



ERF 5747, 5 FERNKLOOF DRIVE, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE & DETERMINATION OF AN ADMINISTRATIVE PENALTY: INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF CE BOOYENS

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-law) for the following:

Departure in terms of Section 16(2)(b) of the Bylaw for the relaxation of the southern street building line from 4m to 1.5m to accommodate proposed amendments to the existing kitchen,

Determination of an administrative penalty in terms of Section 16(2)(q) of the By-Law for the existing kitchen.

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) alida@overstrand.gov.za) on or before **19 July 2024**, 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. P Roux** 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 5747, FERNKLOOF RYLAAN 5, HERMANUS, OVERSTRAND MUNISIPALE GEBIED: AANSOEK VIR AFWYKING & BEPALING VAN 'N ADMINISTRATIEWE BOETE: INTERACTIVE STADS- EN STREEK BEPLANNING NAMENS CE BOOYENS

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) vir die:

Afwyking ingevolge Artikel 16(2)(b) van die Verordening vir die verslapping van die westelike straat bou lyn vanaf 4m to 1.5m om die voorgestelde wysigings aan die bestaande kombuis te akkommodeer.

Bepaling van Administratiewe Boete ingevolge Artikel 16(2)(q) van die Verordening vir die bepaling van 'n administratiewe boete vir die vir die bestaande kombuis.

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) alida@overstrand.gov.za) voor of op **19 Julie 2024**, 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. P. Roux** 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 5746, 5 FERNKLOOF DRIVE, HERMANUS, KUMMANDLA WOMASIPALA ASE-OVERSTRAND: ISICELO SOKUNYENYISWA KUNYE NOKUGQITYWA KWESOHLWAYO: ABAKWA-INTERACTIVE TOWN & REGIONAL PLANNING EGAMENI LIKA-CE BOOYENS

Kukhutshwa isaziso ngokumayela neCandelo 48 loMthetho Otshintshiweyo woMasipala waseOverstrand ongokuSetyenziswa Nokucetywa koMhlaba kaMasipala, 2020 (uMthetho kaMasipala), ukuba kufunyenwe isicelo esilandelayo:

Ukunyenyiswa ngokumayela neCandelo 16(2)(b) loMthetho kaMasipala ukuze kunyenyiswe umgca wesakhiwo ongakwicala elisemazantsi ukusuka ku-4m ukuya ku-1,5m ukulungiselela utshintsho olwenziwe kwikhithi elisele likhona.

Ukugqitywa kwesohlwayo emasibhatalwe ngokweCandelo 16(2)(q) loMthetho kaMasipala ukulungiselela ikhithi elisele likhona.

linkcukacha ezipheleleyo mayela noku kucetyiweyo ziyafumaneka ukuze zihlolwe phakathi evekini phakathi ko-08:00 no-16:30 kwiSebe: Town Planning, Paterson Street, Hermanus. Nawaphi na amagqabaza okuhlomla abhaliweyo amelwe afakwe ngokuvumelana nezibonelelo zeCandelo 51 neCandelo 52 loMthetho kaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) ngaphambi okanye kungadlulanga **19 EyeKhala 2024**, ubhale igama lakho, idilesi neenkukacha zohagamshelelwano, umdla kwisicelo nezizathu zokuhlomla. Imibuzo ngefowuni ingafakwa ku**Mcebi Dolophu, uMnu. P Roux** ku 028-313 8900. UMasipala angangavumi ukwamkela amagqabaza okuhlomla afunyenwe emva komhla wokuvala. Nabani na ongakwazi kufunda okanye ukubhala angatyelela iSebe lokuCeba Idolophu apho igosa lakwamasipala liya kumnceda afake amagqabaza okuhlomla.

1. Introduction

a. Brief

Refer to **Annexure B** for the Power of Attorney.

Interactive Town and Regional Planning was appointed by the owner of the property Caron Emma Booyens to prepare and submit an application for a building line departure and the determination of an administrative penalty for Erf 5747 Hermanus Heights in terms of the relevant legislation.

b. Background, Development Objective & Application Proposal

The application area consists of a 846m² single residential zoned erf accommodating a dwelling house is situated at number 5 Fernkloof Drive in Hermanus Heights.

The original courtyard of the dwelling house was converted by a previous owner for the extension of the kitchen without the required approvals.

Subsequently the **development objective** is to legalise the existing contravention exceeding the street building line to allow for amendments within the subject area.

The area of the existing contravention of the building line and the development proposal is shown here below:

Existing



Proposed



Figure 1: Street View photo compared with the proposed three dimensional render proposal

Subsequently the **application proposal** is for:

- a departure to relax the **southern street building line** from 4m to 1.5m to allow for amendments to the existing kitchen.
- the **determination of an administrative penalty**.

2. The Application

<p>a. Analysis: Title Deed Refer to Annexure D for the Conveyancer Certificate.</p>	<p>The Conveyancer Monica Korf issued a certificate confirming that <u>no</u> restrictive title deed conditions exist against the proposal on Erf 5747 Hermanus.</p>				
<p>b. Analysis: Development Criteria: The development parameters for Erf 5747 Hermanus as per the Overstrand Municipality Land Use Scheme, 2020 are summarised as follows:</p>	Parameters		Existing Zoning:	Proposal:	Comments
	Zoning		Residential Zone 1: Single Residential (SR1)	Residential Zone 1: Single Residential (SR1)	Consistent
	Primary Use		Crèche, dwelling house, guest rooms, home occupation, second dwelling unit and self-catering	Dwelling house	Consistent
	Consent Uses		Day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and intensive horticulture	None	Consistent
	Coverage		50%	33.4%	Consistent
	Height		8m	7.3m	Consistent
	Building lines	Street	4m	1.5m South 4m East	Application includes a departure
		Side	2m	2m	Consistent
Parking		Dwelling house: 2 bays	Dwelling house: 2 bays	Consistent	
<p>c. Application: The application form is attached as Annexure A.</p>	<p>Application is subsequently made in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020:</p> <ul style="list-style-type: none"> • a <u>departure</u> to relax the southern street building line from 4m to 1.5m to allow for amendments to the existing kitchen. • the <u>determination of an administrative penalty</u> in terms of Chapter IV, Section 16(q). 				

