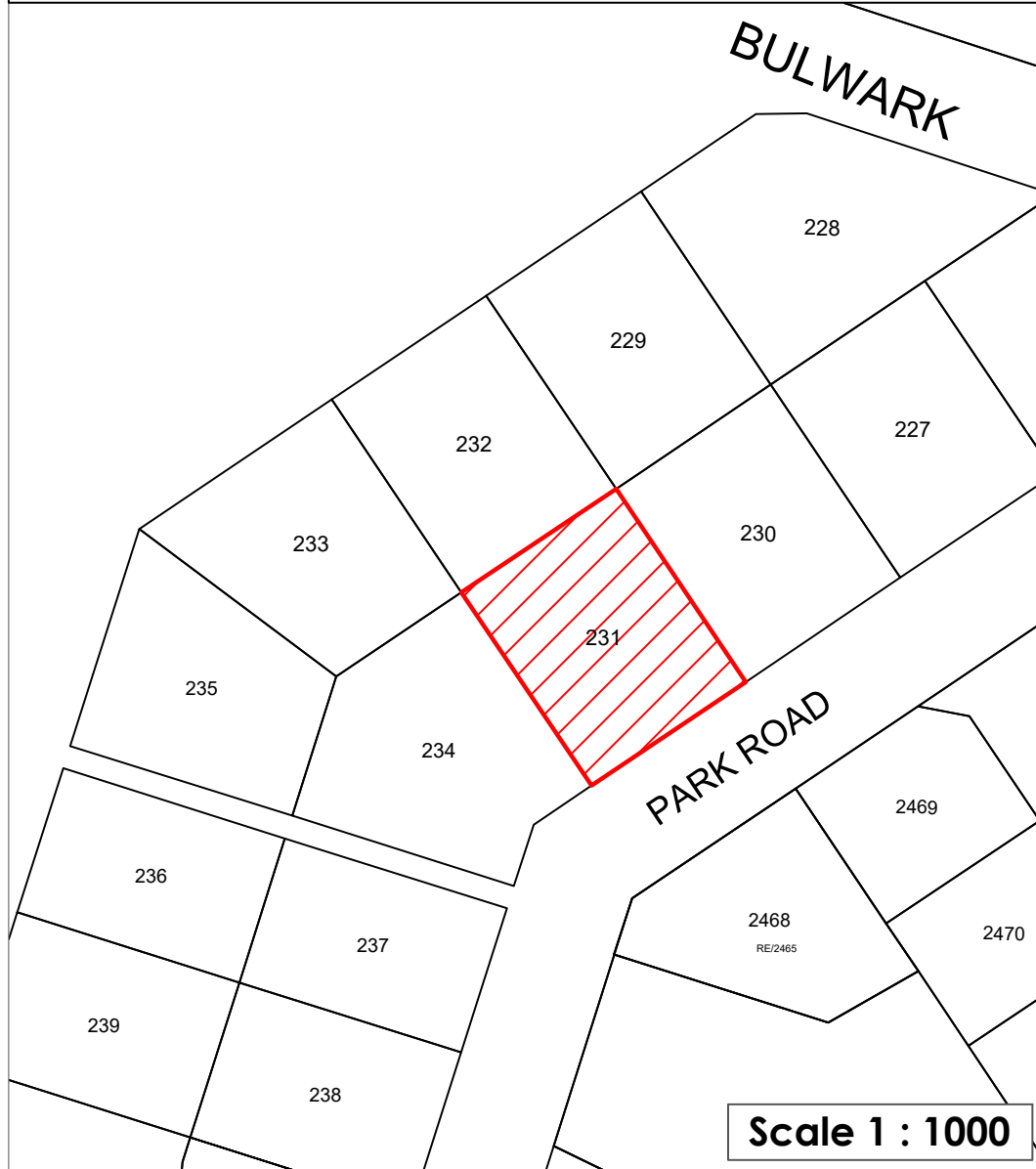


OVERSTRAND MUNICIPALITY	OVERSTRAND MUNISIPALITEIT	UMASIPALA WASE-OVERSTRAND
<u>ERF 231, 45 PARK STREET, GANSBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: WRAP PROJECT OFFICE ON BEHALF OF HJ AND ME TALJAARD</u> Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) of the following applications applicable to Erf 231, Gansbaai namely: <u>Removal of restrictive title deed conditions</u> Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed condition C.(b) and C.(d) as contained in Title Deed T66551/1992. <u>Departures</u> Application in terms of Section 16(2)(b) of the By-Law in order to: • relax the rear building line from 2m to 0.95m to accommodate the existing covered stoep; • relax the eastern lateral building line from 2m to 1.25m to accommodate the existing braai and TV room, and • relax the street building line from 4m to 3.6m to accommodate the existing covered entrance. <u>Determination of an administrative penalty</u> Application in terms of Section 16(2)(q) of the By-Law to legalise the existing structures. Full details regarding the proposals above are available for inspection during weekdays between 08:00 and 16:30 at the Division: Town and Spatial Planning, 16 Paterson Street, Hermanus, Gansbaai Library, Main Road, Gansbaai and on the municipal webpage at the following link https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/ Any comments must be in writing and reach the Municipality (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) on or before 23 October 2026, with your name, address, contact details, interest in the application and the reasons for comment. Telephonic inquiries can be made to the Principal Town Planner, Mr. SW van der Merwe at 028-3138900. The Municipality may refuse to accept comments after the closing date. Any person who cannot read or write can visit the Division: Town and Spatial Planning where they will be assisted by a municipal official in formulating their comments. <i>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.</i>	<u>ERF 231, PARKSTRAAT 45, GANSBAAI, OVERSTRAND MUNISIPALE AREA: AANSOEK OM OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDES, AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: WRAP PROJECT OFFICE NAMENS HJ EN ME TALJAARD</u> Kragtens Artikels 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die volgende aansoek van toepassing op Erf 231, Gansbaai naamlik: <u>Opheffing van beperkende titelaktevoorwaardes</u> Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelaktevoorwaardes C.(b) en C.(d) soos vervat in Titelakte T66551/1992. <u>Afwyking</u> Aansoek in gevolge Artikel 16(2)(b) van die Verordening ten einde die: • agterterboulyn vanaf 2m na 0.95m te verslap om die bestaande onderdak stoep te akkommodeer; • oostelike syboulyn vanaf 2m na 1.25m te verslap om die bestaande braai en TV kamer te akkommodeer, en • straatboulyn vanaf 4m na 3.6m te verslap om die bestaande onderdak ingang te akkommodeer. <u>Bepaling van 'n administratiewe boete</u> Aansoek ingevolge Artikel 16(2)(q) van die Verordening om bestaande strukture te wettig; Besonderhede aangaande die voorstel lê ter insae gedurende weksdae tussen 08:00 en 16:30 by die Afdeling: Stads- en Streekbeplanning te Patersonstraat 16, Hermanus, Gansbaai Biblioteek, Hoofweg, Gansbaai en op die munisipale webtuiste by die volgende skakel https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/ Enige kommentaar moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (e) landuse@overstrand.gov.za) voor of op 23 Oktober 2026, met u naam, adres, kontak besonderhede, belang in die aansoek en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die Hoofstadsbeplanner, Mr. SW van der Merwe by 028-3138900. Die Munisipaliteit mag weier om kommentare 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 formuleer. <i>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, kontakbesonderhede en kommentaar(e) openbaar gemaak mag word.</i>	<u>ISIZA 231, 45 PARK STREET, GANSBAAI, OVERSTRAND UMMANDLA KAMASIPALA: ISICELO SOKUSUSWA KWEEMKO EZITHINTELAYO KWITAYITILE YOBUNINI, SOKUTENXA NGOKUSISIGXINA KUNYE NOKUMISELWA KWESOHLWAYO SOLAWULO: MESSRS WRAP PROJECT OFFICE EGAMENI LE T HJ KUNYE ME TALJAARD</u> Isaziso siyanikezelwa ngokweCandelo lama-47 nelama-48 loMthetho kaMasipala oLungisiweyo kaMasipala waseOverstrand kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, ka-2020 (uMthetho kaMasipala) izicelo esebenzayo kwiSiza-231, eGansbaai, esizezi: <u>Sokususwa kweemeko ezithintelayo kwitayitile yobunini</u> Isicelo ngokweCandelo le-16 (2)(f) loMthetho kaMasipala wokususwa kwemiqathango yetayitile ethintelayo C.(b) kunye C.(d) njengoko kuqulethwe kwiSiqendu seSihlokwana T66551/1992. <u>Ukutenxa</u> • ukunciphisa umda wokwakha ongasemva ukusuka kwi-2m ukuya kwi-0.95m ukuze kuhlaliswe ivaranda egqunyiweyo ekhoyo; • ukunciphisa umda wokwakha osecaleni kwempuma ukusuka kwi-2m ukuya kwi-1.25m ukuze kuhlaliswe indawo yokosa inyama (i-braai) kunye negumbi le-TV elikhoyo; kunye • nokunciphisa umda wokwakha ojongene nesitalato ukusuka kwi-4m ukuya kwi-3.6m ukuze kuhlaliswe indawo yokungena egqunyiweyo ekhoyo. <u>Ukumiselwa kwesohlwayo solawulo</u> Isicelo ngokweCandelo lama-90(5) loMthetho kaMasipala ukwamkela izakhiwo ezikhoyo. Iinkcukacha ezipheleleyo malunga neziphakamiso ezingentla ziyafumaneka ukuze zihlolwe ngeentsuku zeveki phakathi kwentsimbi yesi-08:00 neye-16:30 kwiCandelo: loCwangciso lweDolophu noMhlaba (Division: Town and Spatial Planning), 16 Paterson Street, eHermanus; kwiThala leeNcwadi laseGansbaai, eMain Road, eGansbaai; kunye nakwiwebhusayithi kamasipala kwikhonkco elilandelayo https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/ Naziphi na izimvo mazibhalwe phantsi kwaye zifike kuMasipala (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) ngomhla okanye ngaphambi koko 23 EyeDwarha 2026, kunye negama lakho, idilesi, iinkcukacha zoqahagamshelwano, umda kwisicelo kunye nezizathu zokuphawula. Imibuzo ngomnxeba ingenziwa UMcwangcisi weDolophu oyiNqununu, uMnu SW van der Merwe kule nombolo 028-3138900. UMasipala unokwala ukwamkela izimvo emva komhla wokuvula. Nabani na ongakwaziyo ukufunda okanye ukubhala angandwendwela iCandelo: loCwangciso lweDolophu noMhlaba apho aya kuthi ancediswe ligosa likamasipala ekuqulunqeni izimvo zabo. <i>Nceda uqaphele ukuba ngokoMthetho woKhuseleko lweNgcaciso loLwazi loBuqu (POPIA), uya kuba ungena kwinkqubo kawonke-wonke kwaye uvuma ukuba igama lakho, ifani, iinkcukacha zoqahagamshelwano kunye nezimvo zingabhengezwa / zisetyenziswe kwi (isicelo) inkqubo.</i>
EW JANTJIES Municipal Manager / Munisipale Bestuurder / Umphathi Kamasipala PO Box / Posbus / Ibhokisi yePosi 20 HERMANUS 7200 Notice No / Kennisgewing nr / Inombolo yesaziso: 194/2026		

