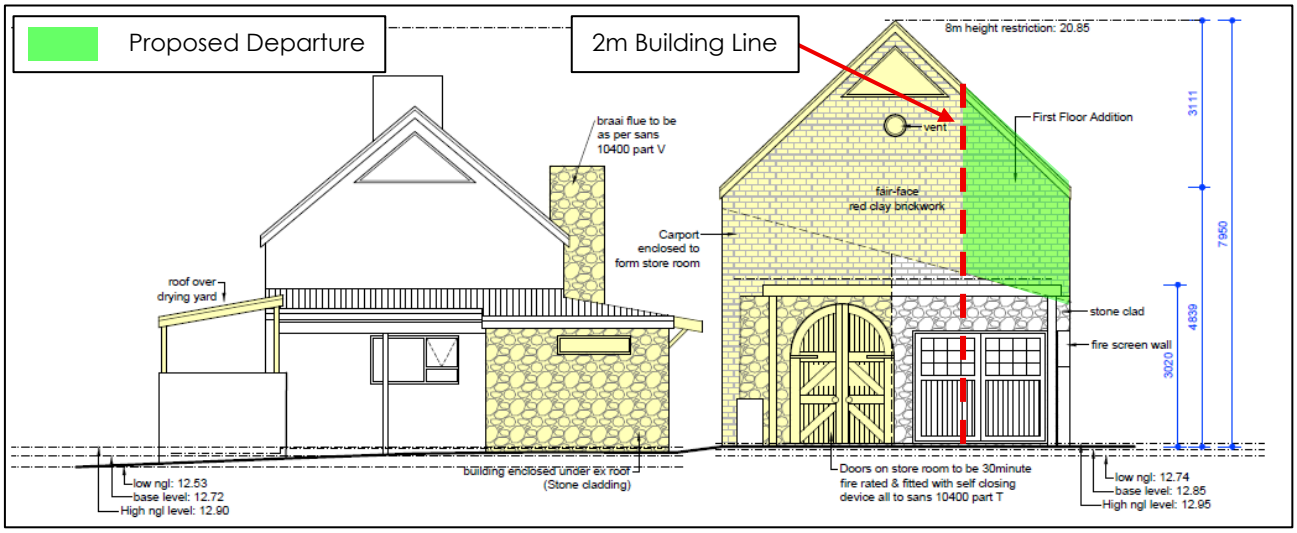



***Figure 3: Extract from Plan 3 – existing garage***

A review of historic aerial imagery confirms that the front porch has been in existence since at least 2012. The structure is therefore well established and forms part of the longstanding-built form of the dwelling. It is non habitable in nature, does not increase floor area or residential intensity, and does not adversely affect visibility, access, or pedestrian movement along the adjoining street. Given its scale, position, and open character, the porch does not result in any loss of privacy, overshadowing, or visual intrusion and is compatible with the established residential streetscape.

The second departure is sought to allow the enlargement of the existing garage up to the common boundary line. The proposed garage extension is residential in scale and function and is typical of ancillary structures within single residential areas. Garages positioned on or close to boundary lines are a common and accepted development pattern, particularly where they do not contain habitable rooms. The proposed extension will not result in increased

overlooking, loss of privacy, or unreasonable overshadowing of neighbouring properties, nor will it compromise access to light or ventilation.

Both departures are limited in extent and relate either to an existing historic structure or to a modest residential improvement. No additional dwelling units are proposed and no intensification of land use will occur. Municipal services, infrastructure capacity, and the character of the surrounding area remain unaffected.

In light of the above, it is submitted that the departures are reasonable and desirable from a land use planning perspective. The proposals respond appropriately to the existing development context, regularise historic non-compliance, and allow for sensible residential improvements without giving rise to any material planning harm. The departures therefore warrant favourable consideration.

## ARCHITECTURAL GUIDELINES

In addition to the permanent departures required in terms of the OMLUS, certain existing structures on the property do not align with the current Architectural Guidelines applicable to the Under the Oaks Estate. It is, however, important to note that these guidelines were not yet in place at the time the relevant structures were constructed. The owners therefore did not intentionally disregard the architectural controls currently applicable within the estate.