3. Contextual Site Information

a. Property Description

Property	Extent	Title Deed	Registered Owner
Erf 5747 Hermanus	846m ²	T22437/2020	Caron Emma Booyens

Refer to **Annexure E** for the SG Diagrams, **Annexure C** for the Title Deed of Erf 5747 Hermanus Heights.

The following Surveyor General Plans reflect the application site:

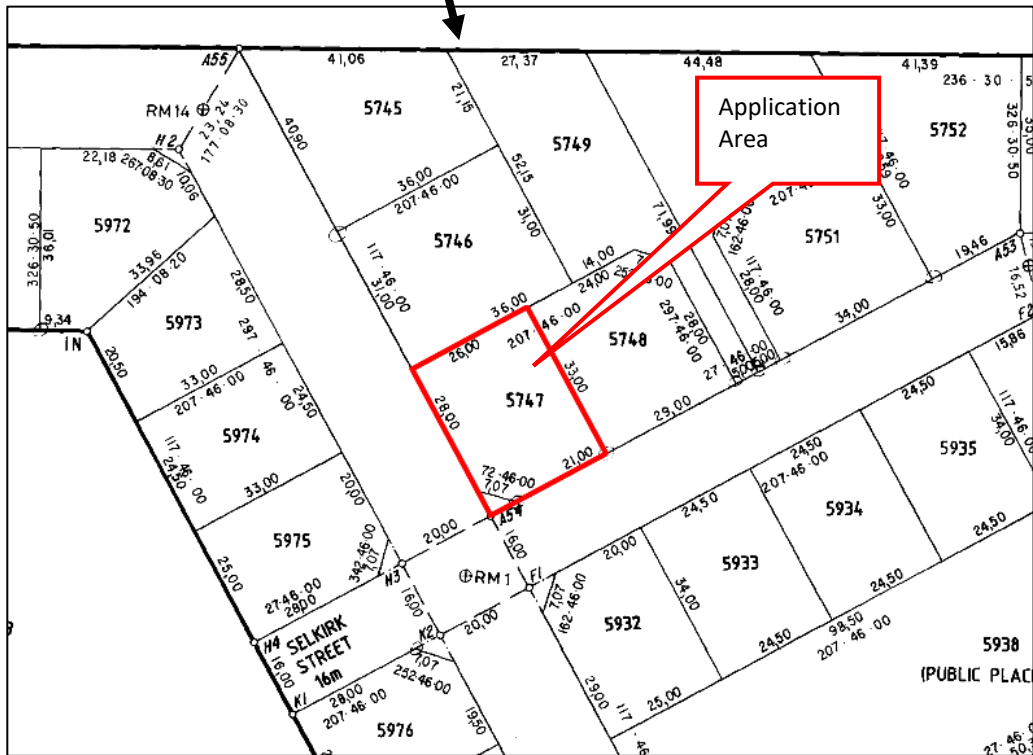
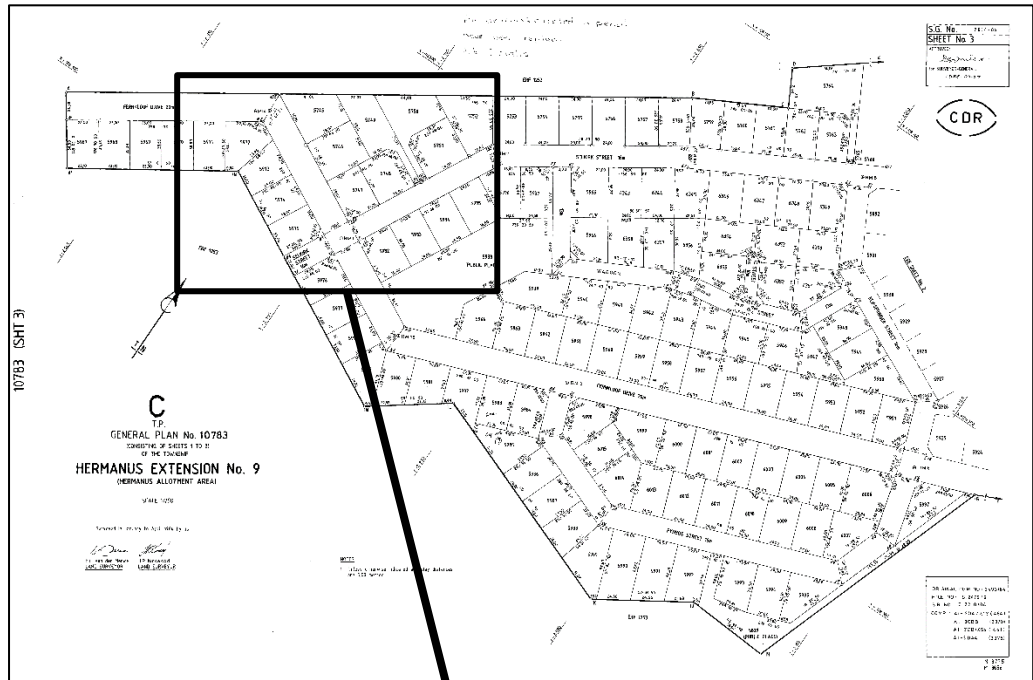