Plan 1 - Locality Plan

Erf 231 - Gansbaai



NTS



Plan prepared by: Thian Jansen

Tel: 028 313 1411

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Office 3, Oakwood, 10 Dirkie Uys Street, Hermanus



Project Office
Town Planning & Project Management

1. PROPERTY DETAILS

Property description	Erf 231 Gansbaai
Extent	793m ²
Zoning	Residential Zone 1: Single Residential
Title Deed	T66551/1992

2. EXECUTIVE SUMMARY

Erf 231 Gansbaai, hereafter referred to as the subject property, is situated at 45 Park Street, Gansbaai, as illustrated in **Plan 1: Locality Plan**. The owners have owned the property since 1992 and have historically utilised the property as a holiday home. Following their retirement, the owners have transitioned to permanent occupation of the property and, over a number of years, have undertaken various additions and alterations to improve the functionality and suitability of the dwelling for their needs. These works include the addition of an entertainment area, the provision of a braai areas, covered accesses, amongst other improvements.

Some of these additions and alterations were undertaken without the necessary building plan approvals and certain structures extend into the prescribed building lines applicable to the property. The current application therefore seeks to regularise the existing development and obtain the necessary land use rights to accommodate the structures as they exist on the property.

In addition to the applicable municipal land use controls, the property's title deed, contains restrictive conditions relating to building lines which restrict the erection of structures within specified distances from the property boundaries. These restrictive conditions are more onerous than the current development controls applicable to the property and therefore need to be removed to enable the existing structure to be appropriately regularised.

Accordingly, an application is required in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning to address the relevant land use and title deed restrictions and to facilitate the continued use and occupation of the property in accordance with the owners' current requirements.

WRAP Project Office has been appointed to prepare and submit the necessary land use application on behalf of the owners. The authority to act on behalf of the owners is confirmed in **Annexure A: Power of Attorney**.

3. PROCEDURE TO ACHIEVE THE OWNERS' INTENT

This application is submitted in terms of the By-Law:

3.1 Removal of restrictive title deed conditions

As indicated in the Executive Summary, the owners have owned Erf 231 Gansbaai since 1992 and have historically utilised the property as a holiday home. Following their retirement and transition to permanent occupation, various additions and alterations have been made to the existing dwelling over a number of years to improve the functionality and suitability of the property for their long-term residential needs.

These improvements include an entertainment area, the conversion of the existing garage and the provision of a braai area, amongst other alterations. Certain of these structures are affected by the restrictive building line provisions contained in the property's title deed.

The relevant restrictive conditions contained in Title Deed T66551/1992, originally imposed under Transportakte No. 11162/1947, provide as follows:

C. ONDERHEWIG VERDER aan die volgende spesiale voorwaardes opgelê deur die Administrateur van die Kaapprovinsie en vervat in gesegde Transportak1e Nr. 11162/1947, met die goedkeuring van Gansbaai Dorpsgebied :-"

"As being in favour of the registered owner of any erf in the Township and subject to amendment or alteration by the Administrator under the provisions of Section 18(3) of Ordinance No. 33 of 1934 :-"

"(b) That only one dwelling, together with such outbuildings as are ordinarily required to be used therewith, be erected on this erf."

"(d) That no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf. No such building or structure shall be situated within 1,57 metres of the lateral boundary common to any adjoining erf."

Accordingly, the application seeks the removal of restrictive title deed Conditions C(b) and C(d) to the extent necessary to facilitate the regularisation of the existing alteration and enable the property to be utilised in accordance with the owners' current requirements.

The removal of the restrictive conditions does not seek to fundamentally alter the residential character of the property. Erf 231 Gansbaai remains zoned Residential Zone 1: Single Residential in terms of the OMLUS, and any development on the property will remain subject to the applicable municipal land use controls and building regulations.

Motivation for the removal of conditions C.(b) & (d)

The rationale for the proposed removal

The restrictive title deed conditions were imposed at the time of the establishment of the Gansbaai township and historically served as development controls regulating matters such as the number of dwellings and the positioning of structures on individual erven.

Since the imposition of these conditions, the legislative and planning framework applicable to the property has evolved considerably. The subject property is now regulated through the Overstrand Municipal Land Use Scheme (OMLUS), which provides a comprehensive and contemporary framework for the management and control of land use and development within the Municipality.

The OMLUS contains development parameters relating to matters such as building lines, coverage, height, parking and land use rights. These controls are administered by the Municipality through the applicable land use management and building plan approval processes.

In this context, the continued application of the historical restrictive title deed conditions duplicates, and in certain respects is more restrictive than, the development controls contained in the current municipal planning framework.

Condition C(b) specifically restricts the property to one dwelling house, together with such outbuildings as are ordinarily required. Over the years, the owners have adapted the existing dwelling to better accommodate their changing needs, including the conversion of a portion of the dwelling to provide a second dwelling unit. The continued application of Condition C(b) therefore prevents the current residential configuration of the property from being considered solely in terms of the contemporary planning rights applicable to the property.

The removal of Condition C(b) is consequently required to enable the Municipality to consider and regulate the second dwelling in terms of the current OMLUS and applicable land use planning framework, rather than by means of a historical title deed restriction dating from the establishment of the township. The removal of the condition does not, in itself, establish an unrestricted right to develop multiple dwellings on the property. Any additional dwelling or residential use remains subject to the applicable municipal land use rights, development parameters and approval processes.

Similarly, Condition C(d) imposes historical building line restrictions requiring structures to be positioned at least 4.72 metres from the street boundary and 1.57 metres from the lateral boundary. Certain of the existing additions and alterations to the dwelling extend into these prescribed building lines. The removal of Condition C(d) is therefore required to allow these existing structures to be assessed and regularised in terms of the current municipal planning framework and, where applicable, the relevant departure provisions of the OMLUS.

