

ERF 2112, BUITEN STREET, STANFORD, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS WRAP PROJECT OFFICE ON BEHALF ODVEST 50 (PTY) LTD

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

- ❖ departure in terms of Section 16(2)(b) of the By-Law in order to relax the permissible size restriction applicable to second dwellings from 120m² to 129.63m²; and
- ❖ determination of an administrative penalty in terms of Section 16(2)(q) of the By-Law.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, 16 Paterson Street, Hermanus and the Stanford Library. 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 **Friday, 27 January 2023**, quoting your name, address and contact details, interest in the application and reasons for comment. 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 2112, BUITENSTRAAT, STANFORD, OVERSTRAND MUNISIPALE AREA: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: MNRE WRAP PROJECT OFFICE NAMENS ODVEST 50 (PTY) LTD

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) dat 'n aansoek ontvang vir die volgende:

- ❖ afwyking ingevolge Artikel 16(2)(b) van die Verordening om die toelaatbare grootte beperking van toepassing op tweede wooneenhede vanaf 120m² tot 129.63m² te verslap; en
- ❖ bepaling van 'n administratiewe boete in terme van Artikel 16(2)(q) van die Verordening.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus en Stanford Biblioteek. 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 **Vrydag, 27 Januarie 2023**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan die **Stadsbeplanner, Mnr 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 2112, BUITEN STREET, STANFORD, UMMANDLA WOMASIPALA WASE-OVERSTRAND: ISICELO SOKUNYENYISWA NOKUGQITYWA KWESOHLWAYO: IOFISI YAKWA MESSERS WRAP PROJECT EGAMENI LIKA ODVEST 50 (PTY) LTD.

Isaziso siyanikezelwa ngokweCandelo lama-48 loMthetho kaMasipala woLungiso loMthetho kaMasipala kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, ka-2020 (uMthetho kaMasipala) sokuba isicelo sifunyenwe:

- ❖ sokuphambuka ngokweCandelo le-16(2)(b) loMthetho kaMasipala ukuze kucuthwe izithintelo zobungakanani obuvumelekileyo obusebenza kwindawo yokuhlala yesipini ukusuka kwi-120m² ukuya kwi-129.63m²; kwaye
- ❖ ukumiselwa kwesohlwayo solawulo ngokweCandelo le-16(2)(q) loMthetho kaMasipala.

Linkcukacha ngokwemiba yesi sindululo ziyafumaneka ukuze zihlolwe ngamaxesha okusebenza aphakathi kwentsimbi yesi-08:00 ne-16:30 kwiCandelo: Zicwangiso ngeDolophu kwa-16 Paterson Street, Hermanus kwaye nakwiThala leencwadi eStanford. Naziphi na izimvo ezibhaliweyo ngokwemiba yezibonelelo zeCandelo lama-51 nama 52 oMthethwana kufuneka zifike kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) ngomhla okanye ngaphambi kwe **uLwesihlanu, 27 EyoMqungu 2023**, ubhale igama lakho, idilesi yakho, iinkcukacha zoqhagamshelwano, umdla kwisicelo nezizathu zokufaka amagqabaza. Imibuzo ngefowni ingabhekiswa kuMnu. P Roux uMcwangcisi weDolophu 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 afake izimvo zakhe ngokusemthethweni.