Figure 2: Extracts of the Surveyor General Plans of the application site

b. Location:

For the Locality Plans refer to Annexure F

Regional Context:

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

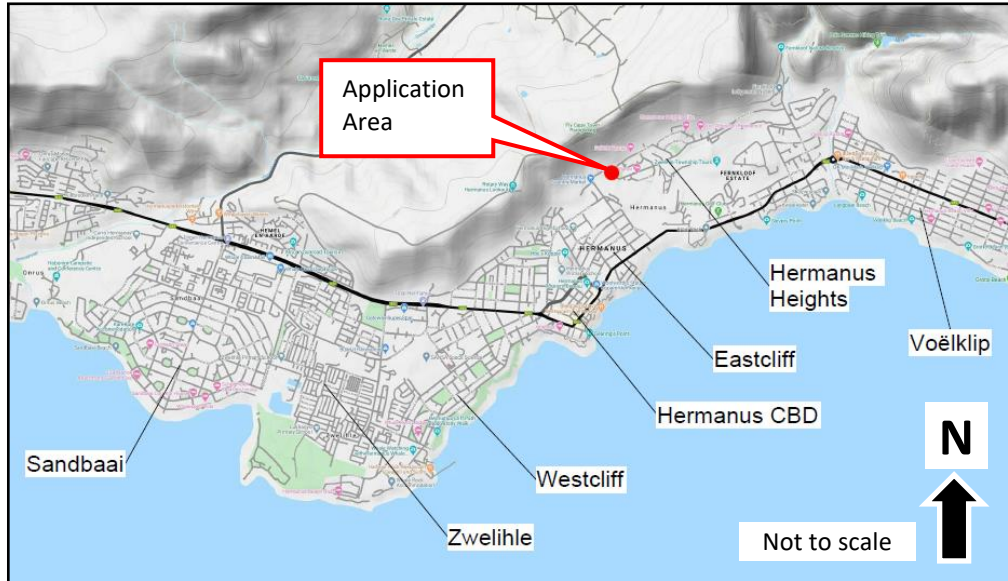


Figure 3: Locality Plan – Regional Context

Local Context:

Within the local context the application area consists of a residential zoned erf within Hermanus Heights. The application area is located at number 5 Fernkloof Drive as shown here-below:



Figure 4: Locality Plan – Local Context

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

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

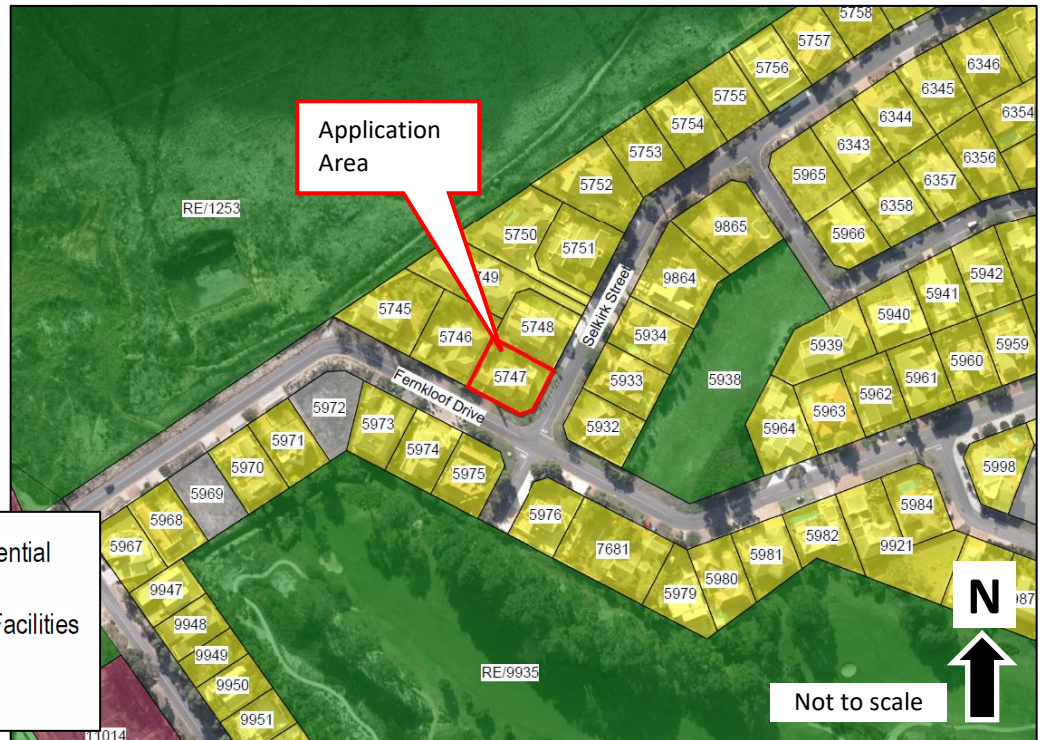


Figure 5: Google Image illustrating the residential land-use activities of the application area and surrounding properties

d. Zoning: The application area, Erf 5747, Hermanus Heights is zoned Residential Zone 1: Single Residential. The surrounding erven are similarly zoned Residential Zone 1: Single Residential. No change in zoning is proposed. The application proposal is **consistent** with the zoning of the area.