The removal of Conditions C(b) and C(d) is therefore sought for two related purposes: firstly, to enable the existing second dwelling arrangement to be considered within the current land use planning framework; and secondly, to facilitate the regularisation of existing structures that are affected by the historical title deed building line restrictions.

The application does not seek to introduce an incompatible land use or fundamentally alter the established residential character of the area. The property will remain residential in nature, and the development will continue to be subject to the applicable provisions of the OMLUS, including requirements relating to building lines, coverage, height, parking and other relevant development parameters.

The proposed removal should accordingly be viewed in the context of bringing an established residential property into alignment with the current planning framework, rather than creating an entirely new or incompatible development right. The historical restrictions have served their original purpose, while the Municipality now has a comprehensive statutory framework through which the use and development of Erf 231 Gansbaai can be appropriately managed.

The subject property is currently developed with an established residential dwelling. Over the years, the owners have undertaken various alterations and additions to the property, including the provision of an entertainment area, conversion of the existing garage and the addition of a braai area.

These improvements were undertaken incrementally as the owners adapted the property to better accommodate their needs. However, the necessary building plan and land use approvals were not obtained for all of the alterations, and certain structures are positioned within the building lines prescribed by the title deed and/or applicable municipal planning controls.

The current application provides an opportunity to address these matters in a formal and transparent manner. The intention is not to facilitate an intensification of development, but rather to regularise the existing improvements and ensure that the property can continue to be used as a functional residential property in accordance with the applicable planning framework.

The removal of the restrictive title deed conditions is consequently an important component of the overall application, as the historical title deed restrictions prevent the Municipality from considering the existing development solely in terms of the contemporary planning controls applicable to the property.

In terms of the requirements of LUPA, the table below addressed the removal of the restrictive title deed conditions in terms of Section 39(5)(a-f):

LUPA, Section 39(5) (a-f)		
(a)	<i>the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;</i>	The restrictive title deed conditions were imposed as historical township development controls regulating the number of dwellings and the positioning of structures on individual erven. There is no identifiable person, entity or dominant tenement that derives a specific financial or proprietary benefit from the continued existence of Conditions C(b) and C(d). The conditions do not confer a measurable financial benefit or identifiable proprietary advantage upon a specific third party. Rather, they operate as historical development restrictions on the subject property, while the relevant planning objectives are now addressed through the Municipality's current land use management framework.
(b)	<i>the personal benefits which accrue to the holder of rights in terms of the restrictive condition;</i>	The restrictive conditions historically provided surrounding property owners with a degree of certainty regarding the extent and positioning of development on individual properties. However, these matters are now comprehensively regulated through the OMLUS and the Municipality's land use and building control processes. The continued application of Conditions C(b) and C(d) therefore provides limited additional personal benefit to any identifiable holder of rights, as the legitimate planning objectives underlying these restrictions are already addressed through the current statutory planning framework.
(c)	<i>the personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended;</i>	The removal of the restrictive conditions will enable the owners to appropriately regularise the existing development on Erf 231 Gansbaai and utilise the property in accordance with their current residential needs. In particular, the removal of Condition C(b) will allow the existing second dwelling arrangement to be considered and regulated in terms of the current municipal land use planning framework, rather than being prohibited solely

		by a historical title deed condition limiting the property to one dwelling. The removal of Condition C(d) will similarly enable the existing structures that encroach into the historical title deed building lines to be considered and, where appropriate, regularised in terms of the current OMLUS development controls and applicable departure provisions. The owners will consequently obtain greater certainty regarding the lawful use and development of their property, while the established residential character of the property and surrounding neighbourhood will be retained.
(d)	<i>the social benefit of the restrictive condition remaining in place in its existing form;</i>	There is limited social benefit associated with retaining the restrictive conditions in their existing form. Condition C(b) historically served to limit the number of dwellings on the property, while Condition C(d) regulated the positioning of buildings in relation to the street and lateral boundaries. These objectives are now addressed through the OMLUS and the Municipality's land use management and building control processes. The continued application of the historical conditions would therefore impose an additional layer of development control over the property without providing a significant additional public benefit beyond the controls already contained in the current planning framework. The removal of the conditions would not prevent the Municipality from considering the potential impacts of the existing second dwelling or building-line encroachments, as these matters remain subject to the applicable statutory land use and building control processes.
(e)	<i>the social benefit of the removal, suspension or amendment of the restrictive condition; and</i>	The removal of the restrictive conditions will facilitate the appropriate regularisation of an established residential property and allow the existing development to be assessed against the Municipality's contemporary planning framework. The removal of Condition C(b) will allow the existing second dwelling arrangement to be considered within the current planning system, ensuring that the use is assessed against contemporary requirements rather than being automatically prohibited by an historic title deed restriction. Similarly, the removal of Condition C(d) will allow the existing structures affected by the historical building line restrictions to be assessed in terms of the current municipal development controls.

		The proposal therefore supports the continued use, maintenance and improvement of an existing residential property without introducing an incompatible land use or fundamentally changing the character of the surrounding neighbourhood. Any applicable impacts associated with the second dwelling, parking, building lines or other development parameters can continue to be managed through the Municipality's existing land use planning framework.
(f)	<i>whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.</i>	The removal of Conditions C(b) and C(d) will not remove any identifiable proprietary rights held by a specific beneficiary. The conditions constitute historical restrictions applicable to the development of the subject property and do not confer clearly identifiable personal or financial rights upon a particular neighbouring owner or dominant tenement. Following their removal, Erf 231 Gansbaai will remain subject to the OMLUS, any applicable land use approvals and departures, the National Building Regulations and other relevant statutory requirements. The removal of the restrictive conditions will therefore not result in uncontrolled development. The Municipality will retain the ability to regulate the use and development of the property through the current statutory planning framework, thereby ensuring that the interests of surrounding property owners and the broader public interest remain appropriately protected.

3.2 Permanent Departure from the 2m Rear building line to 0,95m to accommodate the existing covered stoep;

3.3 Permanent Departure from the 2m eastern side building line to 1,25m to accommodate the existing braai and tv room;

3.4 Permanent Departure from the 4m street building line to 3,6m to accommodate the existing covered entrance;

Existing Covered Stoep

The application seeks a Permanent Departure from the prescribed 2m rear building line to 0.95 m in order to accommodate the existing covered stoep situated along the rear portion of the dwelling.

The covered stoep forms part of the existing residential dwelling and provides a functional outdoor living area that contributes to the usability and amenity of the property. The structure is not a separate building or independent land use, but rather an ancillary component of the existing dwelling.



Figure 1: Covered Stoep

The departure is required to enable the existing covered stoep to be formally approved through the applicable building plan process. The structure has already been incorporated into the established built form of the dwelling and forms part of the property's existing residential functionality. The proposal does not entail the introduction of a new land use or a material intensification of the use of the property.

The covered stoep is positioned 0,95m from the rear boundary, retaining a reasonable separation between the structure and the adjoining property. Given its modest scale, its direct association with the main dwelling and its established nature, the departure is considered reasonable and appropriate in the context of the property.

Approval of the departure will provide the necessary land use rights to enable the existing covered stoep to be addressed through the building plan process and ensure that the development on the property can be appropriately regularised. The structure remains compatible with the residential use of the property and is not considered to result in an unreasonable impact on the surrounding properties or neighbourhood character.

Existing Braai and TV Room

The application further seeks a Permanent Departure from the prescribed 2m eastern side building line to 1,25 m to accommodate the existing braai and TV room.

The structure forms part of the existing residential improvements on the property and provides additional living and entertainment space for the occupants. It is directly associated with and functionally integrated into the main dwelling.



Figure 2: Existing Braai and TV Room

The departure is required to regularise the existing structure, which has been established for some time and forms part of the property's existing built form. The application does not propose a new development that would materially alter the established character of the site or surrounding residential area.

The proposed setback of 1,25m maintains a meaningful separation from the eastern boundary and ensures that the structure remains entirely within the subject property. The departure is therefore considered sufficiently contained to avoid an unreasonable intrusion into the adjoining property or an inappropriate intensification of the built form.

Furthermore, the structure is used in association with the residential dwelling and is not intended to introduce an incompatible land use into the neighbourhood. Its retention would simply allow the owners to continue using an established part of their home for normal residential and recreational purposes.