Locality Plan Erf 2112 - Stanford

 Subject property

Plan prepared by: Thian Jansen

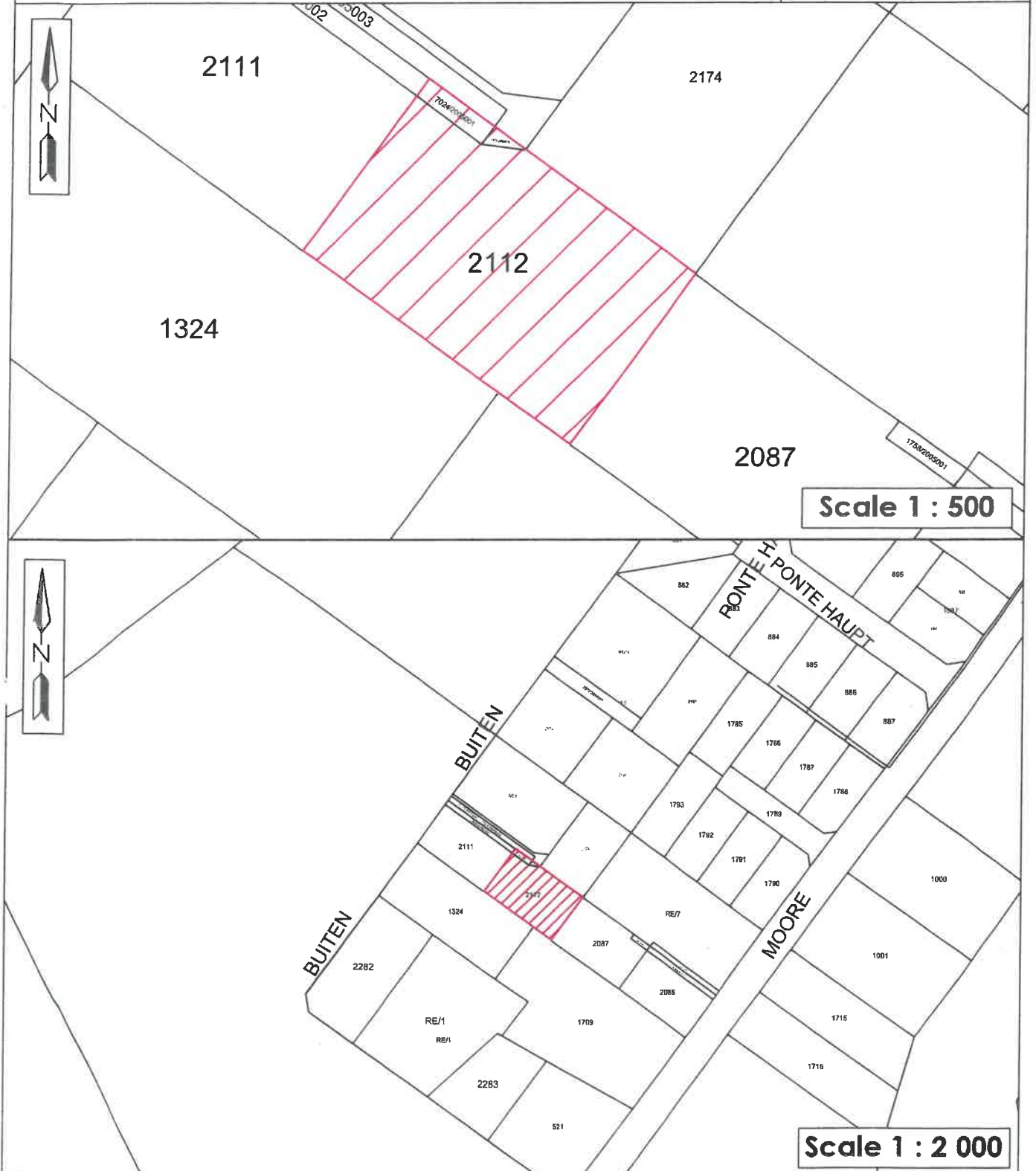
Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Unit B, Standard House,
Corner of Royal and Dirkie Uys
Street Hermanus, 7200



Project Office
Team Working & Project Management





MOTIVATION

1. ABBREVIATIONS

OM	Overstrand Municipality
OMLUS	Overstrand Municipality Land Use Scheme, 2020
BY-LAW	Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020
PSDF	Western Cape Provincial Spatial Development Framework, 2014
LUPA	Western Cape Land Use Planning Act, 2014.
MSDF	Overstrand Spatial Development Framework, 2020
SR1	Residential Zone 1: Single Residential

2. PROPERTY DETAILS

Consultant	WRAP Project Office
Erf Number	Erf 2112, Stanford
Extent	628m ²
Zoning	Residential Zone 1: Single Residential

3. BACKGROUND AND INTENT

Erf 2112 Stanford, hereafter referred to as the subject property, is located at Buiten Steet, Stanford (refer **Plan 1 – Locality Plan**). The property owners (Odvest 50 (Pty) Ltd) appointed WRAP Project Office to submit this land use application on their behalf (refer **Annexure A – Power of Attorney**).

The subject property has been owned by the property owners since 2008 and when they bought the property it was a vacant plot, and they had a vision to develop the property with two dwellings. The main dwelling house is a double storey with 3 bedrooms which is more than adequate to accommodate a single family.