Furthermore, the Architectural Guidelines specifically state that they will not be applied retrospectively to existing irregularities. Nevertheless, in the interest of completeness and procedural thoroughness, the necessary departures from the Architectural Design Guidelines' parameters will also be applied for as part of this application.

### 3.7 Departure of Architectural Design Guidelines' parameters to allow the existing garage structure:

While the existing structures do not fully comply with the current Architectural Guidelines design parameters, the fact remains the structure was built before the guideline was approved by the municipality. The height of the structures, percentage of the loft space and roof pitch are all not aligned. The deviations are not considered to result in any material negative impact on the surrounding area or the overall character of the estate. Importantly, the structures have existed for a considerable period of time and have become integrated into the established built form of the property and surrounding environment.

The structures remain residential in nature and ancillary to the primary dwelling house. No intensification of land use, or additional dwelling units are proposed. The proposal therefore does not alter the residential character of the property or the surrounding neighbourhood.

In terms of visual impact, the structures are compatible with the scale and architectural form of surrounding residential development. Although the garage structure exceeds certain guideline parameters, the difference is not excessive when viewed within the broader context of the estate. The additional height and roof pitch do not create a visually dominant structure, nor do they negatively affect the streetscape. Furthermore, the building has been in place for several years without objection from neighbouring property owners or the homeowners' association.

The enlarged loft and storage areas are non-habitable in nature and are utilised purely for ancillary residential storage purposes. These spaces do not contribute to increased occupancy levels, additional traffic generation, or any intensification of the use of the property. Their retention therefore does not place any additional burden on municipal infrastructure or services.

It is further relevant that the structures were constructed prior to the implementation of the current Architectural Guidelines. The application therefore seeks to regularise existing historic deviations rather than facilitate new non-compliant development. Requiring substantial alterations or demolition to achieve full compliance at this stage would be unreasonable, financially burdensome, and would result in unnecessary construction waste without any corresponding public benefit.

The retention of the structures is therefore considered reasonable and appropriate within the context of the property and the surrounding area. The proposal will not negatively impact neighbouring properties, the character of the estate, or the broader planning objectives applicable to the area.

**3.8 Determination of an administrative penalty;**

The final component of the application relates to the determination of an administrative penalty for the existing encroachments identified above. As outlined in the preceding sections, the structures constitute contraventions as they were constructed without the necessary approvals. The sections above provide the relevant context and detail regarding these structures.

The following considerations are relevant to the determination of the administrative penalty:

- The current owners did not wilfully disregard planning controls but rather proceeded without full knowledge of the applicable requirements. There was no malicious intent. Upon becoming aware of the non-compliance, they acted responsibly by appointing professional planning assistance and submitting this application to regularise the property.
- The submission of this application demonstrates the owners' willingness to cooperate with municipal requirements and to ensure full compliance with the OMLUS.
- The structures in question are residential in nature and do not result in any adverse impacts on neighbouring properties, municipal services, or the broader spatial development objectives of the Municipality.
- The regularisation of the existing structures aligns with the principles of spatial justice, efficiency, and sustainability, as it avoids unnecessary demolition and waste while promoting the lawful and practical use of the property.

In addition, no complaints have been received from neighbouring property owners in relation to the existing structures, indicating that the contraventions have not resulted in any material harm or disruption to the surrounding community. In terms of the By-Law, the contraventions described above require the determination of an administrative penalty. The purpose of such a penalty is not punitive, but rather to promote fairness, accountability, and compliance with municipal planning processes.