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

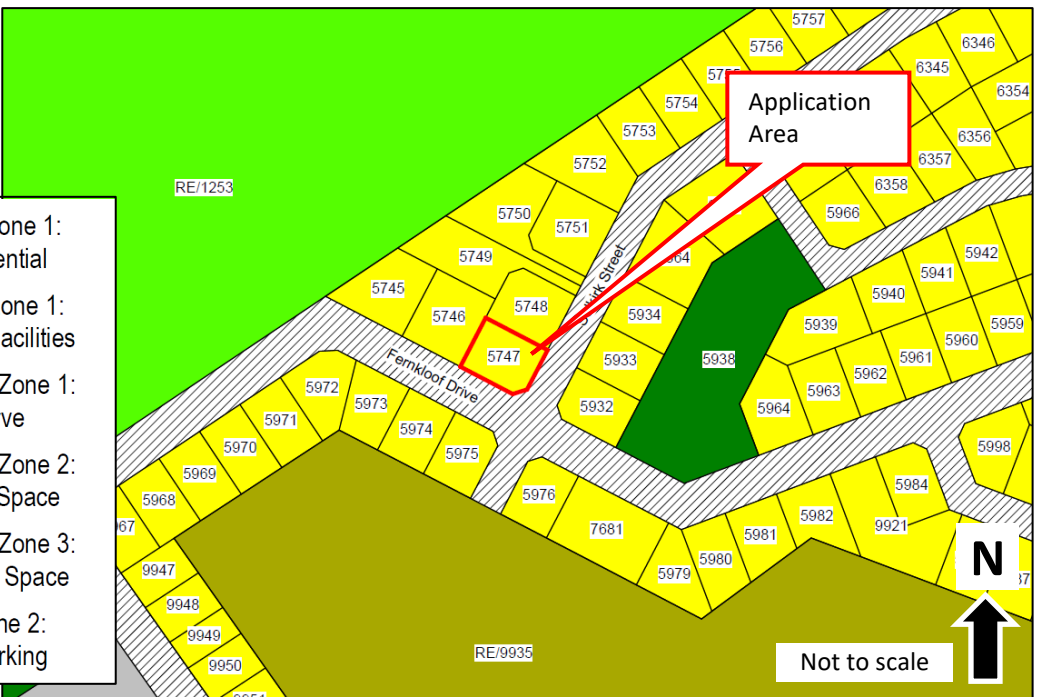


Figure 6: Extract from the Overstrand Municipality: Online zoning viewer







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

The following policy is applicable to the application area.

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

The application area falls within an Urban Development area.

The application proposal is consistent with the Overstrand Municipal Spatial Development Framework, 2020.

-  Urban Edge
-  Urban Development
-  Proposed Bypass Road
-  Sensitive Development Area (Composite: HPOZs and EMOZs)
-  Non - Perennial River
-  Ecological Corridor

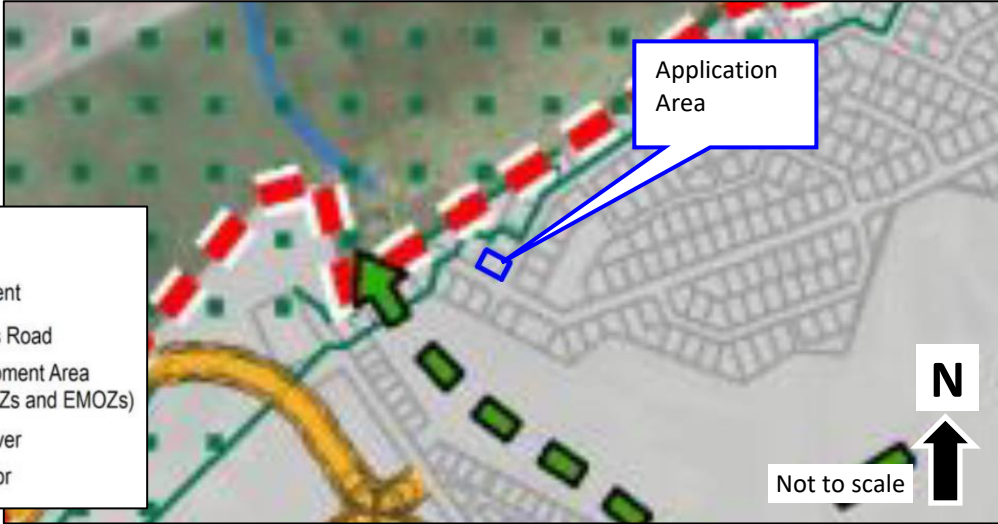











Figure 7: Spatial Development Framework 2020 Spatial Proposals Plan

ii. **Overstrand Municipality Growth Management Strategy, 2020**

The application area is within an area earmarked for Less Than 10 Dwelling Units Per Hectare Densification Zone. No further densification is applicable to this application.

The application is thus consistent with the Overstrand Municipality Growth Management Strategy, 2020.

- 1. SENSITIVE AREAS**
 -  Protected Areas
 -  Sensitive Development Area (Composite: HPOZ and EMOZ)
 -  Non-Perennial River
- 3. DENSIFICATION GRADING**
 -  Densification Zone less than 10 DU/H
 -  Densification Zone more than 30 DU/H
- 4. COMMUNITY FACILITIES**
 -  Sport
- 5. OTHER**
 -  Planning Unit (1-8)
 -  Cadastral
 -  Urban Edge

