



ERF 3343, 5 PARK LANE, ONRUSTRIVIER, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLANACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF THE JOAN VAN DER POEL FAMILY TRUST

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 following:

- Relaxation of the northern lateral building line from 2m to 1.9m to accommodate a portion of an existing bedroom,
- Relaxation of the northern lateral building line from 2m to 0.87m to accommodate a portion of a braai that is part of a covered stoep,
- Relaxation of the northern lateral building line from 2m to 1.55m to accommodate two portions of an existing lounge,
- Relaxation of the eastern street building line from 4m to 3.20m and 3.29m to accommodate portions of an existing lounge,
- Relaxation of the eastern street building line from 4m to 0.44m to accommodate a portion of a balcony and stoep,
- Relaxation of the southern lateral building line from 2m to 1.43m to accommodate a portion of an existing garage,

Determination of an administrative penalty in terms of Section 16(2)(q) of the By-Law for the above-mentioned existing additions on the property.

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 / (e) loretta@overstrand.gov.za) on or before **25 October 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. 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 3343, PARK LAAN 5, ONRUSTRIVIER, OVERSTRAND MUNISIPALE GEBIED: AANSOEK VIR AFWYKING & BEPALING VAN 'N ADMINISTRATIEWE BOETE: PLAN ACTIVE STADS- EN STREEK BEPLANNERS NAMENS THE JOAN VAN DER POEL FAMILY TRUST

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 volgende:

- Verslapping van die noordelike sy boulyn vanaf 2m to 1.9m om 'n gedeelte van 'n bestaande slaapkamer te akkommodeer.
- Verslapping van die noordelike sy boulyn vanaf 2m to 0.87m om 'n gedeelte van 'n braai wat deel vorm van die onderdakse stoep te akkommodeer.
- Verslapping van die noordelike sy boulyn vanaf 2m to 1.55m om twee gedeelte van 'n bestaande sitkamer te akkommodeer.
- Verslapping van die oostelike straat boulyn vanaf 4m to 3.20m en 3.29m om gedeeltes van 'n bestaande sitkamer te akkommodeer.
- Verslapping van die oostelike straat boulyn vanaf 4m to 0.44m om 'n gedeelte van 'n balkon en stoep te akkommodeer.
- Verslapping van die suidelike sy boulyn vanaf 2m to 1.43m om 'n gedeelte van 'n bestaande garage te akkommodeer.

Bepaling van Administratiewe Boete ingevolge Artikel 16(2)(q) van die Verordening vir die bepaling van 'n administratiewe boete vir die bo-genoemde bestaande aanbouings op die eiendom.

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 / (e) loretta@overstrand.gov.za) voor of op **25 Oktober 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. 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 3343, 5 PARK LANE, ONRUSTRIVIER, KUMMANDLA KAMASIPALA WASE-OVERSTRAND: ISICELO SOKWAHLULA NENGIKELELO YOBHALISO LOMDLIWO: NGABAKWAPLANACTIVE TOWN & REGIONAL PLANNERS EGAMENI LE-THE JOAN VAN DER POEL FAMILY TRUST

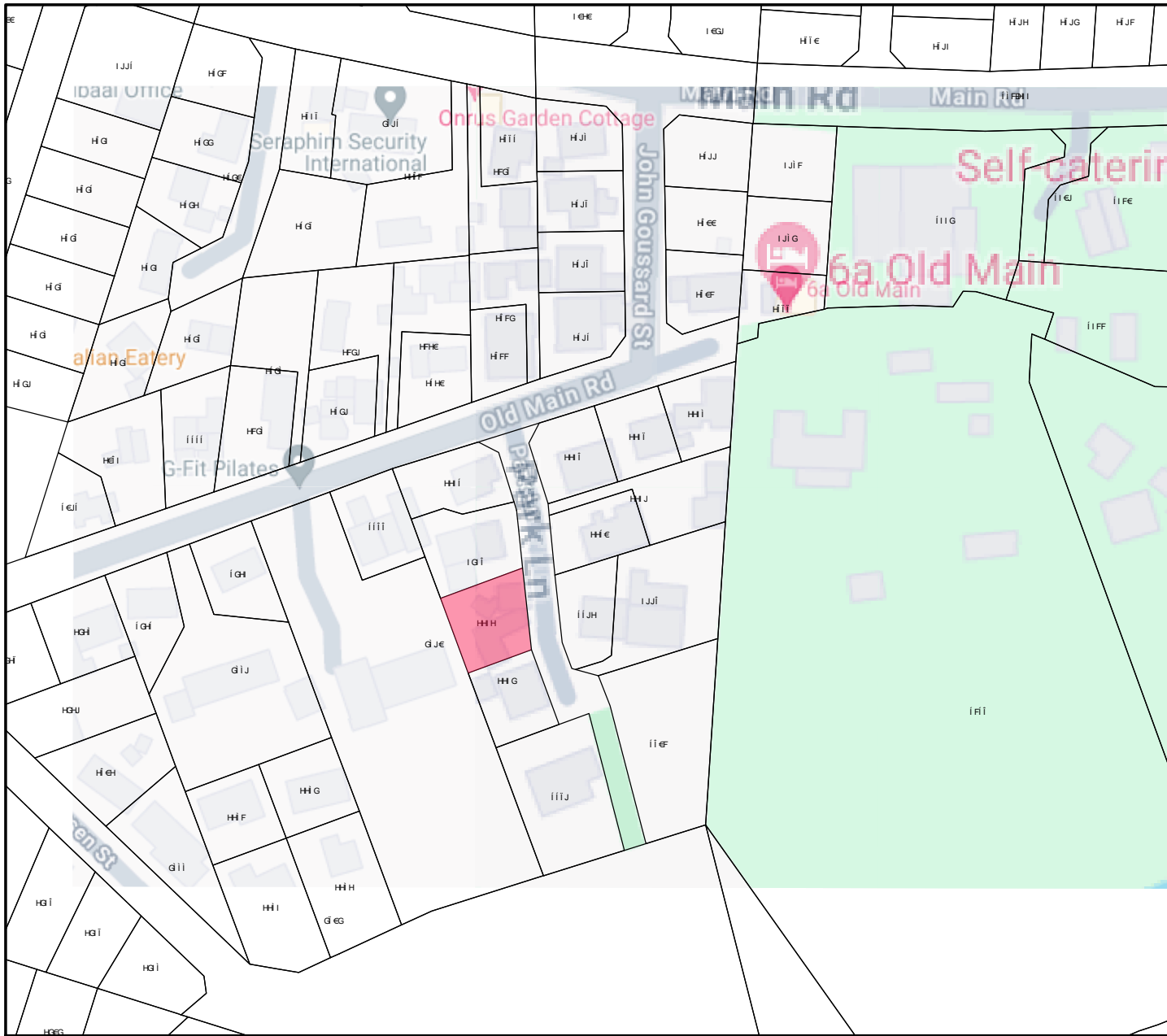
Kukhutshwe isaziso esimayela nemiba yeSoloty lama-48 loMthethwana kaMasipala waseOverstrand Osisihlomelo Somthethwana NgeziCwangciso Zokusetyenziswa koMhlaba ku2020 (Umthethwana) isaziso esi sisebenza kwezi zicelo zilandelayo:

Ukwahluka ngokwemiba yeSoloty le16(2)(b) loMthethwana osebenzeka kwezi meko zilandelayo:

- Ukunyenisa umgca wesakhiwo omelene nesakhiwo kwicala elisemantla ukusuka kwiimitha ezi2m ukuya kweziyi1.9m ukulungiselela inxalenye yegumbi lokulala esele likhona,
- Ukunyenisa umgca wesakhiwo omelene necala elisemantla ukusuka kwiimitha ezi2m ukuya kwi-0.87m ukulungiselela inxalenye yendawo yokoja/yokubhraya inyama ibe yinxalenye yestuphu esivaliweyo,
- Ukunyenisa umgca wesakhiwo kwicala elisemantla ukusuka kwiimitha ezi2m ukuya kwi-1.55m ukulungiselela inxalenye ezimbini zegumbi lokuhlala esele likhona,
- Ukunyenisa umgca wesakhiwo kwicala elisempuma yesitrato kwicala elimelene nomgca wesakhiwo ukusuka kwiimitha ezi4m ukuya kwi-3.20m ne-3.29m ukulungiselela inxalenye esele zikhona kwigumbi lokuhlala,
- Ukunyenisa umgca wesakhiwo kwicala elisempuma yesitrato kwicala lomgca omelene nesakhiwo ukusuka kwimitha ezi-4m ukuya kwi-0.44m ukulungiselela inxalenye yebhalkhoni/yeverande nesituphu,
- Ukunyenisa umgca wesakhiwo kwicala elisemazantsi omgca wesakhiwo omelene nesakhiwo ukusuka kwimitha ezi-2m ukuya kwi-1.43m ukulungiselela inxalenye yegaraji esele ikhona,

Ingqikelelo yomdiwo wobhaliso ngokwemiba yeSoloty le16(2)(q) loMthethwana ochazwe ngentla ngokwezongezelelo esizikhoyo kwesi siza.