The second dwelling unit is permitted as a primary use in terms of the OMLUS on the current single residential zoning of the property. The dwelling unit boasts a high vaulted ceiling that were perfect to include an additional storage space above the kitchen. Without their knowledge the inclusion of this additional space has increased the total floor area (footprint) of the second dwelling unit to more than what is allowed in terms of Section 16.10.20 of the OMLUS:

"16.10.20 The following additional development parameters apply to a second dwelling unit:

- a) **The total floor area (footprint) of the second dwelling unit shall not exceed 120 m²;***
- b) A second dwelling unit may be contained within the same building as a primary dwelling unit and may be either on the ground or first floor;*
- c) A second dwelling unit may not be separately alienated in terms of the Sectional Title Act;*
- d) Parking must be provided on the property as per Chapter 17, Section 17.1.3, to the satisfaction of the Municipality, and*



e) *A second dwelling must be located within the applicable building lines.*"

Approval of the following applications will be required to ensure compliance:

- Permanent departure from the side and street building lines; and
- Determination of an administration penalty.

4. PROCEDURE TO ACHIEVE THE PROPERTY OWNERS' INTENT

WRAP compiled this report to ensure the property owners' requirements are achieved.

The following is proposed:

4.1 Permanent Departure from the provisions of the zoning scheme to allow a larger second dwelling unit in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

To ensure compliance with the requirements set out by the OMLUS, the application is to allow a larger second dwelling unit than allowed in terms of Section 16.10.20. The second dwelling unit does however adhere to the other development parameters, including the building lines, coverage and height restrictions.

The vaulted ceiling in the living room created an ideal opportunity for the 'loft' style storage space. Creating an additional floor without having to change the external or height of the structure.

By including the storage space, the floor area was increased by $\pm 22.43\text{m}^2$. Floor area is defined as the following:

*"floor area" means the area, measured in square meters, taken up by a building or part thereof and covered by a roof, slab or projection and shall be measured from the external faces of the external walls or similar support. The total floor area of a building which consists of 1 (one) or more storeys shall include **all storeys**, basements and balconies but shall exclude garages and carports.*

With all storeys being included in the calculation, the total floor area was increased from $\pm 107,20\text{m}^2$ to $\pm 129,63\text{m}^2$, that is more than allowed. The total area exceeding the allowable floor area is only $\pm 9,63\text{m}^2$ which is only a total of 7,43% of the total floor area of the second dwelling unit.

Only a minor area of the second dwelling is exceeding the allowable floor area. The application is being submitted to obtain consent from the OM to allow the additional floor area that was added to the property.

The area will be used for storage of items not regularly in use. As the property only has a single garage this space is a welcome addition to the property as it allows the occupants to have adequate storage space.



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

To ensure compliance with the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 it is of importance to include an application for the determination of an administrative penalty into this application.

We however would like to request that the administrative penalty be waived as this application serves as method to rectify the illegal construction of the 'loft' space. The additional floor area is solely contained inside the building area, and it is not considered to be a major violation in terms of the by-law.

Section 90(3) of the By-law requires the following information:

The nature, duration, gravity and extent of the contravention

The nature, gravity and extent are explained in Section 4.1.

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

The property owners take responsibility and acknowledge that they were supposed to ensure that no contradiction in terms of the By-Law took place. They were unaware of the definition of floor area and that it is measured across all floors. The contravention is not considered detrimental, and no other property owners are expected to realise that a contravention has occurred.

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

Due to the small-scale nature of the building work a quantity surveyor's report was not obtained.

Whether the unlawful conduct was stopped

The structure is existing, and the building work was completed.

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 property owners have not previously contravened the By-Law.



5. APPLICATION

Considering the above, application is made for the following:

5.1 Permanent Departure from the provisions of the zoning scheme to allow a larger second dwelling unit in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

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

6. LAND USE ENVIRONMENT

The properties surrounding the subject property are predominantly zoned for single residential purposes. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan).

7. TITLE DEED

Title deed T44723/2008 (refer **Annexure B**) was perused and there are no restrictive title deed conditions that may prohibit the proposed departure.