Existing Covered Entrance

The application seeks a further Permanent Departure from the prescribed 4m street building line to 3,6m to accommodate the existing covered entrance to the dwelling.

The covered entrance provides weather protection and forms a practical and functional component of the dwelling. The structure is directly associated with the entrance to the existing residence and does not constitute a separate building or independent land use.



Figure 3: Covered Entrance

The extent of the departure is limited to 0,4m, resulting in a setback of 3,6 m from the applicable street boundary. The relatively minor nature of the encroachment, together with the fact that the structure is an existing covered entrance, means that the departure will not materially alter the established streetscape or residential character of the area.

The covered entrance remains wholly within the property boundary and does not compromise the functionality of the street or public road reserve. It also does not result in an unreasonable restriction of access, visibility or movement along the street.

The departure is consequently considered minor in extent and appropriate in context, particularly given that it relates to an established entrance feature rather than a substantial enclosed addition to the dwelling. The retention of the covered entrance will improve the functionality of the existing residence while having a negligible impact on the surrounding properties and streetscape.

Collectively, the three departures should be considered in the context of the existing development and the history of the property. The owners have occupied and improved the property over a number of years, initially as a holiday home and more recently as their permanent residence. The structures for which departures are sought represent modest residential improvements undertaken to make the dwelling more functional and suitable for long-term occupation.

The application is therefore primarily corrective and regularising in nature, rather than an application seeking to substantially increase the development potential of the property.

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

In order to ensure that the existing development on Erf 231 Gansbaai is appropriately addressed in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, the application includes a request for the determination of an administrative penalty in respect of the existing building works and alterations undertaken without the necessary land use and/or building plan approvals.

The owners respectfully request that the Municipality consider waiving the administrative penalty, alternatively applying a reduced penalty, having regard to the circumstances of the property and the nature of the contravention. This request is motivated by the following:

- the works comprise additions and alterations to an existing residential dwelling and are ancillary to the established residential use of the property;
- the works were undertaken incrementally over a number of years as the owners adapted and improved the property for their residential needs;
- the owners were not aware that the relevant land use approvals were required for all of the alterations and did not undertake the works with the intention of circumventing the Municipality's planning legislation;
- the owners have now appointed WRAP Project Office to address the outstanding land use requirements and have taken steps to regularise the existing development through the appropriate statutory process;
- the application seeks to address the existing development comprehensively, including the removal of the applicable restrictive title deed conditions and the necessary Permanent Departures from the prescribed building lines; and
- the existing structures have not resulted in any known or demonstrable prejudice to neighbouring properties, municipal infrastructure or the broader public interest.

The owners have taken steps to rectify the historic planning contraventions and to ensure that the existing development is considered transparently through the Municipality's land use management process. The current application should therefore be viewed as an effort to regularise an established residential property and bring the development into alignment with the current planning framework, rather than as an attempt to avoid the statutory requirements.

It is further submitted that the contraventions arose in the context of gradual improvements to an existing dwelling over an extended period and were not undertaken for commercial purposes or with an intention to undermine the Municipality's planning controls.

In light of the above, and having regard to the nature, scale and circumstances of the existing development, it is respectfully submitted that the circumstances warrant favourable consideration and that the Municipality exercise its discretion to waive the administrative penalty, alternatively impose a reduced penalty considered appropriate in the circumstances.

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

The nature, duration, gravity and extent of the contravention

Section 3.2 – 3.4 of this report sets out the nature and extent of the existing building line encroachments on the subject property. The contraventions are limited to minor portions of existing residential structures and do not involve the introduction of an incompatible land use or large-scale unauthorised development.

The extent of the respective building line encroachments is approximately:

Covered Stoep	±3,15m ²
Braai and Tv Room	±1,65m ²
Covered Entrance	±0,46m ²

The contraventions arose incrementally over a number of years as the owners improved and adapted the property for their residential needs. There is no indication that the works were undertaken as part of a deliberate attempt to intensify the property or circumvent the Municipality's planning framework.

The gravity of the contravention is therefore considered limited, particularly given the modest extent of the encroachments, their residential nature and the fact that the current application seeks to address the matters comprehensively.

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

The owners were not aware that the relevant land use approvals were required for all of the additions and alterations undertaken to the property over the years.

Importantly, upon becoming aware of the outstanding planning requirements, the owners have taken steps to address the situation through the appropriate statutory process. They have appointed WRAP Project Office to prepare and submit the necessary application and are seeking to regularise the existing development in a transparent manner.

The owners have therefore demonstrated a willingness to resolve the historic contraventions rather than allowing the situation to remain unresolved. There is no indication that the works were undertaken with the intention of deliberately circumventing the Municipality's planning legislation.

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

Given the limited nature and extent of the building line encroachments, the appointment of a quantity surveyor is not considered necessary in this instance.

The matters under consideration relate to relatively minor additions and alterations to an existing residential dwelling, with the total building line encroachment amounting to approximately 5.26 m². The application is primarily concerned with the land use regularisation of these existing structures and does not involve large-scale unauthorised construction or a substantial development project requiring a quantity surveyor's assessment.

Based on the Municipality's approved budget and applicable tariff structure, an administrative penalty of R22,541.00 per square metre may be imposed in respect of the unauthorised building works. Applying this rate to the total identified encroachment of approximately 5.26 m² results in a potential administrative penalty of:

$$5.26 \text{ m}^2 \times \text{R}22,541.00/\text{m}^2 = \text{R}118,565.66$$

Accordingly, the potential administrative penalty amounts to a maximum of approximately R118,565.66.

Considering the relatively minor extent of the encroachments, the residential nature of the structures, the fact that the works form part of an established dwelling, and the owners' efforts to regularise the property through the appropriate statutory process, the potential penalty is substantial in relation to the scale and nature of the contravention.

In this regard, the appointment of a quantity surveyor to quantify the value of the existing works is not considered necessary, as the extent of the contravention can be readily established from the submitted plans and the applicable building line measurements. The Municipality has sufficient information before it to determine the matter and exercise its discretion in respect of the administrative penalty.

Whether the unlawful conduct was stopped

The structures forming the subject of the application have already been constructed and form part of the established built fabric of the property. No further construction or expansion of the relevant structures is currently taking place.

The owners have instead elected to address the historic contraventions through this formal land use application. The current application therefore provides a mechanism through which the existing development can be assessed and, if approved, regularised in terms of the applicable planning framework.

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

To the knowledge of the owners and the appointed professional, there is no known history of the current owners deliberately contravening the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning or previous planning legislation in relation to the subject property.

The current matter relates to historic additions and alterations undertaken to the owners' residential property over a number of years. The owners are now actively seeking to resolve the outstanding planning matters through the appropriate statutory process.

4. LAND USE ENVIRONMENT

The subject property is located in Gansbaai, and the property is surrounded by other Residential Zone 1: Single Residential properties and Public Streets. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan).

5. PLANNING ASSESSMENT

5.1 ZONING

The subject property is zoned Residential Zone 1: Single Residential in terms of the Overstrand Municipal Land Use Scheme, 2020 (OMLUS).

The application will not result in a change to the property's existing zoning. The property will remain subject to the land use rights and development parameters applicable to Residential Zone 1 in terms of the OMLUS. The proposed use and development are therefore consistent with the established residential character and zoning of the subject property and surrounding area.

5.2 ENGINEERING SERVICES

The availability and capacity of engineering services are relevant considerations in terms of Section 42(1)(c)(v) of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA).

The subject property is an established residential property and is already connected to the existing municipal engineering service networks, including potable water, sewerage and electricity, with stormwater being managed in accordance with the existing residential development.

The current application primarily seeks to regularise existing additions and alterations to the dwelling, together with the existing second dwelling arrangement and minor building line encroachments. The application does not propose a substantial increase in the scale or intensity of development on the property.

The existing engineering services are therefore already serving the property, and the proposed land use regularisation is not anticipated to result in a material increase in the demand for municipal engineering services or place an undue burden on the existing infrastructure.

The proposal will consequently not have a detrimental impact on the capacity or functioning of the existing municipal engineering services serving the property and surrounding area.

Access, Egress and Parking

Access to the subject property is obtained from Park Street, and no change to the existing access arrangement is proposed as part of this application.

5.3 POLICIES AND REGULATIONS

Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

The subject property is not located within the EMOZ.

Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The subject property is not located within the HPOZ.