Iinkcukacha ezipheleleyo mayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini phakathi kwentsimbi ye-08:00 neye-16:30 kwiSebe: IziCwangciso zeDolophu, Paterson Street, Hermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zeSoloty lama-51 nelama-52 loMthethwana kaMasipala (16 Paterson Street, Hermanus / (e) loretta@overstrand.gov.za) ngomhla okanye ngaphambi **komhla wama-25 Okthobha 2024**, uchaze igama lakho, idilesi neenkukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zokuhlomla kwakho. Imibuzo ngefowuni ingathunyelwa **kuMchwangcisi Okhulu weDolophu, Mnu. H. Olivier kwa-028-313 8900**. UMasipala angala ukwamkela izimvo ezifike emva komhla wokuvala. Nabani na ongakwazi ukufunda nokubhala angahambela kwiSebe LeziCwangciso zeDolophu apho igosa likamasipala liza kunceda ukuhlomla ngokusemthethweni.



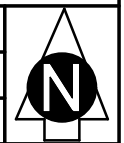
Stads- en Streeksbeplanners
Town & Regional Planners

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**DETERMINATION OF AN
ADMINISTRATIVE PENALTY AND
PROPOSED BUILDING LINE
DEPARTURES**

ERF 3343 ONRUSTRIVIER

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. **BACKGROUND**

On behalf of The Joan van der Poel Family Trust, the owner of Erf 3343 Onrustrivier, Mr. Truhann van der Poel has engaged Plan Active Town and Regional Planners to apply for the determination of an administrative penalty and building line departures for the property.

Mr. Truhann van der Poel inherited Erf 3343 Onrustrivier from his parents. He was informed that the dwelling on the property might be incorrectly positioned and potentially encroaching on building lines. To confirm this, a survey was conducted, which verified the incorrect positioning of the dwelling and identified building line encroachments. These issues necessitate a departure application and the imposition of an administrative penalty. Finlayson Van Der Merwe Architects utilized the survey data to create as-built building plans to support this application.

The subject property is 605m² in extent and is held by Title Deed Number T59863/96.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020, for departures from the building lines.
- 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.

3. DESIRABILITY

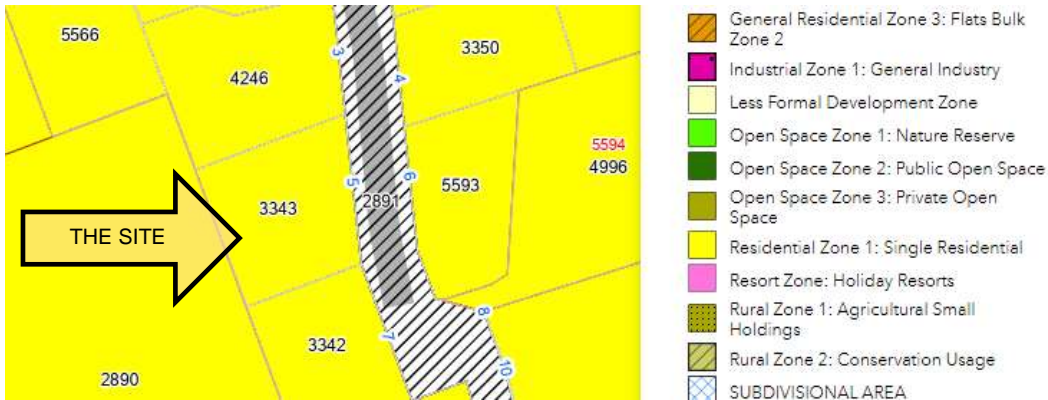
3.1 PROPERTY DESCRIPTION

The subject property is situated at 5 Park Lane, Onrustrivier. Erf 3343 Onrustrivier is 605m² in extent and is situated in a predominantly single residential area. Please refer to the enclosed locality plan and the aerial photograph below.



3.2 ZONING

Erf 3343 Onrustrivier is zoned Residential Zone 1 and is used as such. The surrounding properties are also zoned for single residential purposes and public roads. Please refer to the zoning map abstract below:



3.3 LAND USE

Erf 3343 Onrustrivier serves as a residential property, hosting a well-established double-storey dwelling. This residence includes four bedrooms, a lounge, a kitchen, three bathrooms, ample storage space, and a double garage, providing a comprehensive and comfortable living environment.

The surrounding area of Erf 3343 Onrustrivier is characterized predominantly by single-family homes and public roads. This indicates that the property is located within a mature and established single residential neighbourhood. The consistency of single dwelling units in the vicinity underscores the residential nature of the area, contributing to a cohesive community atmosphere. This setting offers a serene and orderly environment, ideal for family living and fostering a sense of community among the residents.

3.4 PROPOSAL

The following is proposed in terms of:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020, for departures from the building lines.

- 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.

3.4.1. Determination of an administrative penalty

As a trustee of the Joan van der Poel Family Trust, Mr. Truhann van der Poel has been informed of a potential encroachment issue involving the existing balcony facing Park Lane. To address this concern, Van Dyk & Associates Land Surveyors conducted a comprehensive survey to ascertain the dwelling's position relative to the erf boundaries.

The survey revealed discrepancies between the dwelling's physical position and the approved building plans. Specifically, the dwelling encroaches on three building lines: the northern lateral building line, the eastern street building line, and the southern lateral building line. The encroachments include the following areas:

- A portion of a bedroom
- A portion of a built braai
- Portions of the lounge
- A stoep and balcony
- A double garage

While most of these encroachments are minor, the stoep and balcony's encroachment into the street building line is significant. Consequently, this application seeks departures from the relevant building lines, which will be detailed further in this motivation report.

In accordance with Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, we hereby apply for the determination of an administrative penalty for the unauthorized building works and building line encroachments resulting from the dwelling's mispositioning. Chapter 10, Section 90(1) stipulates that any person in contravention of this By-law must apply to the Municipality for an administrative penalty determination, provided that no

demolition directive has been issued in terms of Section 85 for the concerned land or building.

In terms of **Chapter 10, Section 90(3)**, of the Overstrand Municipality's Amended By-Law on Municipal Land Use Planning, 2020 the applicant must to the satisfaction of the municipality, provide the following:

3.4.1.1 CRITERIA FOR DETERMINATION OF AN ADMINISTRATIVE PENALTY

The Nature, duration, gravity, and extent of the contravention

In 1992, the late Mr. van der Poel, former trustee of the Joan van der Poel Family Trust, constructed the existing dwelling on the property. Subsequent additions, including unauthorized building work, were made to the dwelling, specifically impacting a portion of the stoep and balcony that encroach upon the eastern street building line. A recent survey has revealed several minor encroachments resulting from the original placement of the dwelling in relation to the actual property boundaries:

- The double garage encroaches the southern lateral building line by 0.57m.
- A portion of a bedroom encroaches the northern lateral boundary line by 0.10m.
- A section of the built braai, forming part of a stoep, encroaches the northern lateral building line by 1.13m.
- Part of the lounge encroaches the northern lateral building line by 0.45m.
- Another section of the lounge encroaches the eastern street building line by 0.71m.