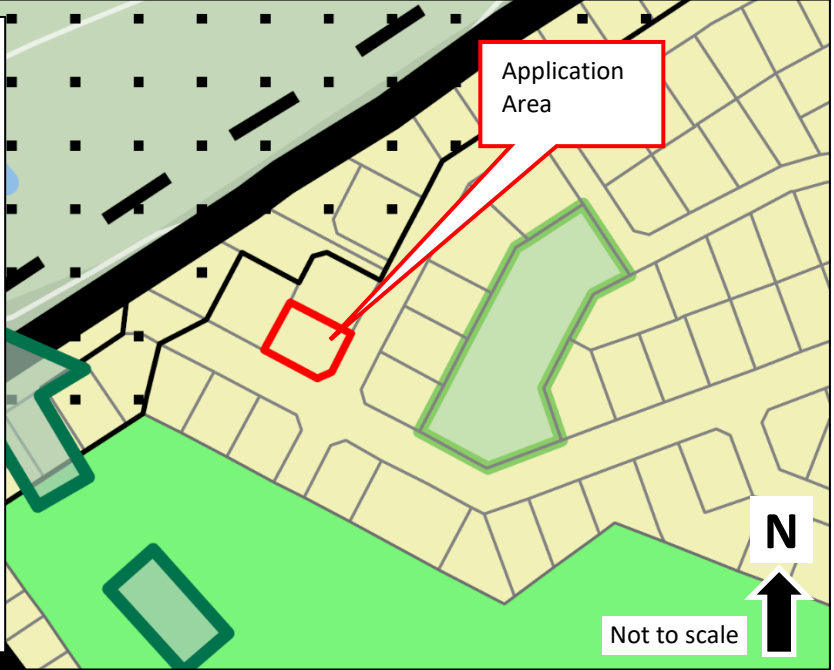


Figure 8: Extract from the Overstrand Municipality Growth Management Strategy, 2020 reflecting the envisaged land-uses for the area.

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.”

4. Motivation

Motivation for the application:

Refer to **Annexure I** for the Building Plan

a. Introduction and Background

A courtyard on the ground floor exceeding the southern street building line was converted to for the purposes of extending the original kitchen by previous owners without the required approvals by bricking up the gate, adding a roof and adding windows to the courtyard walls. The existing kitchen is thus located 1.5m from the street boundary.

b. Proposal

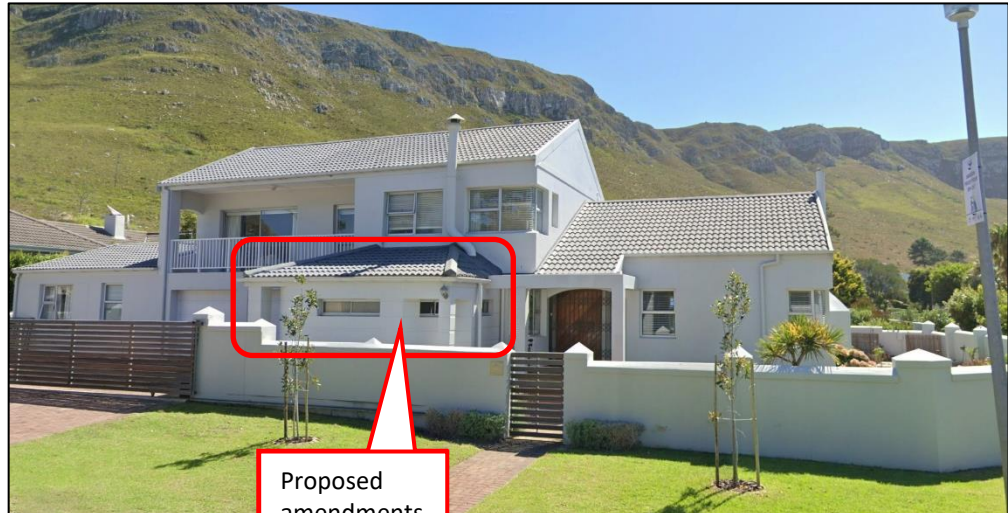
The application objective is to legalise the existing kitchen exceeding the southern street building line to allow for the amendment of the said kitchen.

The existing kitchen has the shape of half an octagon under a rectangular roof with pillars in the corners of the roof. The proposal is to alter the layout to improve the functionality of the kitchen and also the aesthetic appearance aligned with the existing architecture of the dwelling house.

The width of the kitchen and the distance from the road will remain the same. The proposed kitchen building amendments are underneath an existing roof and in the confines of the existing pillars, thus not increasing the building footprint.

As illustrated here-below, the proposed amendments will not have a significant impact.