By submitting this application, the owners have demonstrated a proactive and responsible effort to regularise the property and ensure compliance with municipal planning legislation and the OMLUS. Waiving the administrative penalty would recognise the owners' good faith

actions and responsible conduct in addressing historic non-compliance. In accordance with Section 90(3) of the By-Law, the following considerations are relevant to the determination of a fair and reasonable penalty:

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

Section 3 of this report outlines the nature and extent of the existing structures, which were constructed without the necessary approvals. The extent of the building line encroachments is summarised below:

| ***Existing Contraventions in terms of the OMLUS*** | |
|---|---|
| **Pergola** | ±16,4m² |
| **Storage Room (Ground Floor)** | ±0,0077m² |
| **Yard** | ±0,336m² |
| **Storage Room (First Floor)** | ±12,53m² |
| **Balcony** | ±1,73m² |

As the Under the Oaks Design Guidelines did not yet exist when the structure was built, and as the guidelines specifically state that they will not be applied retrospectively, the deviations from the guidelines were not included in the administrative penalty.

(b) The conduct of the person (allegedly) involved in the contravention

The owners were under the impression that building plan approval was not required due to the property being located within a private estate. Upon being informed otherwise, they acted in good faith and have no history of contravening planning legislation. They promptly initiated the process to regularise the property by appointing WRAP Project Office to prepare and submit this application. Their conduct reflects a proactive, cooperative, and responsible approach to compliance.

(c) A report by a quantity surveyor in matters of unauthorised building/construction

A quantity surveyor was appointed who conducted a careful assessment and provided a cost estimate for the contravening structures.

(d) Whether the unlawful conduct was stopped

The unlawful conduct relates to structures that have already been constructed. No further unauthorised building work has taken place since the owners became aware of the requirements. Instead, they have followed the prescribed municipal processes to obtain the necessary approvals and to regularise the structures. The submission of this application, together with the absence of further unauthorised development, demonstrates clear intent to comply.

(e) Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.

To the knowledge of this office, the current owners have no record of prior contraventions under this By-Law or any previous planning legislation. To our knowledge, this is their first instance of non-compliance.

## 4. PLANNING ASSESSMENT

### 4.1. ZONING

The primary use of the property as a dwelling house is permitted within the SR1 zoning. No additional dwelling units or intensified land uses are currently proposed.

| Residential Zone 1: Single Residential – Development parameters | | | |
|---|---|---|---|
| | **Allowed** | **Proposed / Existing** | |
| **Coverage** | 50% | 37,16% | Comply |
| **Building lines** | Street building line = 4m<br>Side and rear building lines = 2m | Refer to Sections 3.1 & 3.6 | **Deviate.** |
| **Height** | 8,0 m. | 7,95m | Comply |
| **Parking** | Dwelling Unit: 2 Parking bays | Three Parkings – 1 Garage and two parking bays. | Comply |

### 4.2. ENGINEERING SERVICES

The availability of municipal services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is addressed below. The subject property is connected to existing municipal service networks in the area, including electricity, water, and sewerage.

The proposal does not introduce any additional development rights or intensification of land use and is therefore not expected to place any additional demand on existing municipal services. Solid waste is collected on a weekly basis by the Overstrand Municipality.

**Access, Egress and Parking**
Access to and egress from the property are obtained via Under the Oaks Street, which is an existing private road serving the surrounding residential area.

### 4.3. POLICIES AND REGULATIONS

4.3.1. Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)
The subject property is not located within the EMOZ.

4.3.2. Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)
The subject property is not located within the HPOZ.

4.3.3. Spatial Planning Policies
This proposal is not in conflict with any provisions of the Western Cape Provincial Spatial Development Framework, 2014 or the Overstrand Spatial Development Framework, 2020.

### 4.4. PLANNING PRINCIPLES

Chapter 2 of SPLUMA sets out five fundamental development principles that are compulsory considerations for all land use and development applications. These principles provide the normative basis against which proposals are assessed and must guide decision-making to ensure spatial justice, sustainability, and efficiency. The principles of SPLUMA that are pertinent to this proposal are outlined:

Spatial justice
The proposal promotes spatial justice by regularising longstanding structures on the property rather than requiring their removal, which would result in inefficiency and unnecessary loss of usable built form. The continued lawful use of the property supports equitable and productive land use.

Spatial sustainability and Efficiency
The proposal supports sustainability and efficiency by retaining existing structures and avoiding unnecessary demolition or new construction. This ensures optimal use of land and infrastructure while maintaining the established residential character of the area.