These encroachments have existed since the dwelling's construction in 1992. They were unintentional and can be considered minor, as the uses of the encroaching areas remain consistent with the approved building plan.

In 2001, a set of building plans was submitted and approved for further additions, including a stoep, balcony, and an enlarged lounge. These alterations were constructed after approval and have resulted in additional encroachments due to the original misplacement of the dwelling. The encroachments from the 2001 additions are as follows:

- A portion of the lounge encroaches the northern lateral building line by 0.45m and the eastern street building line by 0.8m and 0.71m respectively.
- The stoep and balcony encroach the eastern street building line by 3.56m.

The stoep and balcony were initially designed to be triangular, with the eastern edge following the 4m street building line. However, during construction in 2001, they were built with a rectangular shape, deviating from the approved plans and encroaching on the 4m street building line.

The above encroachments have existed since their respective construction periods (1992 and 2001) and were predominantly the result of unintentional misplacements with the exception of the construction of the stoep and balcony. These minor deviations should be considered within the context of the original and approved building plans. We seek approval for these encroachments to regularize the existing structures, ensuring compliance and reflecting the current use and layout of the property.

The extent of the unauthorised building works in a clockwise direction starting from the norther lateral boundary are as follow:

Structure	Extent of unauthorised building work	Date Constructed
Portion of an existing bedroom	±0.0103m ²	1992
Portion of an existing braai that forms part of a stoep	±1.2947m ²	1992
Portion of the Lounge	±0.7993m ²	1992
Portion of the Lounge	±0.4087m ²	2001
Portion of the Lounge	±1.14718m ²	2001
Portion of the Lounge	±0.5275m ²	1992
Balcony and stoep	±12.6609m ²	2001
Portion of the double garage	±3.5515m ²	1992
Total Extent of unauthorised building work	±20.4m²	

The Joan van der Poel Trust, the owner of the subject property, is committed to fully cooperating with the Overstrand Municipality to address the unauthorized building

work. This application aims to address both the determination of an administrative penalty and the approval of building line departures simultaneously, thereby resolving the issues related to unauthorized building work and building line encroachments on the property.

The position and nature of the unauthorized building work do not negatively impact the surrounding properties. The structures in question have been in place for several years without causing any reported issues or complaints from neighbouring property owners. The minor encroachments are minimal and do not obstruct views, sunlight, or access for adjacent properties. Additionally, the design and appearance of the structures are in keeping with the architectural style and character of the neighbourhood, ensuring aesthetic continuity and minimising any potential visual impact.

The Joan van der Poel Trust is dedicated to ensuring that all necessary steps are taken to regularise the existing structures in compliance with municipal regulations. This includes:

- **Thorough Review and Adjustment of Building Plans:** Ensuring that all current and future building plans are meticulously reviewed and adjusted to meet all municipal building regulations.
- **Transparent Communication:** Engaging in open and transparent communication with the Overstrand Municipality and neighbouring property owners to address any concerns and provide updates on the regularization process.
- **Ongoing Compliance Monitoring**:** Establishing a system for ongoing monitoring and maintenance to ensure continued compliance with all building regulations and to prevent any future unauthorized works.

By taking these steps, the Trust aims to maintain and enhance the harmony within the community, demonstrating a commitment to responsible property management and neighbourly cooperation. The Trust values the support and cooperation of the Overstrand Municipality in this process and is dedicated to promote a collaborative approach to resolving the current issues.

The conduct of the person involved in the contravention.

The unauthorized construction was undertaken by the late Mr. Van der Poel. His son, a Trustee of the Joan Van der Poel Family Trust, seeks to rectify and legalize the existing encroachments as detailed earlier in this motivation report.

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

If the Overstrand Municipality deems it necessary to impose an administrative penalty fee for the unauthorized construction, we will provide a report from a quantity surveyor detailing the unauthorized work.

According to the Overstrand Tariffs list for 2023/2024, the cost for formal structures in habitable spaces on properties larger than 150m² is calculated at R19,107.00 per square meter (VAT inclusive).The habitable spaces that encroach building lines can be tabled as follow:

Structure	Extent of unauthorised building work	Date Constructed
Portion of an existing bedroom	±0.0103m ²	1992
Portion of the Lounge	±0.7993m ²	1992
Portion of the Lounge	±0.4087m ²	2001
Portion of the Lounge	±1.14718m ²	2001
Portion of the Lounge	±0.5275m ²	1992
Total Extent of unauthorised building work	±2.89298m²	

The extent of the unauthorised encroachments can be calculated as follows:

Two bedrooms and sun deck:

2.89298m² x R19 107.00

Total building cost = ±R55 276.17

Non habitable spaces can tabled as follows:

Structure	Extent of unauthorised building work	Date Constructed
Portion of an existing braai that forms part of a stoep	±1.2947m ²	1992
Balcony and stoep	±12.6609m ²	2001
Portion of the double garage	±3.5515m ²	1992
Total Extent of unauthorised building work	±17.5071m²	

Should the Overstrand Municipality decide to enforce an administrative penalty, the owner will request cost estimates for the construction work of approximately 17.5071m² of non-habitable spaces encroaching the building lines as described above, in order to determine the appropriate administrative penalty.

Whether the unlawful conduct was stopped

The owner is currently in the process of rectifying the contravention by applying for the determination of an administrative penalty and building line departures. The structures, erected by the late Mr. Van der Poel in 1992 and 2001, have been completed and are in use since their construction in those respective years.

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, the current Trustees of the Joan van der Poel Family Trust have never previously contravened this by-law or any other planning regulations.

We appeal to the Overstrand Municipality to consider the minimal impact of the encroachments on the surrounding area, noting that only portions of the structures encroach on the building lines.

Additionally, it is important to recognize the low impact these structures have on neighbouring properties in relation to existing land use rights. The Zoning Scheme

Regulations and the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, will continue to guide future development on the subject property.

Therefore, we respectfully request that a penalty fee not be imposed on the property owners for the reasons stated above.

3.4.1. Proposed building line departures

Erf 3343 Onrustrivier is 605m² in extent. The Overstrand Scheme Regulations stipulate that a **4m street building line** and a **2m lateral and rear building lines** apply to **Residential Zone 1: Single Residential** properties larger than 400m² in extent as tabled below:

Net erf area	Street building line
Less than 150 m ²	1,0 m
Less than 400 m ²	2,0 m
400 m ² and greater	4,0 m

Net erf area	Side and rear building lines
Less than 150 m ²	At least 1,0 m one side and 0 m on the other side. Rear = 1,0 m.
Up to 400 m ²	1,0 m
Greater than 400 m ²	2,0 m

The owner of Erf 3343 Onrustrivier constructed the following additions in 2001 to the existing dwelling situated on the subject property:

Ground floor

- An extension to the existing lounge and a stoep.

First floor

- A balcony facing Park Lane.