Existing

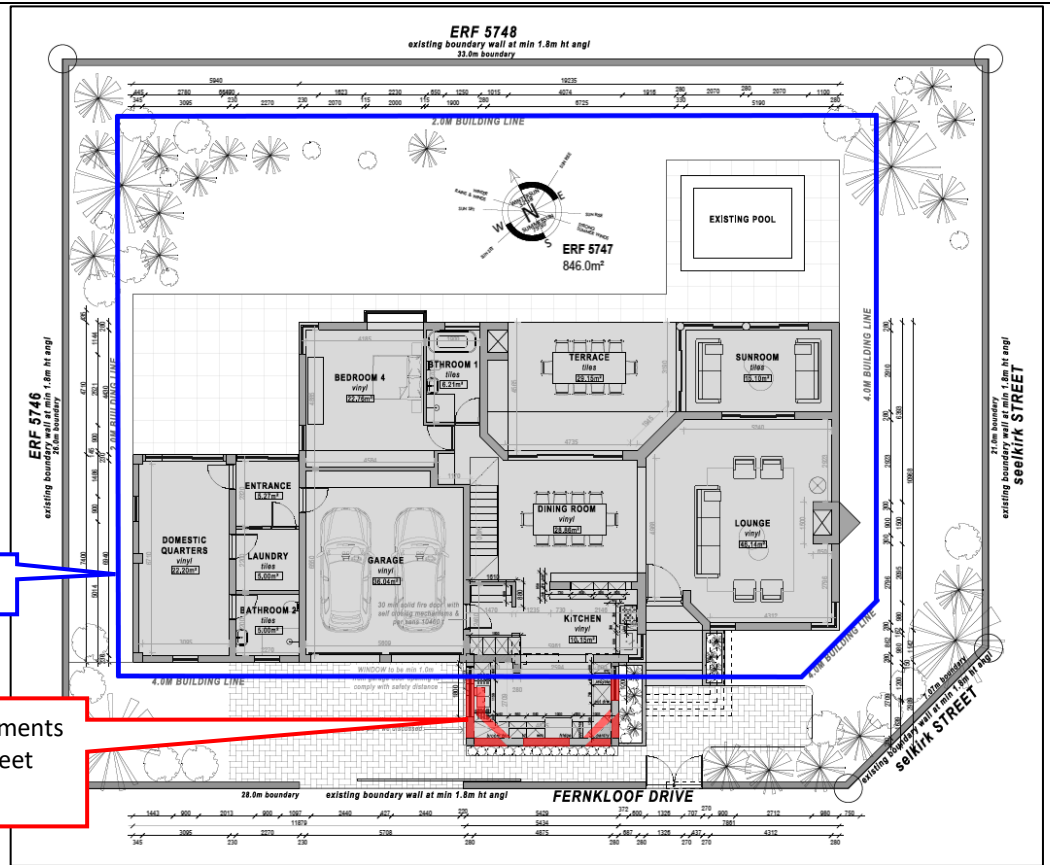


Proposed amendments exceeding the street building line

Proposed



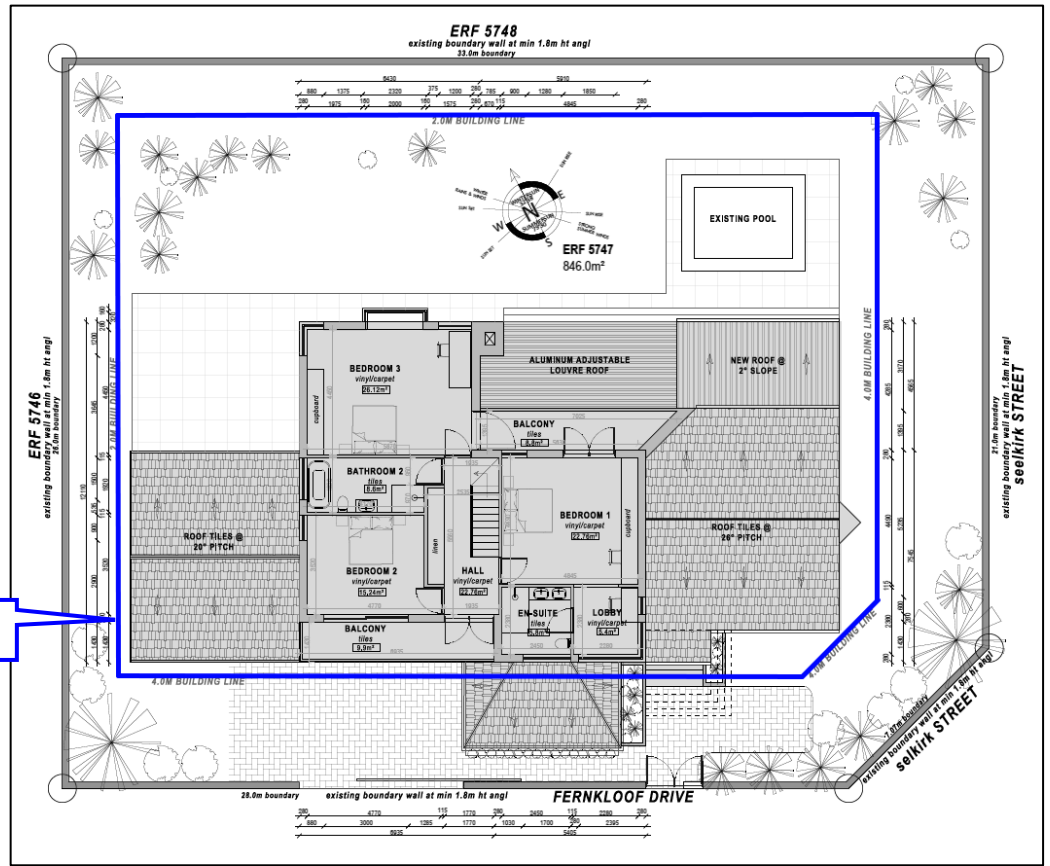
Figure 9: Street View photo compared with the proposed three-dimensional rendering