Spatial Planning Policies

The proposal has been assessed against the applicable spatial planning policy framework and is not considered to be in conflict with the objectives or principles of the Western Cape Provincial Spatial Development Framework, 2014, or the Overstrand Municipal Spatial Development Framework, 2020 (OMSDF).

The application relates to an established residential property within the existing urban area of Gansbaai and seeks to regularise the existing development through the applicable land use planning process. The proposal does not introduce an incompatible land use or result in a fundamental change to the established development pattern of the area.

The application supports the continued use and improvement of an existing residential property, promotes the efficient use of existing urban land and remains compatible with the surrounding residential character.

The proposal is therefore considered consistent with the applicable spatial planning policy framework and will contribute to the orderly management and continued appropriate use of the existing urban area.

5.4 PLANNING PRINCIPLES

Chapter 2 of the SPLUMA establishes five development principles that must guide all land use and development decisions. These principles provide the framework for assessing whether a

proposed development promotes sustainable, equitable and efficient spatial planning. The principles considered most relevant to this application are discussed below.

Spatial justice

Spatial justice seeks to ensure that land use decisions are fair and do not impose unnecessary restrictions on the reasonable use and development of land.

The application concerns an established residential property within Gansbaai and seeks to address historical title deed restrictions and existing development through the current planning framework. The proposal does not introduce an incompatible land use and will remain subject to the Municipality's applicable planning controls. The application is therefore considered consistent with spatial justice.

Spatial sustainability and efficiency

Spatial sustainability promotes appropriately located development that supports existing settlements and infrastructure.

The subject property forms part of an established residential area and is already serviced by municipal infrastructure. The application does not require urban expansion or significant new infrastructure and supports the continued appropriate use of an existing residential property.

Spatial resilience

Spatial resilience recognises the need for settlements to accommodate changing circumstances and needs.

The owners have adapted the property over time to meet their changing residential requirements. The application provides a mechanism to regularise the existing development and allow the property to continue fulfilling its residential function without fundamentally changing the character of the surrounding area.

Good administration

Good administration requires land use decisions to be transparent, consistent and based on the applicable statutory framework.

The owners have elected to address the historical planning matters through the formal land use application process. This provides the Municipality with an opportunity to assess and regularise the existing development while ensuring that future development remains subject to the OMLUS and applicable legislation.

6. 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 have any adverse socio-economic impact. It facilitates the appropriate regularisation and continues use of an established residential property and will support the property's functionality and value without introducing an incompatible land use or placing additional demands on community facilities.
Compatibility with surrounding uses	The subject property is situated within an established residential neighbourhood and will remain residential in nature. The proposed land use rights and regularisation of the existing development are

	compatible with the surrounding residential uses and will not fundamentally alter the character of the area.
Impact on the external engineering services	The property is already connected to the existing municipal engineering services. The application does not involve substantial new development and is therefore not anticipated to materially increase demand on existing infrastructure or adversely affect its capacity or functioning.
Impact on safety, health and wellbeing of the surrounding community	The proposal is not anticipated to negatively affect the safety, health or wellbeing of the surrounding community. The existing development will remain subject to the applicable building regulations and municipal requirements, while the formalisation of the development will provide greater certainty regarding compliance with the applicable planning framework.
Impact on heritage	The proposal is not anticipated to have a significant impact on heritage resources. The application relates to an established residential property and does not propose development that would materially alter the surrounding built environment.
Impact on the biophysical environment	The application concerns an already developed residential property within the established urban area. No significant disturbance of natural areas, sensitive environmental features or undeveloped land is anticipated.
Traffic impacts, parking, access and other transport related considerations	The existing access to the property from Park Street will remain unchanged. The proposal is not expected to generate a material increase in traffic or adversely affect the surrounding road network. Parking will continue to be accommodated on the property in accordance with the applicable requirements.

Impact on views, sunlight and character of the area

The application relates primarily to existing structures forming part of the established residential development. The requested departures are limited in extent and are not expected to result in an unreasonable impact on neighbouring views, sunlight or privacy. The proposal will retain the established residential character and built form of the surrounding area.

7. CONCLUSION

Erf 231 Gansbaai is an established residential property that has been owned and improved by the current owners over a number of years. The additions and alterations were undertaken to improve the functionality of the property for the owners' changing residential needs, including their transition from a holiday home to permanent occupation.

The application seeks to address the historic planning matters associated with the property through the appropriate statutory process. This includes the removal of restrictive title deed Conditions C(b) and C(d), the Permanent Departures from the applicable building lines, and the determination and waiver of the applicable administrative penalty.

The proposed development remains compatible with the Residential Zone 1: Single Residential zoning and the established residential character of Gansbaai. The existing property is already serviced, and the proposal is not expected to place undue pressure on municipal infrastructure, the surrounding road network or community facilities.

Importantly, the application is primarily regularising in nature and does not seek to facilitate an inappropriate or substantial intensification of development. The identified building line

encroachments are limited in extent, while the existing residential use remains appropriate within the surrounding neighbourhood.

The assessment undertaken in this report demonstrates that the proposal is consistent with the applicable spatial planning policies, the principles of SPLUMA, the objectives of the OMLUS and the relevant considerations in terms of the Overstrand Municipal Planning By-Law. The proposal is further considered to be needed and desirable and will not result in unacceptable impacts on surrounding properties or the broader public interest.

8. RECOMMENDATION

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

- 8.1 Removal of restrictive title deed conditions** terms of Section 16(2)(f) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020.
- 8.2 Permanent Departure** from the 2m Rear building line to 0,95m to accommodate the existing covered stoep in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020.
- 8.3 Permanent Departure** from the 2m eastern side building line to 1,25m to accommodate the existing braai and tv room in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020.
- 8.4 Permanent Departure** from the 4m street building line to 3,6m to accommodate the existing covered entrance in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020.
- 8.5 Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.