The following minor encroachments are a result of the wrongful placement of the original dwelling in relation to the existing boundaries:

Ground floor

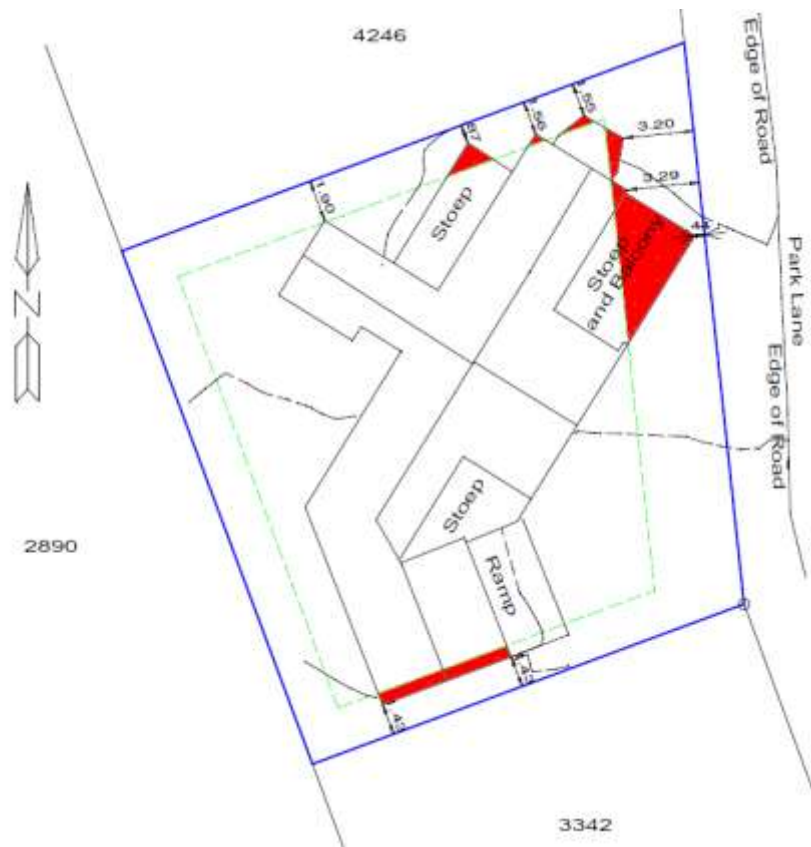
- A portion of a bedroom;
- A portion of a stoep and braai;
- Portions of the lounge;
- A portion of the garage.

The building line departures can be summarised as follow in an order starting from top left of the enclosed site plan in a clockwise direction:

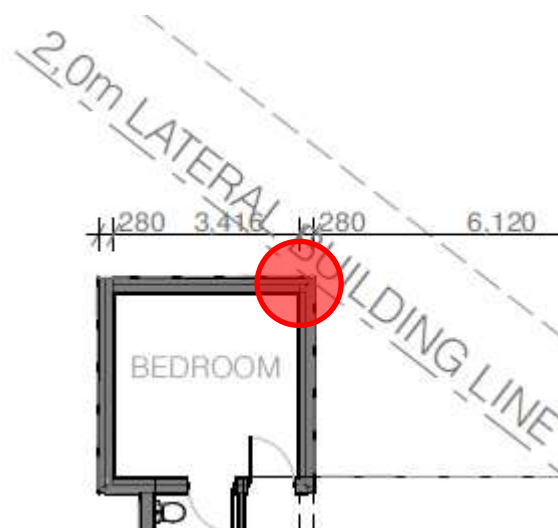
- Relaxation of the northern lateral line from **2m** to **1.9m** to accommodate a portion of an existing bedroom;
- Relaxation of the northern lateral building line from **2m** to **0.87m** to accommodate a portion of braai that is part of a covered stoep;
- Relaxation of the northern lateral building line from **2m** to **1.56m** to accommodate a portion of an existing lounge;
- Relaxation of the northern lateral building line from **2m** to **1.55m** to accommodate a portion of an existing lounge;
- Relaxation of the eastern street building line from **4m** to **3.20m** to accommodate a portion of an existing lounge;
- Relaxation of the eastern street building line from **4m** to **3.29m** to accommodate a portion of an existing lounge;
- Relaxation of the eastern street building line from **4m** to **0.44m** to accommodate a portion of a balcony and stoep;
- Relaxation of the southern lateral building line from **2m** to **1.43m** to accommodate a portion of an existing garage;

Motivation report

Please refer to the site plan below clearly indicating the existing building line encroachments listed above.

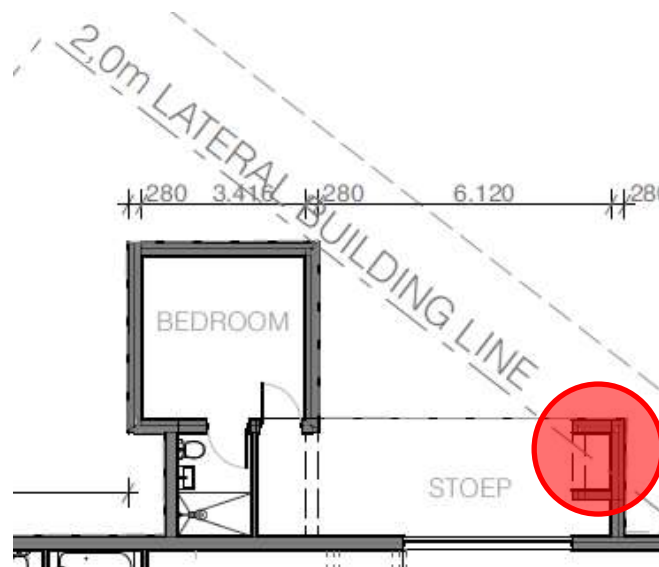


The northern bedroom, which encroaches on the northern lateral building line, was constructed in 1992. A corner of the existing bedroom extends into the lateral building line by 0.10m, affecting only a small portion of the outer wall. Please refer to the building plan abstract below:

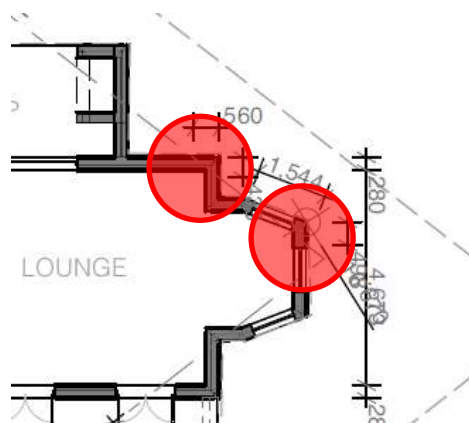


We are therefore applying for the relaxation of the northern lateral building line from 2m to 1.90m.

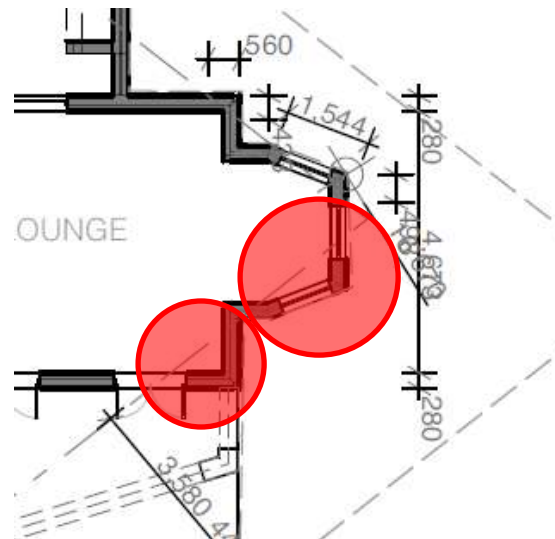
The **stoep** was also constructed in 1992 of which a corner of the stoep that is used as a **braai** encroaches the northern lateral building line. the corner of the stoep was constructed 0.87m from the lateral boundary. We are therefore applying for a building line relaxation from 2m to 0.87m to accommodate the braai established on the covered stoep. Please refer to the building plan abstract below:



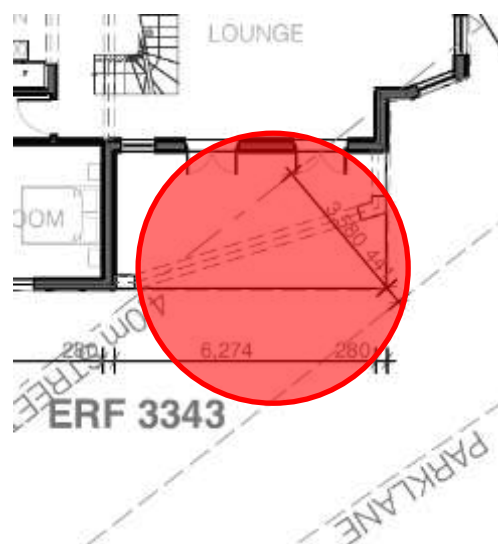
The lounge was constructed in 1992 and extended in 2001. Two corners of the existing lounge encroach on the northern lateral boundary line by 0.44m and 0.45m, respectively. Therefore, we are applying for a relaxation of the northern lateral building line from 2m to 1.56m and 1.55m, respectively. Please refer to the abstract from the building plan below:



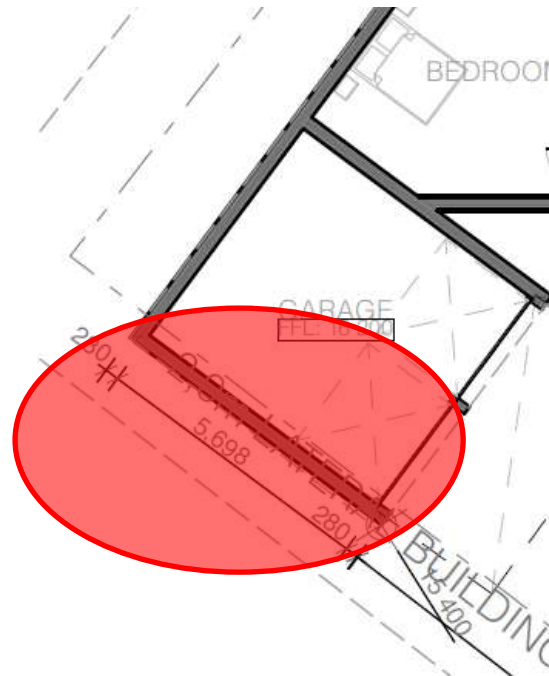
Two corners of the existing lounge also encroach on the eastern street building line. These corners were constructed 3.2m and 3.29m from the street boundary. Therefore, we are applying for a relaxation of the street building line from 4m to 3.20m and 3.29m, respectively. Please refer to the building plan abstract below:



In 2001, a balcony was constructed that deviates from the approved building plan at the time. Originally designed as a triangular balcony accessed from the first-floor lounge and following the street building line, a rectangular balcony was built instead. This structure now encroaches on the eastern street building line, with its corner positioned 0.44m from the actual street boundary. Therefore, we are applying for a building line relaxation from 4m to 0.44m to accommodate a portion of the existing balcony. This relaxation also applies to the ground floor stoep, which is utilized as a covered area below the balcony. Please refer to the building plan abstract below:



The existing garage, also constructed in 1992, was also erected closer to the southern lateral boundary than what was approved on the building plan. The garage is located 1.43m from the southern lateral boundary and we are therefore applying for a lateral building line relaxation from 2m to 1.43m to accommodate the existing garage. Please refer to the building plan abstract below:



3.5 ACCESS

Vehicular and pedestrian access to Erf 3343 Onrustrivier and the existing dwelling and garage are gained from Park Lane.

With the proposal both the vehicular and pedestrian access from Park Lane will be retained.

3.6 SERVICES.

All services on the subject property already exist. Additional services are not required and therefore the proposal will not have a negative impact on existing services that are provided by the Overstrand Municipality.

3.7 TITLE DEED

There are no restrictive Title Deed conditions in Title Deed No. T6886/2023 that need to be addressed in order for the proposed building line departures of Erf 3343 Onrustrivier to be approved.

There is no bond registered against Erf 3343 Onrustrivier.

3.8 FORWARD PLANNING

Overstrand Municipal Wide Spatial Development Framework (2020).

In terms of the Overstrand Wide Spatial Development Framework the subject property is earmarked for urban development purposes. The residential zoning and land use of Erf 3343 Onrustrivier will be retained after the proposed application has been concluded.

Overstrand Growth Management Strategy (2010)

With reference to the Overstrand Growth Management Strategy the subject erf falls within Planning Unit 1 that consists of the majority of Onrustrivier. No densification is proposed for this area.

Our application is for a determination of an administration penalty and building line departures and subsequently the Growth Management Strategy does not apply to this application.

3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.9.1 HERITAGE VALUE

Erf 3343 Onrustrivier is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). The property is not earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009).

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.

According to the **Overstrand Municipal GIS system** the area where the subject property is situated is categorised as A3 Heritage area as seen in the abstract below. The proposed departures will not have any impact on the area as the property is already developed and has the same characteristics as surrounding developed residential erven.



In light of the above mentioned it is evident that the building line departures will not have a negative impact on the heritage value of the subject property or the greater area of Onrustrivier.

3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed building line departures do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

3.10 PLANNING PRINCIPLES

The planning principles of spatial justice, spatial sustainability, efficiency and spatial resilience of this application can be described as follows:

Spatial Justice: In evaluating the application for building line relaxations on the property, the concept of spatial justice plays a pivotal role in ensuring equitable outcomes within the planning framework. Granting the requested relaxations acknowledges the historical context and the longstanding use of the structures on the property. It recognizes the equitable treatment of property owners in rectifying past non-conformities while adhering to current planning regulations.

The proposed building line departures are carefully assessed to ensure they do not detrimentally impact property values or alter the residential character of the greater Onrustvriër area. This consideration ensures that surrounding communities are not unfairly burdened by the property's adjustments.

The proactive approach taken by the trustees of the Joan van der Poel Family Trust in addressing the historical non-conformities demonstrate a commitment to spatial justice. It underscores a responsible stewardship of the property within the bounds of regulatory compliance and community sensitivity. By adhering to Zoning Scheme Regulations and municipal bylaws, future developments on the property will continue to align with planning standards, promoting fairness and consistency in urban development practices.

In conclusion, the recommendation to approve the building line relaxations and encroachments reflects a balanced consideration of spatial justice principles. It ensures that regulatory frameworks are applied equitably while respecting the property's historical development and its integration into the surrounding community fabric.

Spatial sustainability:

Addressing spatial sustainability is crucial in evaluating the proposal for building line relaxations on the property. Granting the requested relaxations allows for the continued use and adaptation of existing structures, minimizing the need for new construction on undeveloped land. This approach supports efficient land use practices and reduces urban sprawl.

The existing structures, despite their deviations from original plans, have been in use for several decades. By regularizing these structures through the proposed relaxations, the trustees of the Joan van der Poel Family Trust promote resource efficiency and minimize environmental impact associated with new development.

Maintaining the integrity of existing structures while complying with current planning regulations fosters community cohesion and stability. It encourages a balanced approach to development that respects the historical context of the property while integrating it harmoniously into the surrounding neighbourhood.

Adherence to Zoning Scheme Regulations and municipal bylaws ensures that future developments on the property will continue to uphold spatial sustainability principles. This includes considerations such as energy efficiency, water management, and sustainable building practices, contributing to a resilient and environmentally responsible urban environment.

In conclusion, approving the building line relaxations and encroachments not only addresses immediate planning considerations but also supports long-term spatial sustainability goals. It promotes efficient land use, preserves community character, and encourages responsible development practices that benefit both current and future generations.

Efficiency:

Granting the requested relaxations allows for the continued utilization of existing infrastructure, minimizing the need for additional resources and infrastructure investments. This approach maximizes the efficiency of already-developed land and infrastructure.

Regularizing the existing structures through the proposed relaxations avoids the time and costs associated with demolishing and rebuilding compliant structures. It streamlines administrative processes and reduces bureaucratic overhead, promoting efficiency in urban development. The proposed adjustments support operational

efficiency by maintaining the functionality and usability of the property's existing structures. This ensures that resources, both financial and environmental, are directed towards sustainable maintenance and improvement rather than extensive redevelopment.

By addressing historical non-conformities through a proactive approach, the trustees of the Joan van der Poel Family Trust demonstrate efficient management of property assets. This fosters positive stakeholder relations and community engagement, crucial for long-term sustainability and efficiency in urban planning. Approving the building line relaxations and encroachments reflects a commitment to efficiency in urban development practices. It leverages existing assets, minimizes environmental impact, and enhances operational effectiveness, ultimately contributing to a more sustainable and resilient built environment.