8. ZONING

The following zoning parameters were assessed in conjunction with the SR1 OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (q) of the OM By-Law:



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RESIDENTIAL ZONE 1: SINGLE RESIDENTIAL			
Land Use Restrictions			
	Parameters	Proposal	Comply/ deviate
Primary use	Crèche, Dwelling House , Guest Rooms, Home Occupation, Second Dwelling Unit and Self-Catering.	Dwelling House and Second Dwelling Unit	Comply
Consent use that may be applied for	Day Care Centre, Green House, Guest House, House Shop, Institution, Place of Instruction, Place of Worship, Residential Building, and Intensive Horticulture.	N/A	-
Development parameters			
Coverage	The maximum coverage for all buildings on the land unit is determined in accordance with the net erf area: 400m ² and greater = 50%	Site Area - 628m ² Main Dwelling – ±113m ² Second Dwelling – ±131m ² Coverage – ±244m ² / 39%	Comply
Building lines	(i) The street building line is determined in accordance with the net erf area: 400 m ² and greater = 4m (ii) The side and rear building lines are determined in accordance with the net erf area: Greater than 400 m ² = 2m	Comply (Refer Annexure C – Coverage survey)	Comply
Height	The maximum height of a building, measured from the base level to the top of the structure, is 8.0 m.	7.52m - double storey houses	Comply
Garages and carports	Garages and carports may be constructed within building lines in accordance with Chapter 16.1.2.	<u>Parking On-site</u> Main Dwelling – 1 garage and 1 parking bay Second Dwelling – 1 garage	Comply



9. SERVICES

The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is herewith illustrated.

Electricity, Water, Sewage and Solid Waste

The subject property is connected to the OM's networks, which include electricity, water and sewage. The proposal of this application will not affect these networks.

No additions or expansions are being proposed at this stage.

Solid waste is collected every week by the OM.

Access and Egress

Access and egress to the subject property is gained from an access servitude across Erven 8 and 2111, Stanford and the proposal will not affect this.

10. 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 can be illustrated as follow:

Need and desirability

The land use application is required to address all the land use requirements and ensuring the property meets the needs of the property owners. Need is more often a personal feeling of the property owners, and they wish to keep the property as it is.

The following considerations are, amongst other things, relevant to the assessment of the proposed land use to determine if it would be desirable and should therefore be properly motivated in an application:

Socio-economic impact	No socio-economic impact is expected. The proposal is to rectify past contraventions and to ensure the improvements on the property is compliant.
Compatibility with surrounding uses	The proposal is not out of character for the surrounding area and the encroachment does not have a negative on the surrounding area.
Impact on the external engineering services	There will be no additional impact on any external engineering services.
Impact on safety, health and wellbeing of the surrounding community	There will be no impact on safety, health and wellbeing of the surrounding community.
Impact on heritage	The subject property is not listed in the OM Heritage Register.



MOTIVATION

Impact on the biophysical environment	The building has already been built and it does not have an impact on the biophysical environment.
Traffic impacts, parking, access and other transport related considerations	The proposal does not have an impact on traffic, parking or access.

To achieve the vision of the property owners, they have appointed WRAP Project Office to submit this application to ensure the proposed development is not in contradiction to any policies, legislation, or title deed conditions.

Impact on views, sunlight and character of the area

The subject property is located in a residential setting and the existing building does not have any detrimental impact on the views, sunlight and character of the area. The neighbours and surrounding property owners have become accustomed to the dwelling house and second dwelling unit.

Economic impact

The proposal has little to no impact on the economy. The proposal is only to rectify the past contraventions.

Opportunity cost

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or foregoing of valued land use rights of interested and affected parties when an application is approved. The proposal is not predicted to have a negative impact on surrounding properties.

Environmental impact

The subject property is not located within an environmentally important area.

11. POLICIES AND REGULATIONS

11.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

The subject property is not located within the EMOZ.

11.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The subject property is not located within the HPOZ.

11.3 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.



12. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains 5 uncompromisable planning principles by which each development application must be guided. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

Spatial justice

This proposal does not have an impact on spatial justice.

Spatial sustainability and Efficiency

Spatial sustainability refers to planning proposals that result in communities that are viable. This proposal is to continue utilising the property with the existing storage area.

Good administration

The OM has a credible track record of good administration regarding the method of public participation. Public participation forms an integral part of the land use planning process.