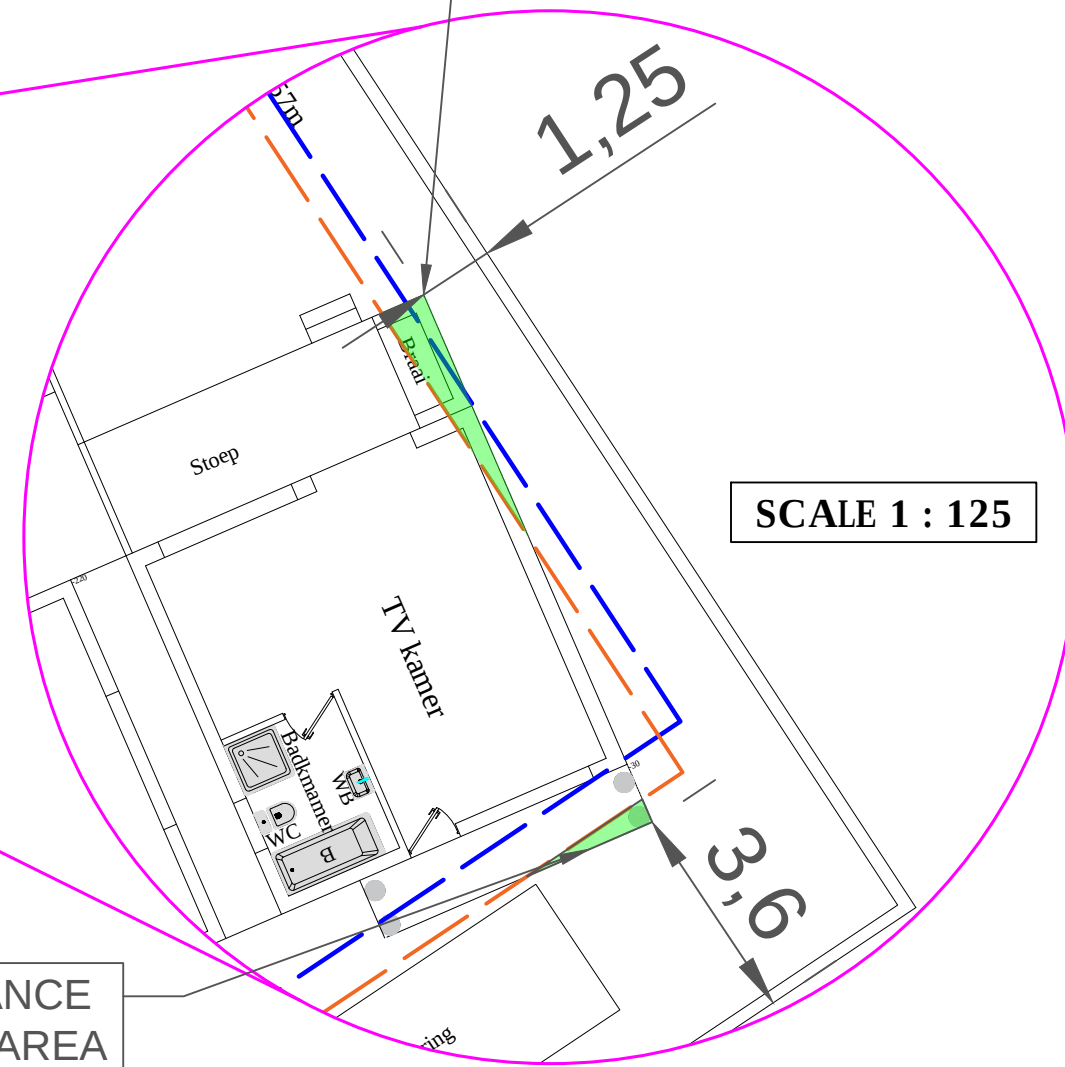
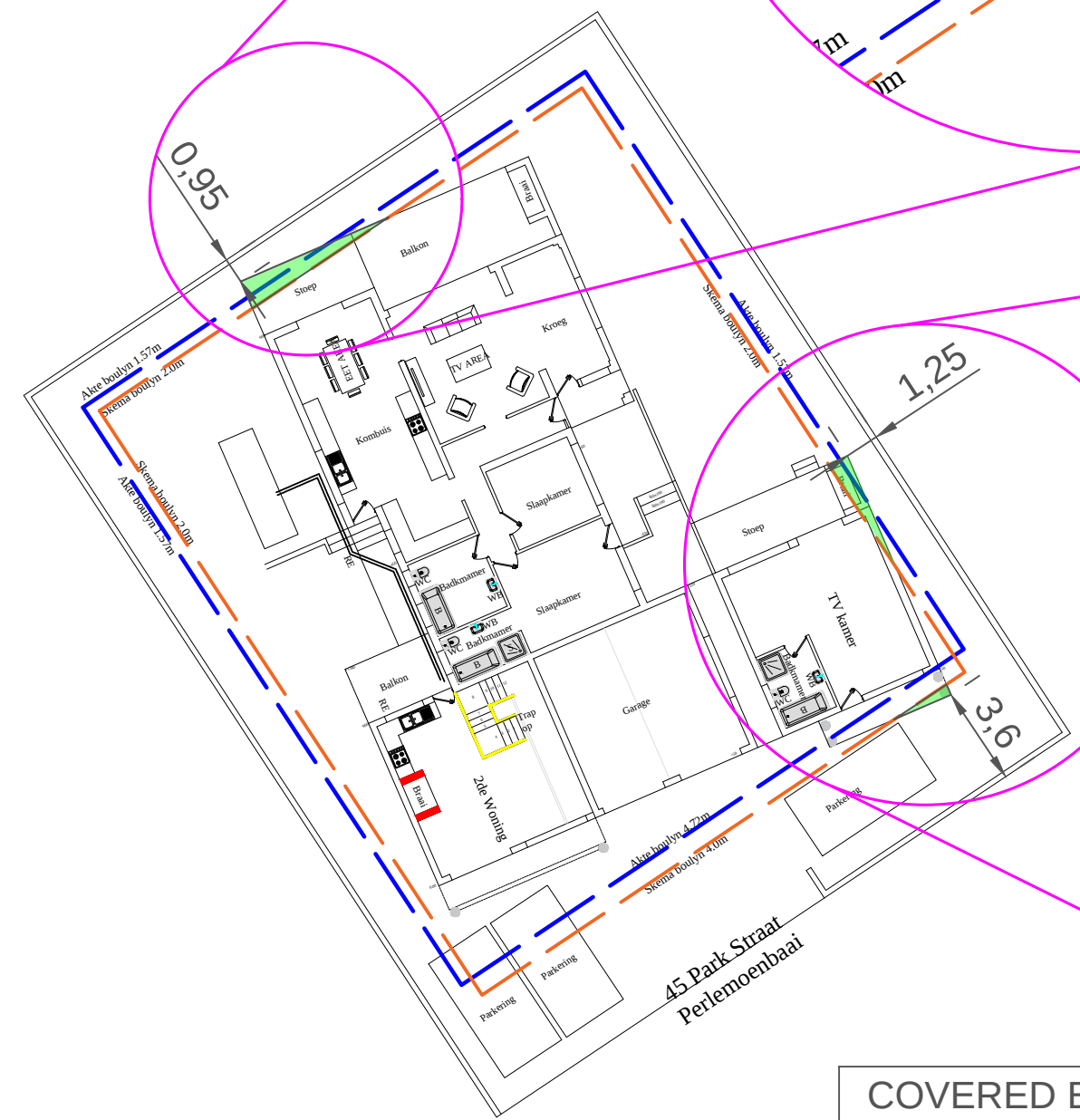
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COVERED STOEP
ENCROACHMENT AREA
 $\pm 3.15\text{m}^2$

BRAAI AND
ENTERTAINMENT ROOM
ENCROACHMENT AREA
 $\pm 1.65\text{m}^2$

SCALE 1 : 125

COVERED ENTRANCE
ENCROACHMENT AREA
 $\pm 0.46\text{m}^2$



GROUND FLOOR

SCALE 1 : 250

Plan 3.1: Site Plan
Erf 231 Gansbaai

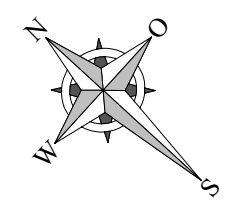
Plan prepared by: Thian Jansen on 18/08/2026
Based on plans from Riaan v Standen
Plan Number - 26/115 (001)
All distances are approximate
and subject to a survey
Tel: 028 313 1411
Email: admin@wrapgroup.co.za
Office 3, Oakwood, 10 Dirkie Uys
Street Hermanus, 7200



ERF 231

Erfplan
Skaal 1 - 100

45 Park Straat
Perlemoenbaai



Beskrywing: H4 Voorgestelde Aanbouing vir HJ & ME Taljaard Erf 231 45 Park straat Gansbaai Overstrand Munisipaliteit	Plan geteken deur: Jacobus A van Staden 3 Sneegans Perlemoenbaai Gansbaai Reg nr. D1661 riaanvs38@gmail.com Tel; 082 929 8688
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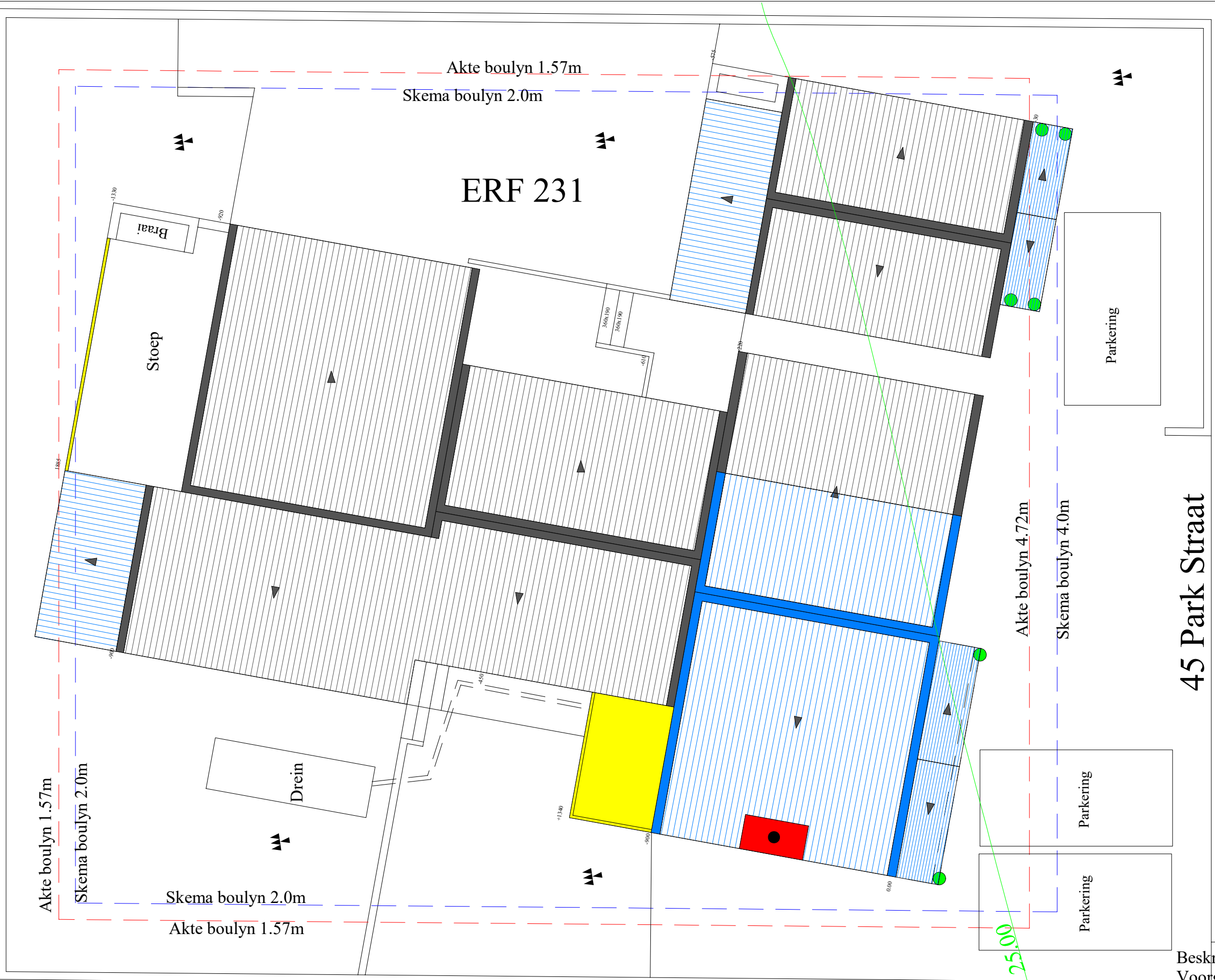
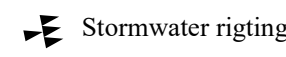
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Aanbouing 63.80 m²
Totaal -- 341.78 m²
Dekking 318.75m² 40.19 %
Enkel Residentsieel Zone 1