Spatial Resilience in the context of land use planning refers to the need to promote the development of sustainable livelihoods for the poor (i.e. communities that are most likely to suffer the impacts of economic and environmental shocks). Spatial resilience also refers to the requirement for flexibility in spatial plans, policies and land use management systems to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks. The spatial plans, policies and land use management systems should enable the communities to be able to resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner, which includes the preservation and restoration of essential basic infrastructure and functions, but also adaptation in order to ensure increased resilience in terms of future shocks (United Nations Office for Disaster Risk Reduction, 2009). In our opinion the principle of Spatial Resilience is not applicable to this application.

Good administration: Our Company is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020.

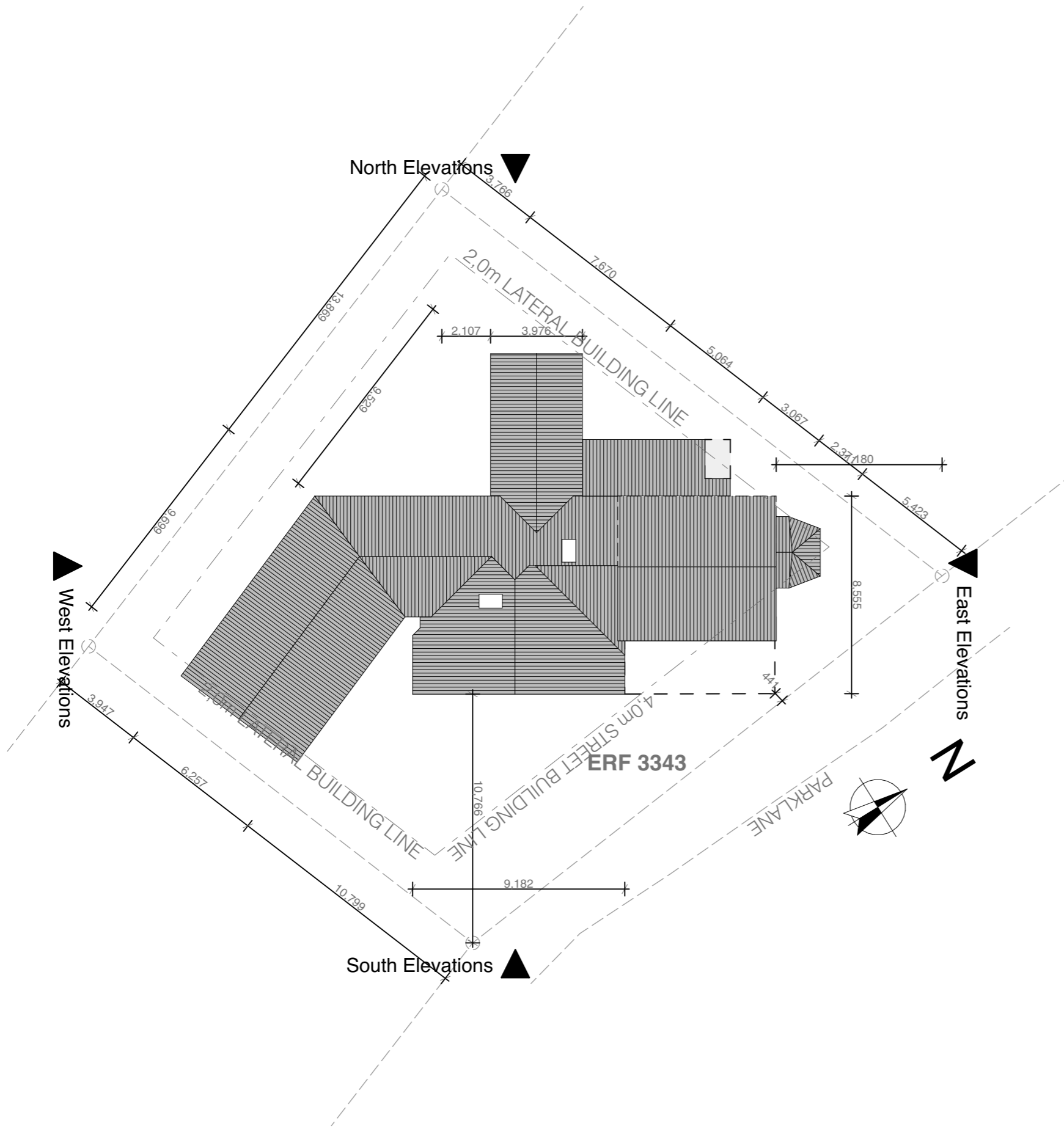
4. **RECOMMENDATION**

Based on the information provided regarding the existing building line encroachments we recommend approval for the requested relaxations from a planning perspective. Our reasons supporting this recommendation are as follow:

- The structures in question, constructed in 1992 and 2001, have been in place and actively used since their construction dates. These structures have become integral parts of the property and contribute positively to its functionality and liveability.
- The encroachments, such as those of the lounge and balcony on the eastern street building line, involve minor deviations from the approved plans. These deviations do not significantly impact the overall aesthetics or function of the surrounding area and are limited to specific corners or portions of the buildings.
- The current trustees of the Joan van der Poel Family Trust are actively seeking to rectify the existing contraventions by applying for building line relaxations. This proactive approach demonstrates a commitment to compliance with planning regulations and a willingness to address historical non-conformities.
- Future development and alterations on the property will continue to adhere to the Zoning Scheme Regulations and the Overstrand Municipality's Amended Bylaw on Municipal Land Use Planning, ensuring that any new construction or modifications are in line with current planning standards.
- Considering the property's historical context and its usage over the years, granting the requested relaxations would align with the spirit of maintaining the property's integrity while accommodating necessary adjustments to meet current planning requirements.
- The proposed building line departures do not have a negative impact on property values or the current residential character of the greater Onrustvriër area. Additionally, these departures will have no adverse effects on surrounding properties.

Motivation report

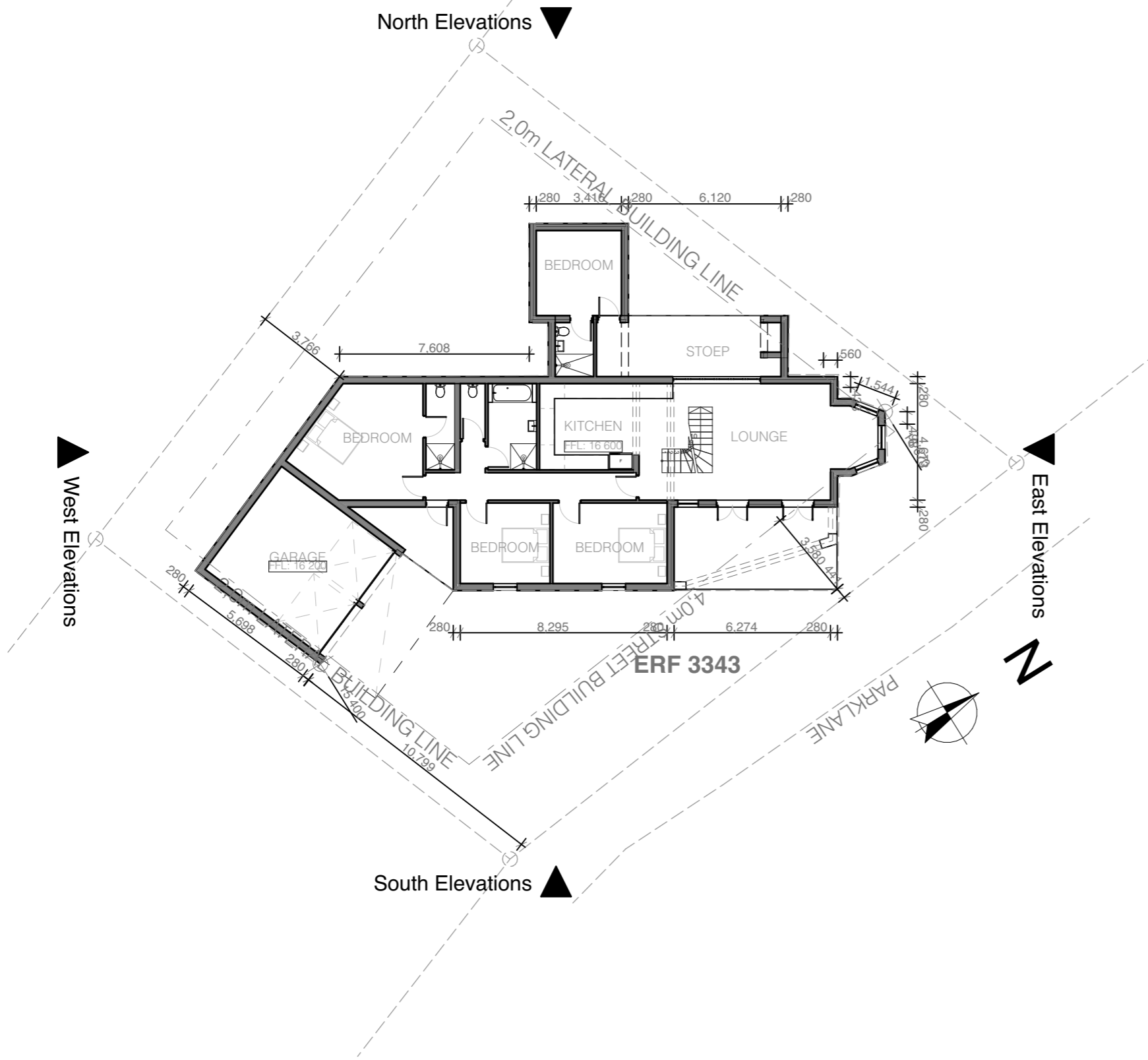
In conclusion, approving the building line relaxations and encroachments as outlined would be in the best interest of maintaining harmony between historical development and current planning norms. It acknowledges the practical realities of existing structures while ensuring future developments align with regulatory standards.