The public participation process provides people who may be affected by the proposal with an opportunity to provide comment and to raise issues of concern about the proposal or make possible suggestions that may result in an enhanced outcome of which both parties benefit. Comments will be reviewed and considered after which it will be addressed accordingly.



RECOMMENDATION

13. EVALUATION

The proposal that should be considered is an application being submitted to rectify a contravention that occurred. The property owners are aware of the relevant legislation and wish to ensure their property have no contraventions and that all structures are compliant in terms of the OMLUS.

The proposals are not out of the context with the surrounding area and are not seen as nuisance land uses. The proposals are aligned with the OMLUS and other regulations.

14. RECOMMENDATION

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

- 14.1 Permanent Departure** from the provisions of the zoning scheme to allow a larger second dwelling unit in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- 14.2 Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

Site Plan

Erf 2112 Stanford

Property Extent - 628m²

Coverage - 244m² / 39%

Plan prepared by: Thion Jansen

All distances are approximate
and subject to a survey

Tel: 028 313 1411

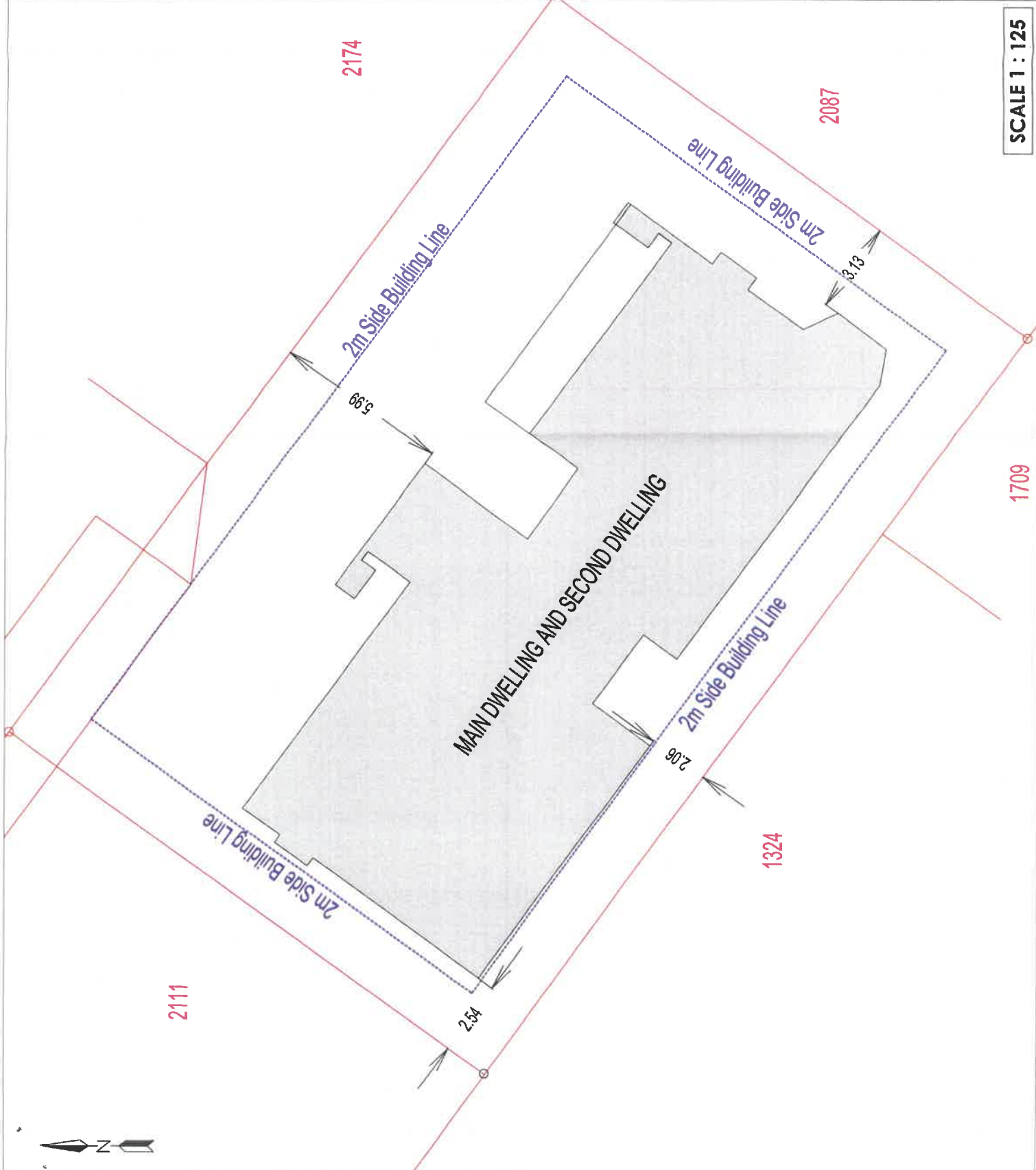
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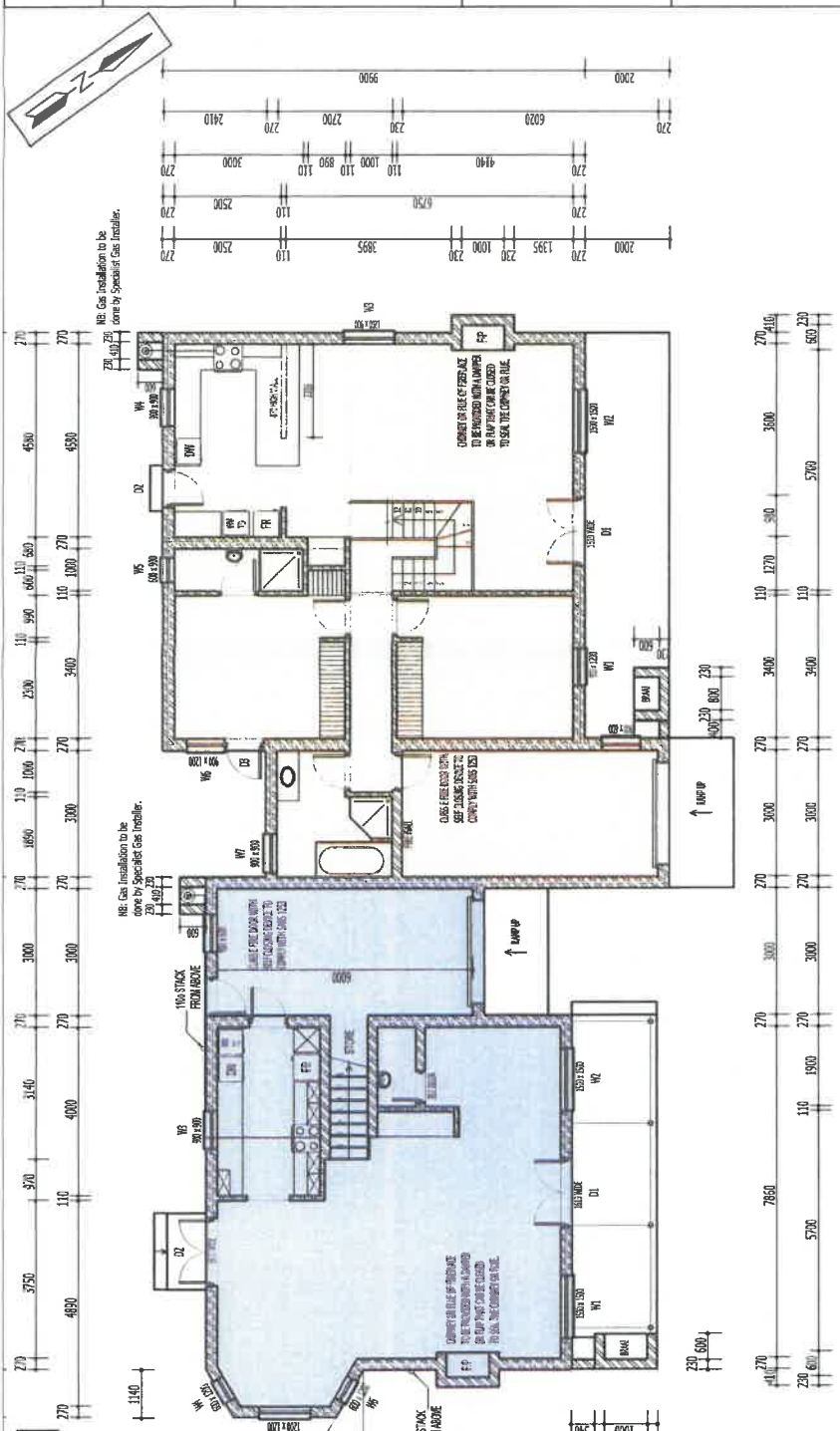