Spatial resilience
The proposal is not in conflict with applicable policies or regulations. The lawful retention of existing structures enhances the adaptability and long-term usability of the property without compromising its residential function.

Good administration
The Overstrand Municipality facilitates a comprehensive public participation process as part of its land use procedures. All comments received during this process will be duly considered and addressed as part of the decision-making process.

## 5. NEED AND DESIRABILITY

The need and desirability of the approval and implementation of this proposal in accordance with Section 66(1)(c) of the OM By-Law is outlined in the table below:

| | |
|---|---|
| Socio-economic impact | The proposal is not expected to result in any negative socio-economic impacts. On the contrary, the regularisation of existing structures supports the continued lawful residential use of the property. By retaining and utilising existing structures, the proposal promotes the efficient use of resources and contributes to the long-term sustainability of the property. |
| Compatibility with surrounding uses | The subject property is located within a well-established residential neighbourhood where structures positioned close to boundary lines are common and consistent with the prevailing character of the area. The existing structures are compatible with surrounding land uses. The proposal will not detract from the residential character of Westcliff and aligns with the Overstrand Municipal Spatial Development Framework (OMSDF) policy of reinforcing and strengthening residential neighbourhoods. |
| Impact on the external engineering services | The application will be circulated to the OM's Engineering Department to confirm that existing service capacities are adequate. No additional demand on municipal services is anticipated. |
| Impact on safety, health and wellbeing of the surrounding community | The proposal is not anticipated to have any adverse impact on the safety, health, or well-being of the surrounding community. |
| Impact on heritage | The subject property is not listed in the OM Heritage Register. |
| Impact on the biophysical environment | The property is located within an established urban area, and the proposal is not expected to have any negative impact on the biophysical environment. The regularisation of existing structures |

| | |
|---|---|
| | avoids unnecessary demolition and associated waste, which is consistent with principles of environmental sustainability. |
| Traffic impacts, parking, access and other transport related considerations | The proposal will not generate additional traffic beyond what is already present, therefore, no impact is expected. |

**Impact on views, sunlight and character of the area**

The proposal relates to the regularisation of existing low-scale structures and does not introduce any additional bulk, height, or massing beyond what is already present on the property. As such, it is not expected to result in any loss of views or obstruction of sunlight to neighbouring properties.

The structures in question are residential in nature and are consistent with the scale and form of development commonly found within Onrustrivier. Their retention will not alter the established streetscape or detract from the overall residential character of the area. Accordingly, the proposal is not anticipated to have any adverse impact on views, access to natural light, or the character of the surrounding neighbourhood.

**Economic impact**

The proposal has a positive economic impact in that it preserves and regularises existing structures on the property, thereby safeguarding the owner's investment and maintaining the value of the residential property. Furthermore, the owners reside on the property, contributing to the local economy through ongoing maintenance, local procurement of goods and services, and continued long-term investment in the area.

**Opportunity cost**

In the context of land use planning, opportunity cost refers to a situation where a development proposal results in the loss or devaluation of existing or potential land use rights of interested and affected parties. In this instance, the proposal is not expected to result in any such loss or prejudice. The regularisation of existing structures does not diminish the development potential or value of surrounding properties, nor does it limit the rights of neighbouring landowners.

**Environmental impact**

The proposal entails the approval of existing structures within an already developed residential property located inside the urban edge. There are no environmentally sensitive features on the subject property, and it is not situated within an environmentally protected or critical area. The stream running at the back of the property will remain untouched. Furthermore, the regularisation of existing structures avoids unnecessary demolition and construction waste, which supports environmentally responsible development practices and aligns with broader sustainability principles.

## 6. CONCLUSION

The application for Erf 3887 Onrustrivier seeks to regularise a number of existing structures that were constructed without the necessary approvals. The proposal does not introduce any new development or additional land use rights but rather aims to formalise the current built form on the property.

The departures applied for are minor in nature and relate primarily to building line encroachments associated with ancillary residential structures, including a pergola, storage rooms, a drying yard, and a balcony. These structures are either open or non-habitable and serve a supportive function to the main dwelling. Their scale, design, and positioning ensure that they do not result in any adverse impacts on neighbouring properties in terms of privacy, overshadowing, visual intrusion, or safety.