HOUSE VAN DER POEL ROOF LAYOUT

Scale: 1:200

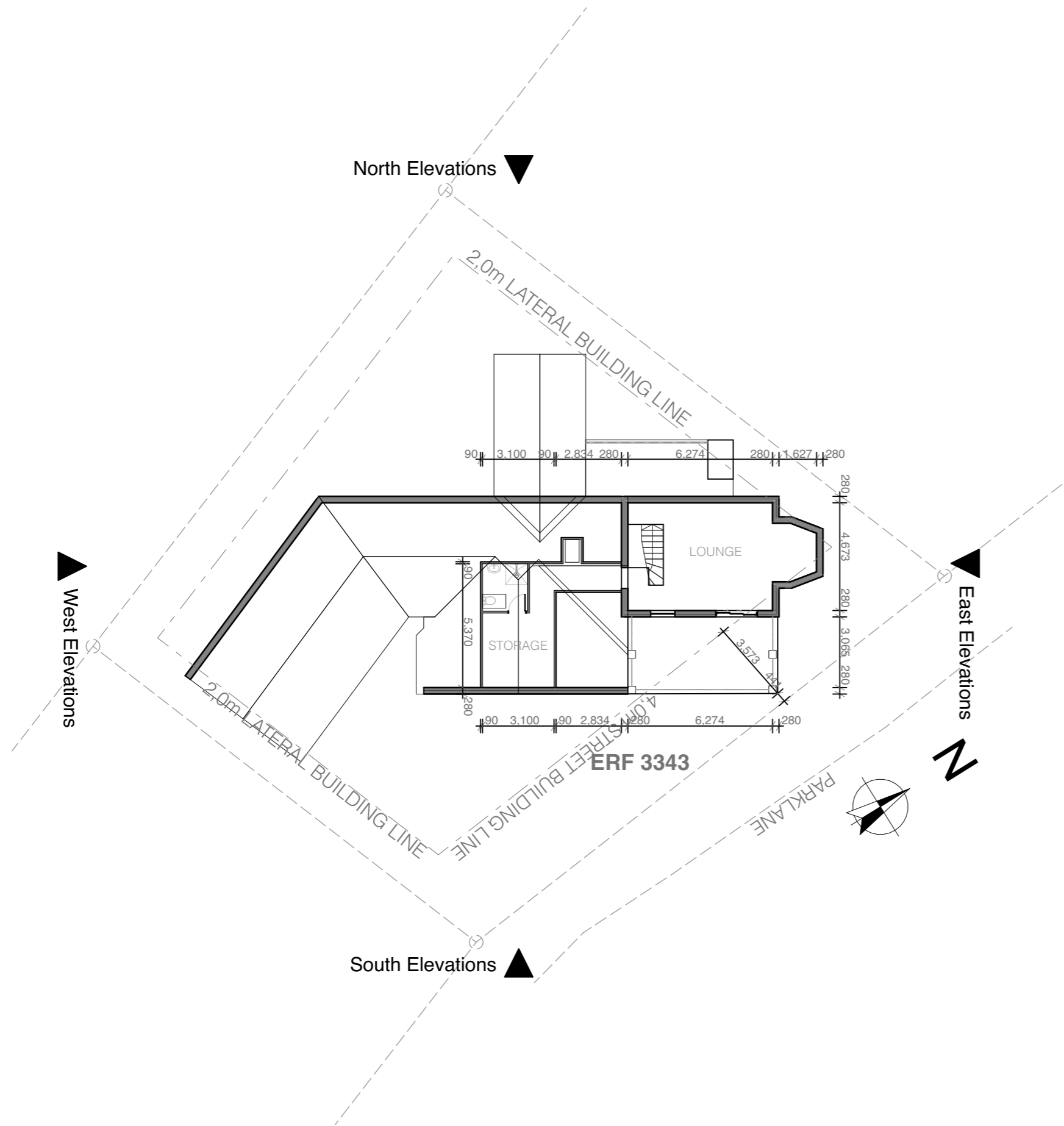
Hemel en Aarde Village, Unit 5G Wine Village Hermanus Western Cape 7200 South Africa



HOUSE VAN DER POELIGROUND STOREY

Scale: 1:200

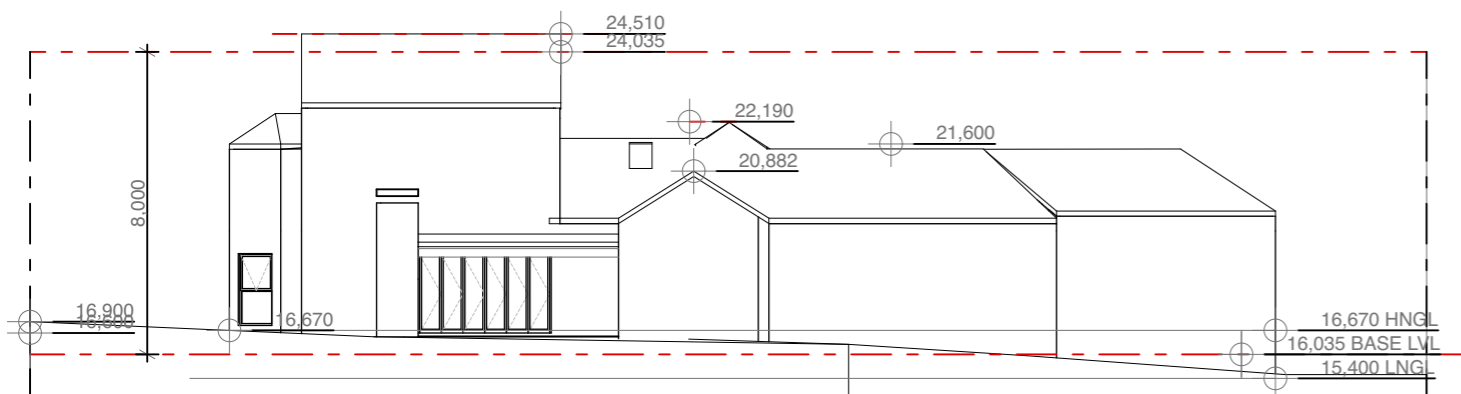
Hemel en Aarde Village, Unit 5G Wine Village Hermanus Western Cape 7200 South Africa