Building lines

Proposed amendments exceeding the street building line

Figure 10: Ground Floor Plan overlay



Building lines

Figure 11: First Floor Plan overlay

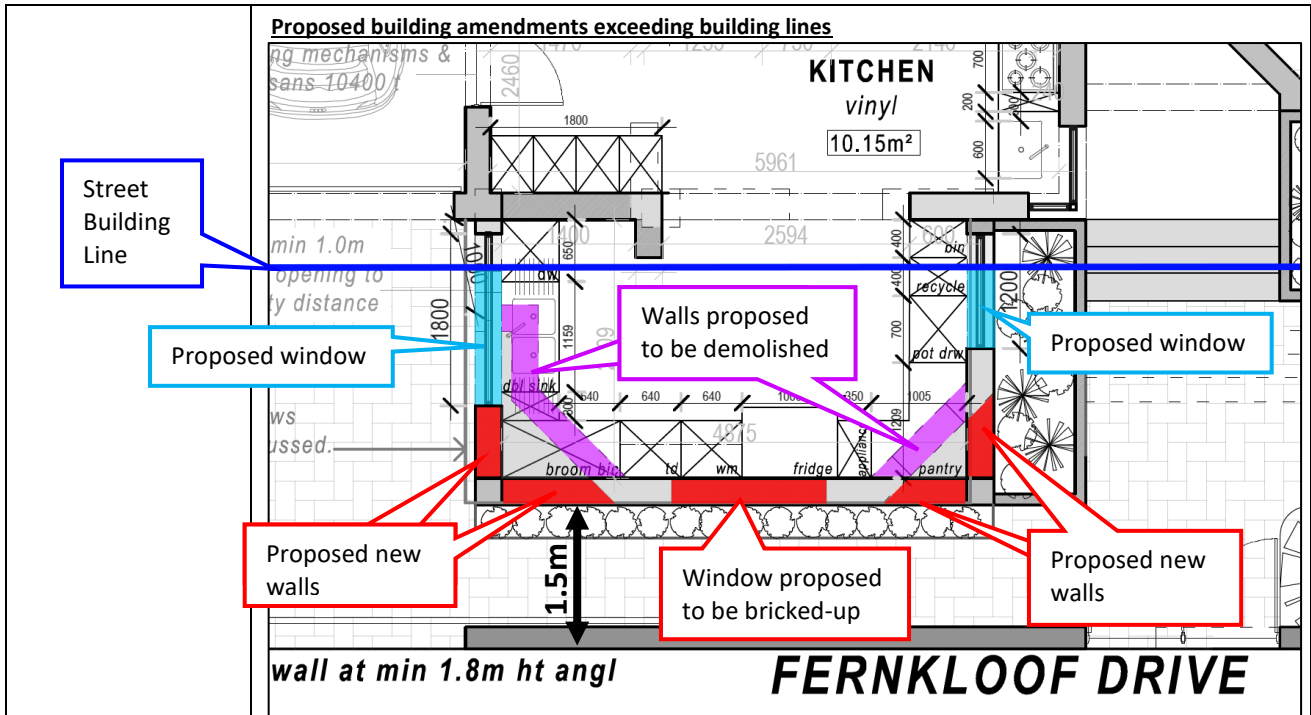


Figure 12: Proposed Amendments – Floor Plan

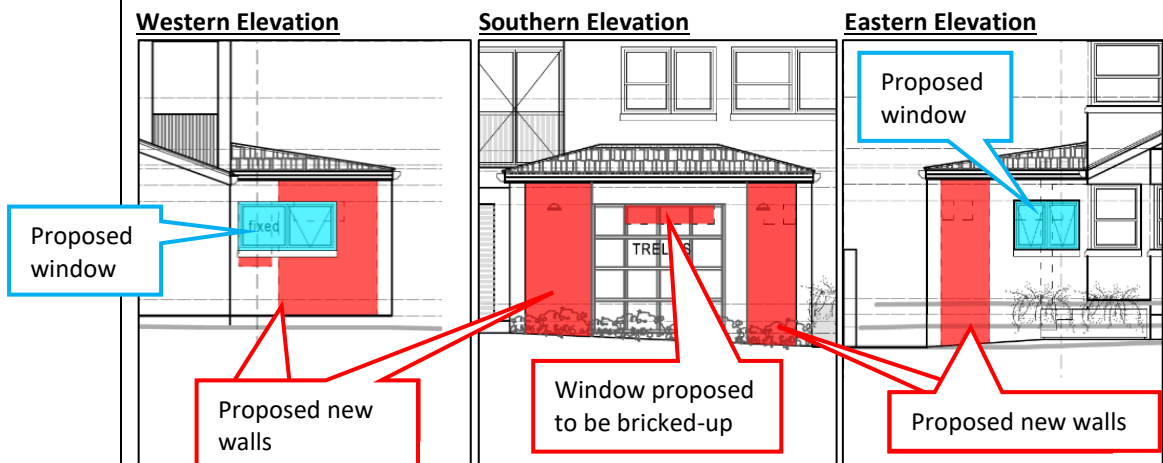
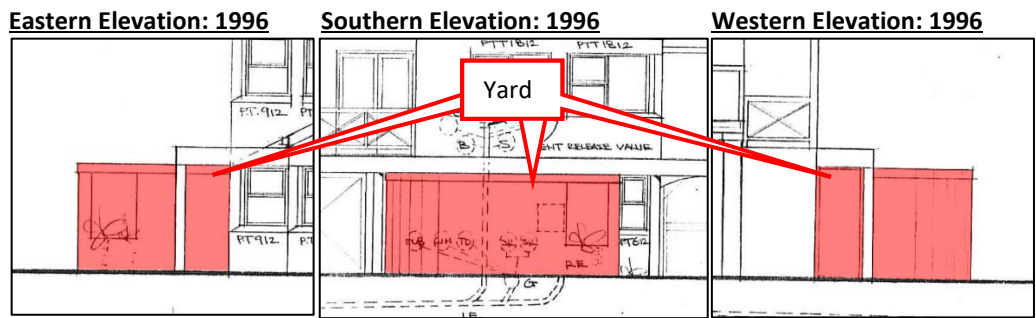


Figure 13: Proposed Amendments - Elevations

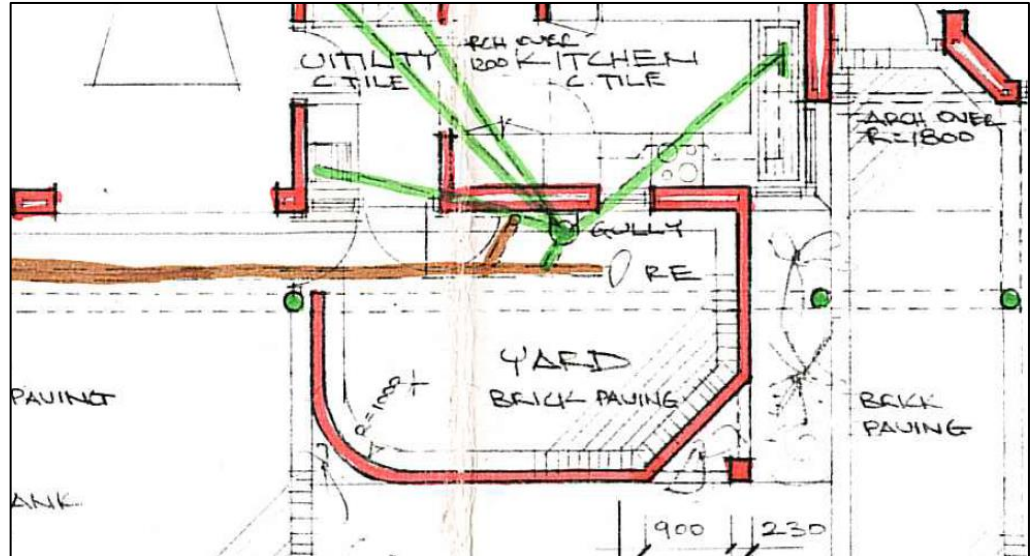
Determination of an administrative penalty