The proposal is consistent with the established residential character of the area and aligns with the prevailing development pattern within the Under the Oaks estate, where structures are often positioned in closer proximity to boundary lines. The existing built form integrates appropriately with the surrounding context and does not detract from the streetscape or overall character of the area.

From a planning perspective, the application is considered desirable as it promotes the efficient use of land and infrastructure, supports sustainability by avoiding unnecessary demolition, and ensures compliance with applicable planning legislation. The proposal is not in conflict with any relevant spatial planning policies and does not place additional demand on municipal services or infrastructure.

Furthermore, the owners have acted in good faith by proactively appointing professional assistance and submitting this application to regularise the property upon becoming aware of the non-compliance. The structures have been in place for several years without giving rise to complaints or negative impacts, further indicating their compatibility with the surrounding area.

## 7. RECOMMENDATION

Based on the motivation, it is recommended that the following be approved:

**7.1** **Permanent departure** from the Northern side building line from 2m to 0,22m to accommodate the Existing Pergola in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020;

**7.2** **Permanent departure** from the Street building line from 4m to 1,23m to accommodate the Existing Pergola in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020;

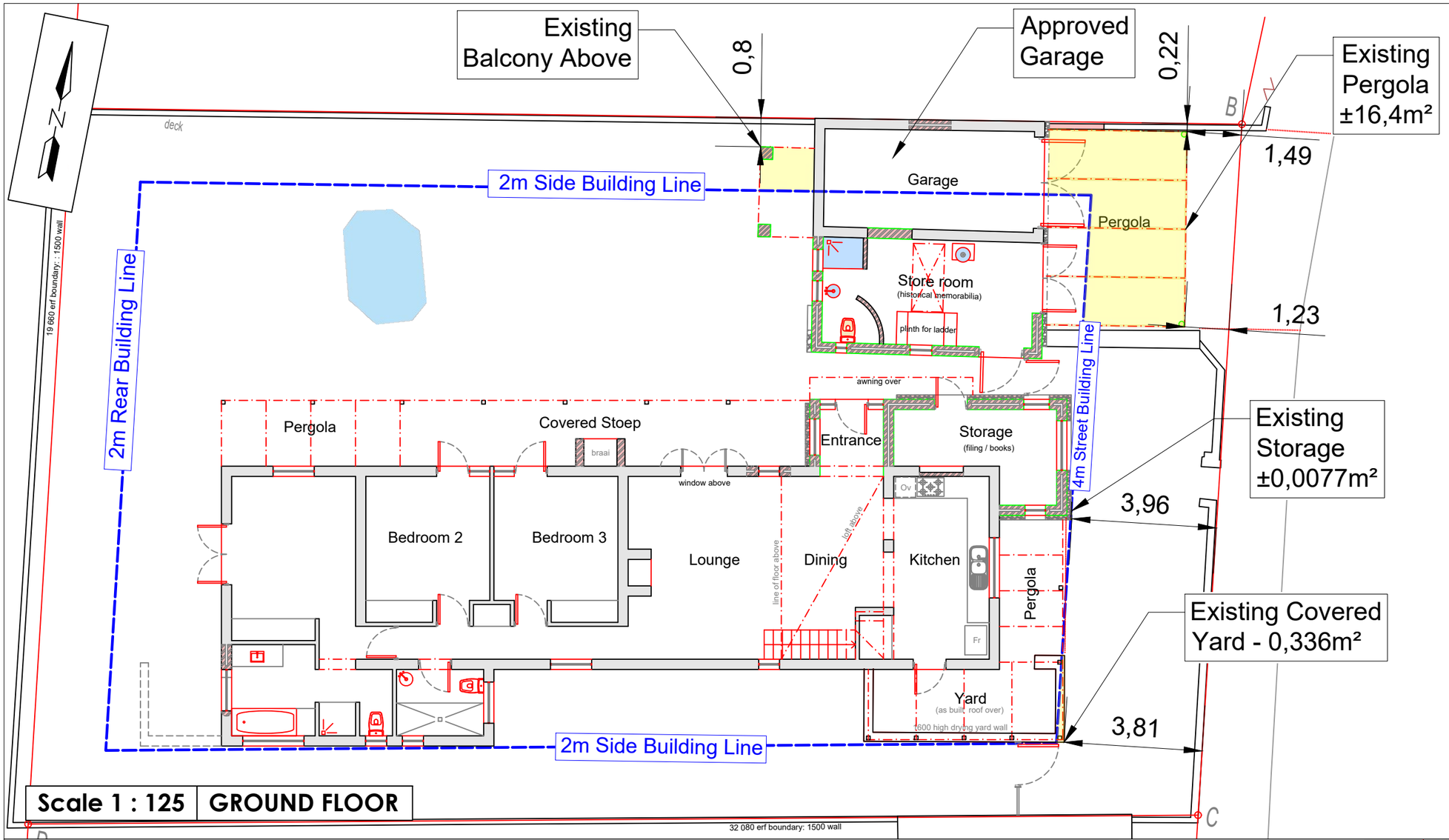
**7.3** **Permanent departure** from the Street building line from 4m to 3,96m to accommodate the Existing Storage Room in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020;