HOUSE VAN DER POEL FIRST STOREY

Scale: 1:200

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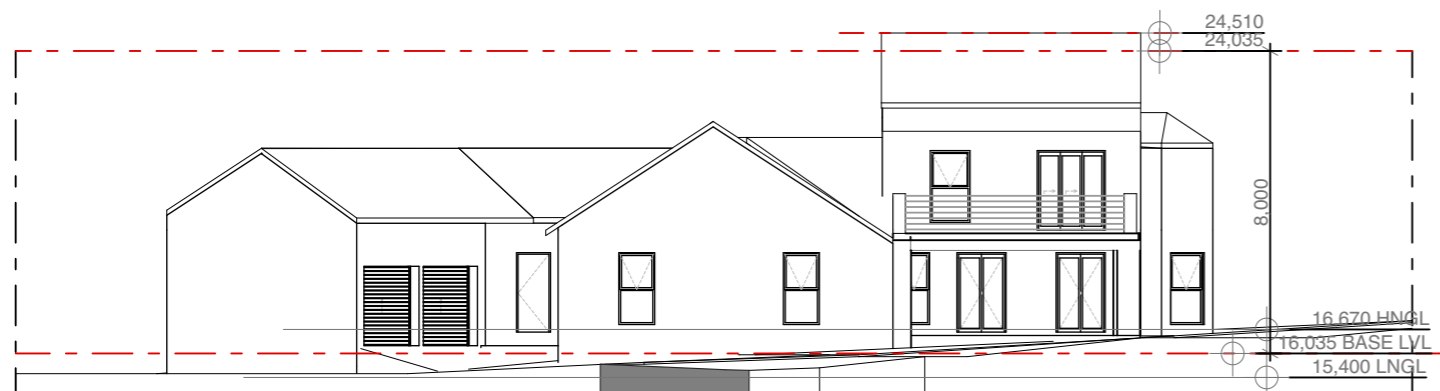
North Elevations

Scale 1:200



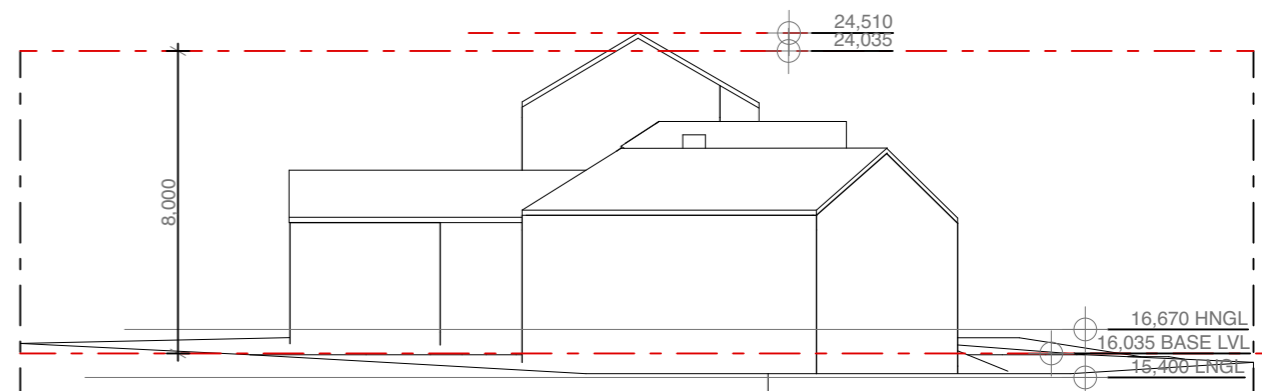
East Elevations

Scale 1:200



South Elevations

Scale 1:200



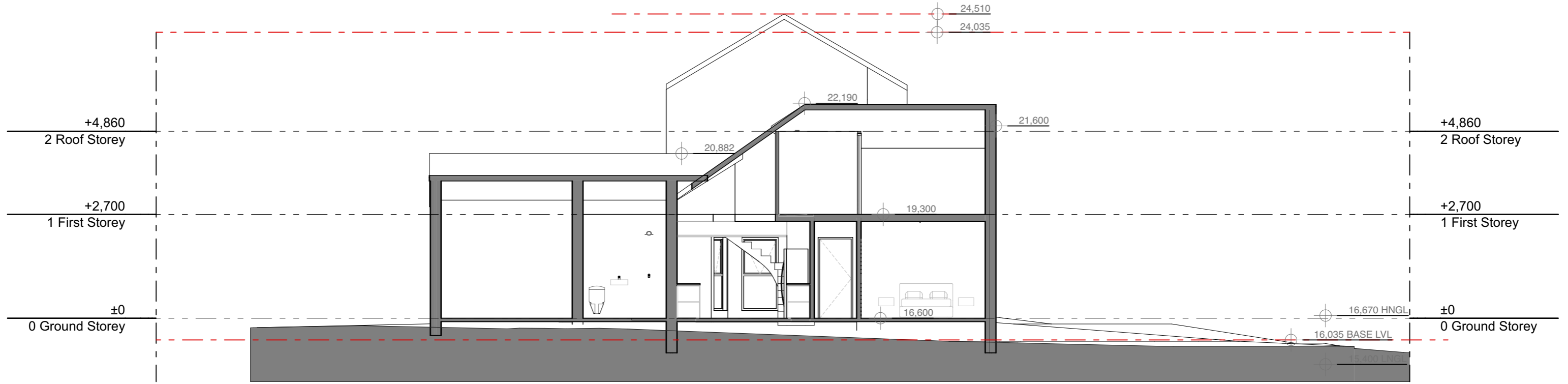
West Elevations

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HOUSE VAN DER POELIELEVATIONS

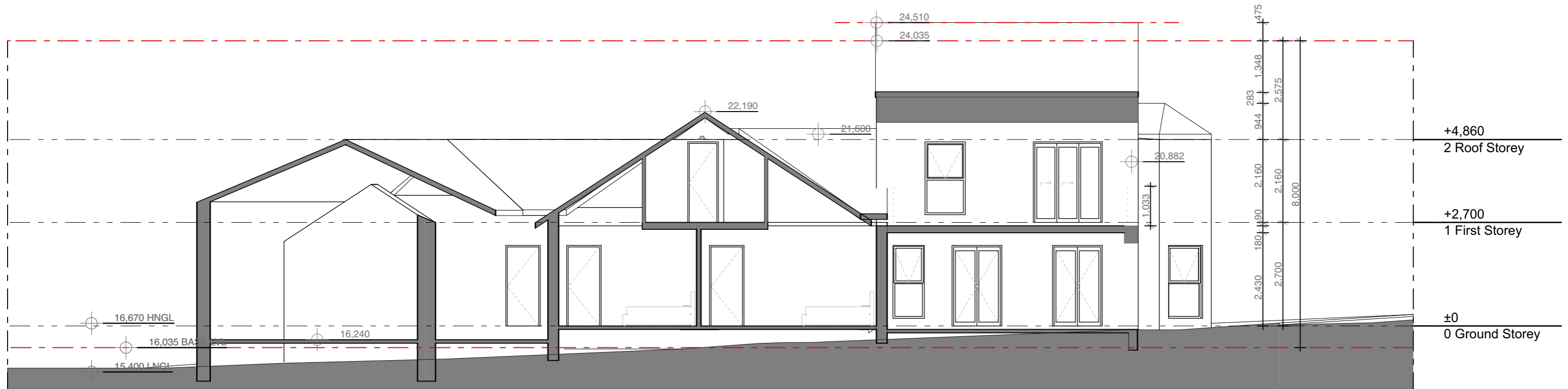
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Section 1 | 1

Scale 1:100



Section A | A

Scale 1:100

HOUSE VAN DER POELISECTION

Scale: 1:100

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