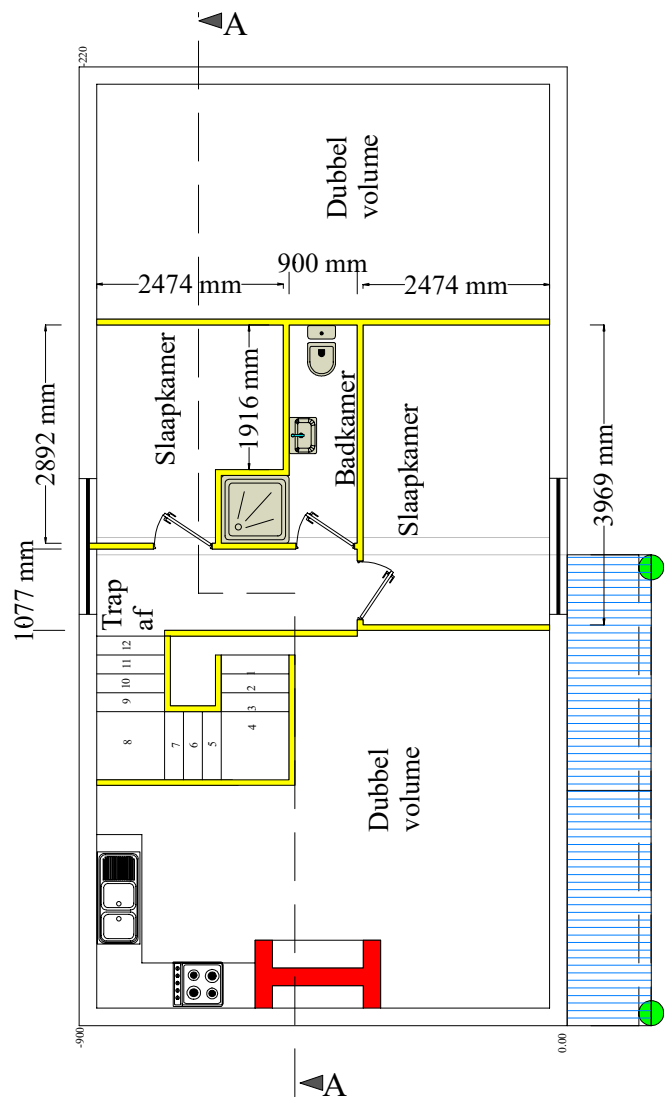
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Tekening: Erf plan
Skaal: 1- 100 (A3)
Blad: 1 van 4
Datum: 01/04/2026



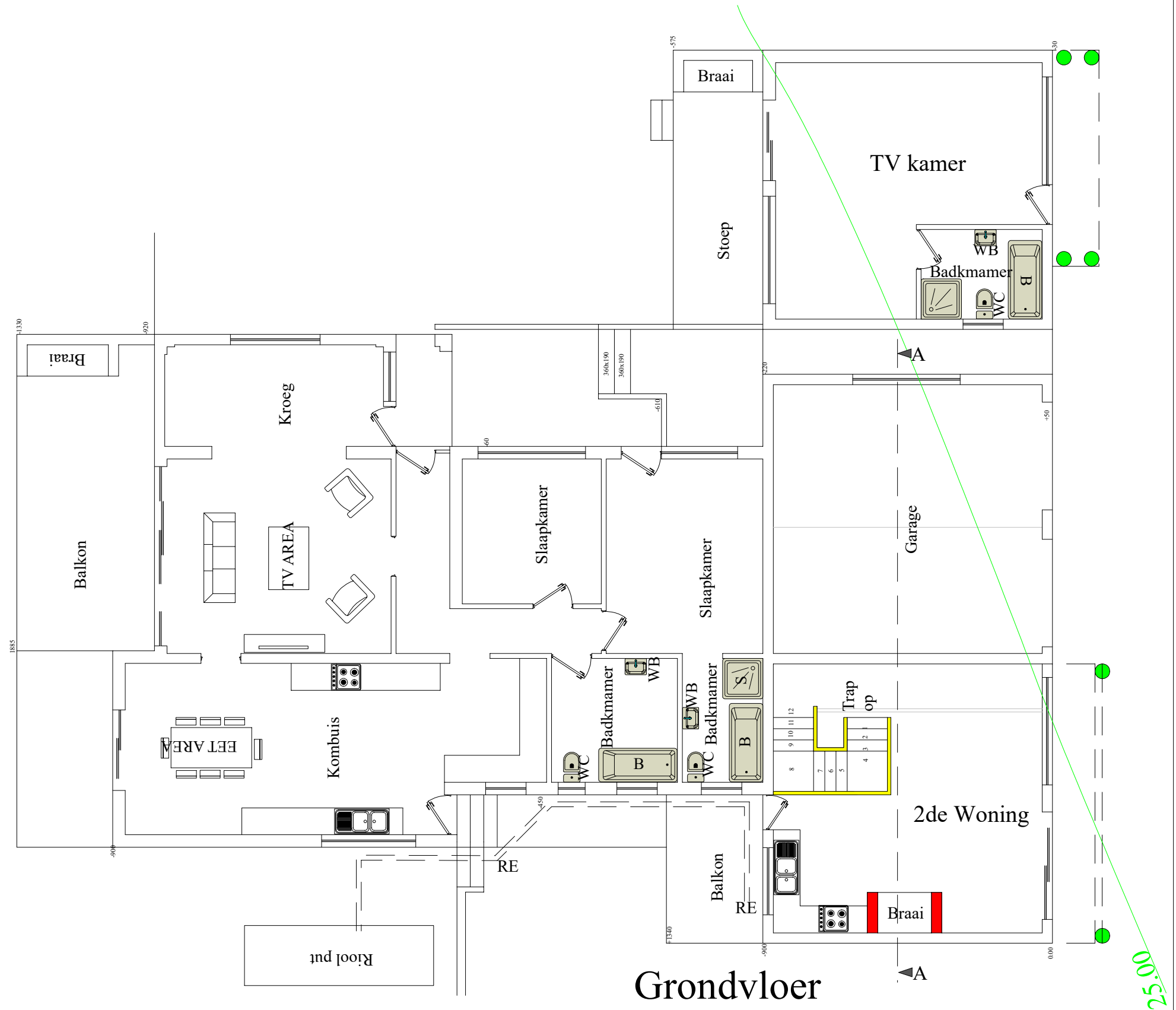
PROFESSIONAL ARCHITECTURAL
DRAUGHTSPERSON
JACOBUS ADRIAAN VAN STADEN
15:05 PM (Africa/Johannesburg) on 12 May 2025