**7.4** **Permanent departure** from the Street building line from 4m to 3,81m to accommodate the Existing Covered Drying Yard in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020;

**7.5** **Permanent departure** from the northern side building line from 2,0m to 0,8m to accommodate the existing balcony in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020;

**7.6** **Permanent departure** from the northern side building line from 2,0m to 0m to accommodate the existing storage room on the first floor in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020; and

**7.7** **Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.




# Plan 3: Site Plan

Erf 3887 Onrustrivier

| Description | Area |
|---|---|
| **Erf** | **619 m²** |
| | |
| Dwelling Ground Floor | 151 m² |
| Dwelling Covered Patios | 30 m² |
| Dwelling Loft | 13 m² |
| Outbuilding Ground Floor | 41 m² |
| Outbuilding Loft | 39 m² |
| Outbuilding Balcony | 4 m² |
| Tool Shed | 4 m² |
| Total Additions | 113 m² |
| | |
| **Coverage** | 230 m² (37.16%) |

## Proposed Departures

### Yard

- Permanent Departure of the 4m Street Building Line to 3,81m.

### Storage

- Permanent Departure of the 4m Street Building Line to 3,96m.

### Pergola

- Permanent Departure of the 4m Street Building Line to 1,49 - 1,23m.
- Permanent Departure of the 2m Side Building Line to 0,22m.

### First Floor Storage

- Permanent Departure of the 2m side building line to 0m.

### First Floor Balcony

- Permanent Departure of the 2m side building line to 0,8m.

Plan Number: 26.49 (001)


Plan prepared by: Thian Jansen on 09/04/2026
Based on a topographic survey by For.Site

All distances are approximate and subject to a survey

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WRAP Project Office
Town Planning & Project Management

PROPOSED DEPARTURE FROM ALLOWABLE HEIGHT (ARCHITECTURAL GUIDELINES)

PROPOSED DEPARTURE FROM ALLOWABLE WALL PLATE HEIGHT

8m Scheme Height restriction: 20.85

7m Architectural Guideline Height restriction: 19.85

3.1108

First Floor Addition

vent

braai flue to be as per sans 10400 part V

Carport enclosed to form store room

7.9500

7

2,5m Wall Plate Height

stone clad

4.8392

fire screen wall

3.0200

under ex roof

tone cladding)

Doors on store room to be 30minute fire rated & fitted with self closing device all to sans 10400 part T

low ngl: 12.74

base level: 12.85

High ngl level: 12.95

**Scale 1 : 50** | **EAST ELEVATION**

# Plan 4: Elevation Plan

Erf 3887 Onrustrivier

Plan Number: 26.49 (001)

Plan prepared by: Thian Jansen on 14/05/2026
Based on a topographic survey by For.Site

All distances are approximate and subject to a survey

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