Application includes the determination of an administrative penalty for the existing kitchen which exceeds the southern street building line.

In 1996 the original dwelling was approved and constructed which included a courtyard on the southern side of the dwelling. No amendments to the yard were proposed on the following 2005, 2006 and 2013 approved building plans.



Ground Floor Plan: 1996



Eastern Elevation: 2005

Western Elevation 2013

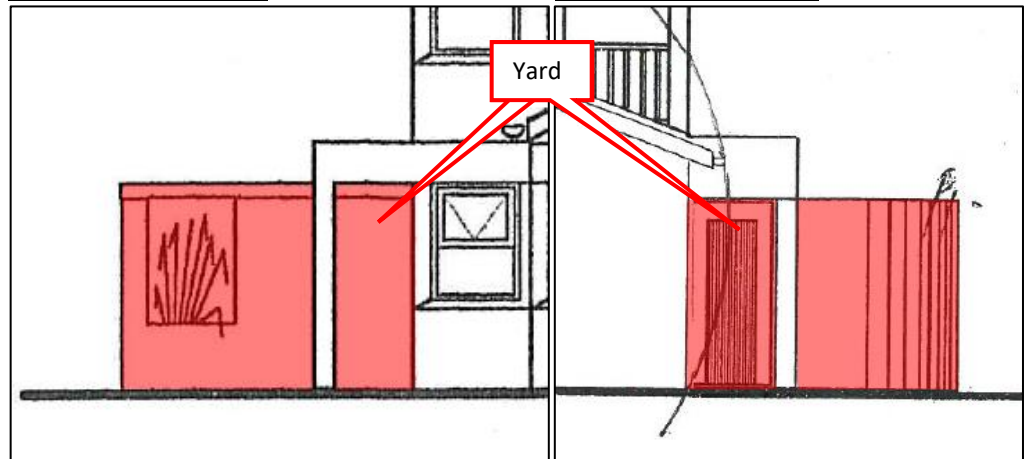


Figure 14: Approved Plan overlays

Google Street View image: September 2013



Figure 15: Google Street View Image

- The nature, duration, gravity and extent of the contravention;
A courtyard was converted into a kitchen by previous owners prior to 2013. The gate was bricked up, windows were installed and a roof was put up.

- The conduct of the person (allegedly) involved in the contravention;
The contravention was by a previous owner and therefore the details thereof are not known by the existing owner. The existing owner was unaware of the contravention when purchasing the property.
- Report by a quantity surveyor in matters of unauthorised building/construction;
Since the contravention was by a previous, application is made to waive the administrative penalty and therefore a report by a quantity surveyor was not obtained.
- Whether the unlawful conduct was stopped; and
The unlawful structure is an existing structure.
- Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.
To our knowledge, the owners have not previously contravened any planning law.

c. Desirability

The application proposal is considered desirable for the following reasons:

- The application proposal is considered as practical and functional and which contributes to the quality and aesthetical appearance of the property.
- The proposed amendments to the kitchen are underneath an existing roof and within the confines of the existing pillars, thus not increasing the building footprint.
- The proposed amendments will not have a negative effect on the character of the area.
- The relaxation of the building line will not cause any negative visual impact, unsafe conditions, obstruction of sunlight, views or intrusion on privacy for the application area or the adjacent properties.
- The proposal is in accordance with the relevant spatial planning legislation for the area.
- Access to the application area for emergency purposes will still be accommodated.

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 proposal is for amendments to an existing dwelling, thus not impacting on spatial justice.

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 proposal will allow for amendments to an existing dwelling on a single residential erf within the urban edge. Therefore, no impact on agricultural land, environmentally sensitive areas and biodiversity rich areas will occur.

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

- 3) **Spatial 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.

	<p>Possible results of the development The proposal has no impact on spatial efficiency as it relates to amendments to the existing dwelling. The proposal will improve the functionality and thus better use of the dwelling.</p> <p>The application proposal is consistent with the efficiency principle.</p> <p>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> <p>Possible results of the development The proposed development will not impact on spatial resilience since the development is for relatively minor amendments to an existing dwelling.</p> <p>The application proposal is consistent with the principle of spatial resilience.</p> <p>5) Good Administration 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>Possible results of the development Consultive practices are being followed in this application as it is done in consultation with the Planning Department of the Municipality who will also advertise the application in such a manner as to enable the Government and the general public to participate in the eventual decision-making process.</p> <p>The application proposal is consistent with the principle of good administration.</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.

Furthermore, the application proposal is considered to create an efficient balance between the optimal use of the application area, providing a satisfactory residential environment and catering for a full range of residential needs while no negative impact on the environment is evident or foreseen.

It is therefore recommended that the application **be approved** in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020:

- a departure to relax the **southern street building line** from 4m to 1.5m to allow for amendments to the existing kitchen.
- the **determination of an administrative penalty**.