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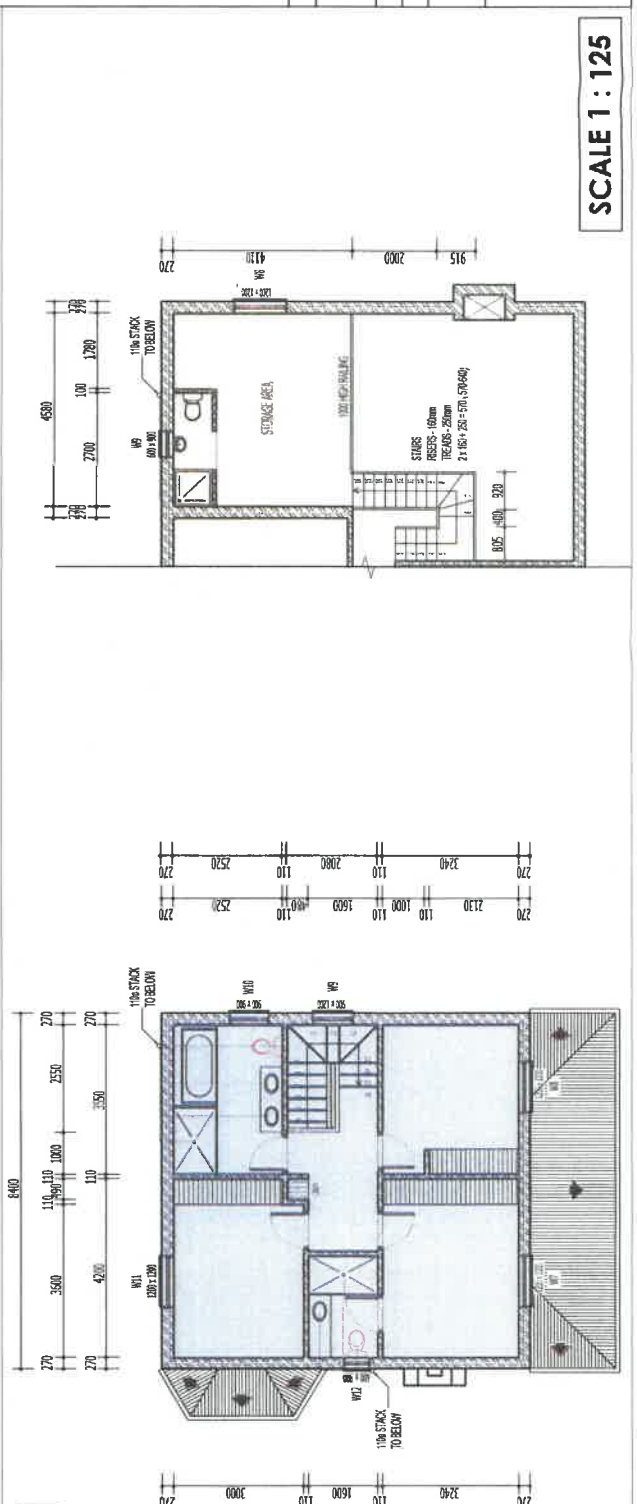
SCALE 1 : 125



GROUND FLOOR



FIRST FLOOR



SCALE 1 : 125

<p>Floor Plan Erf 2112 Stanford</p>
<p>Property Extent - 628m² Coverage - 244m² / 39%</p>
<p>Main Dwelling</p> <p>Ground Floor - 76,31m² Garage - 20,00m² Covered Steep - 16,80m² First Floor - 72,24m²</p>
<p>Second Dwelling</p> <p>Ground Floor - 107,20m² Garage - 22,97m² First floor (Loft Storage) - 22,43m²</p>

<p>Plan prepared by: Thian Jansen</p> <p>All distances are approximate and subject to a survey</p> <p>Tel: 028 313 1411</p> <p>Email: admin@wrapgroup.co.za</p> <p>Unit B, Standard House, Corner of Royal and Dikie Oys Street Hermanus, 7200</p>
<p>Project Office Town Planning & Project Management</p>