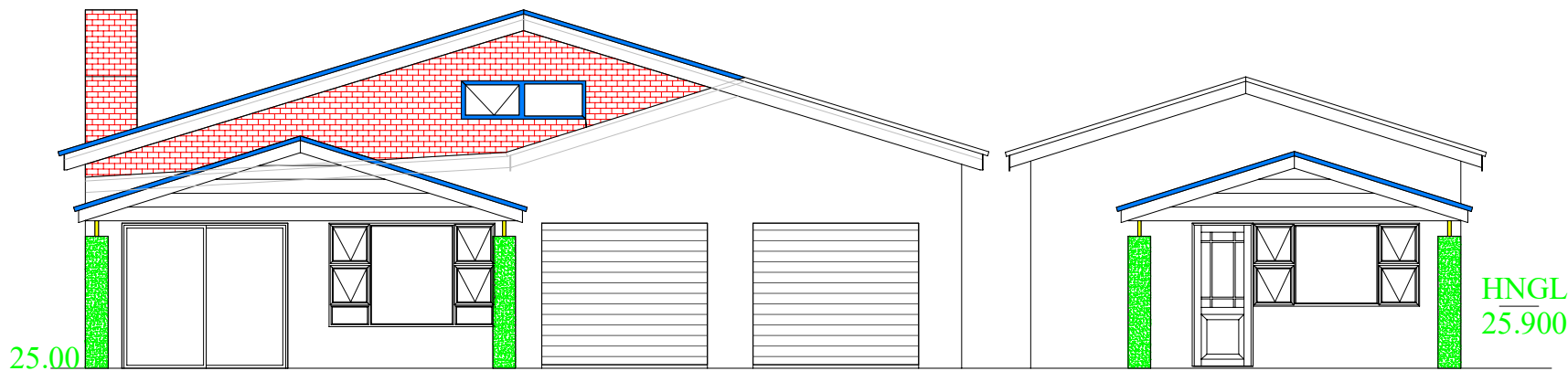


Eerste vloer
Skaal 1 - 100



Grondvloer
Skaal 1 - 100

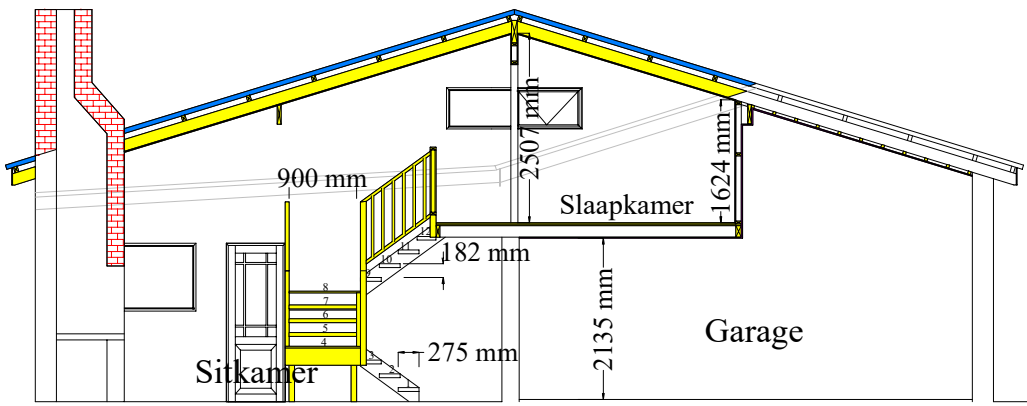
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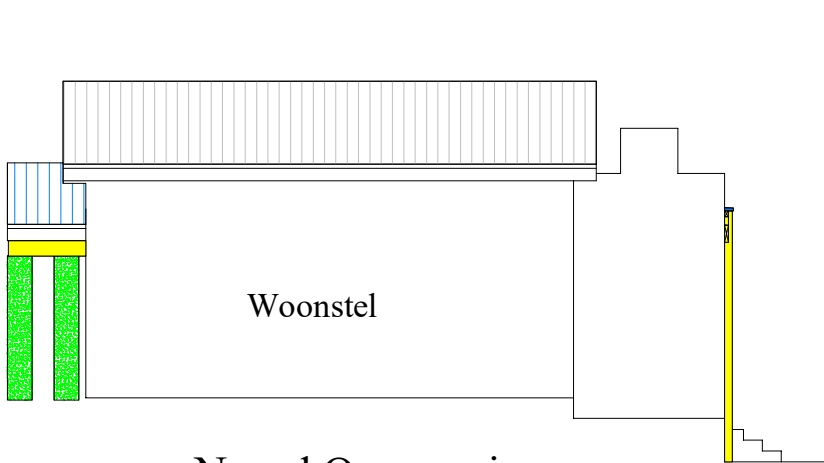
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LNGL 22.265



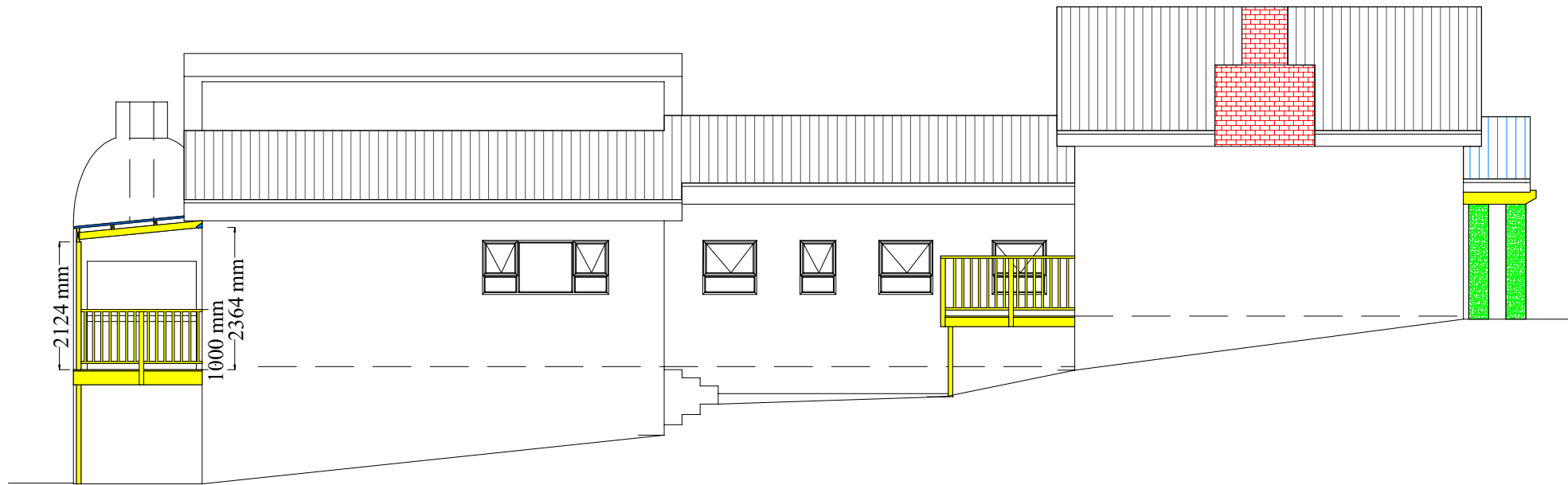
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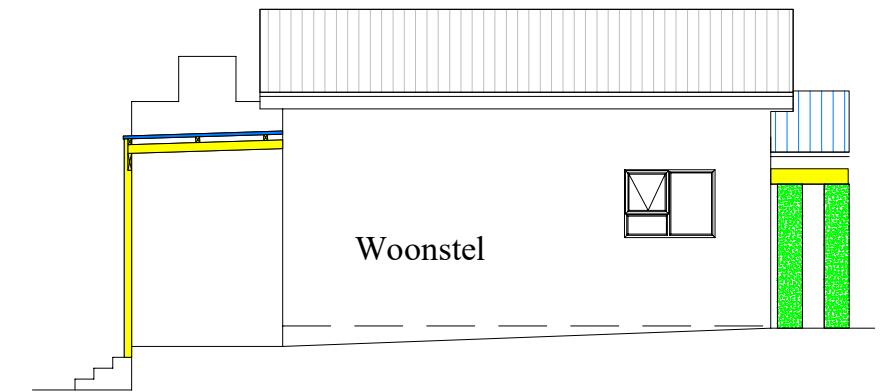
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Noord Oos aansig
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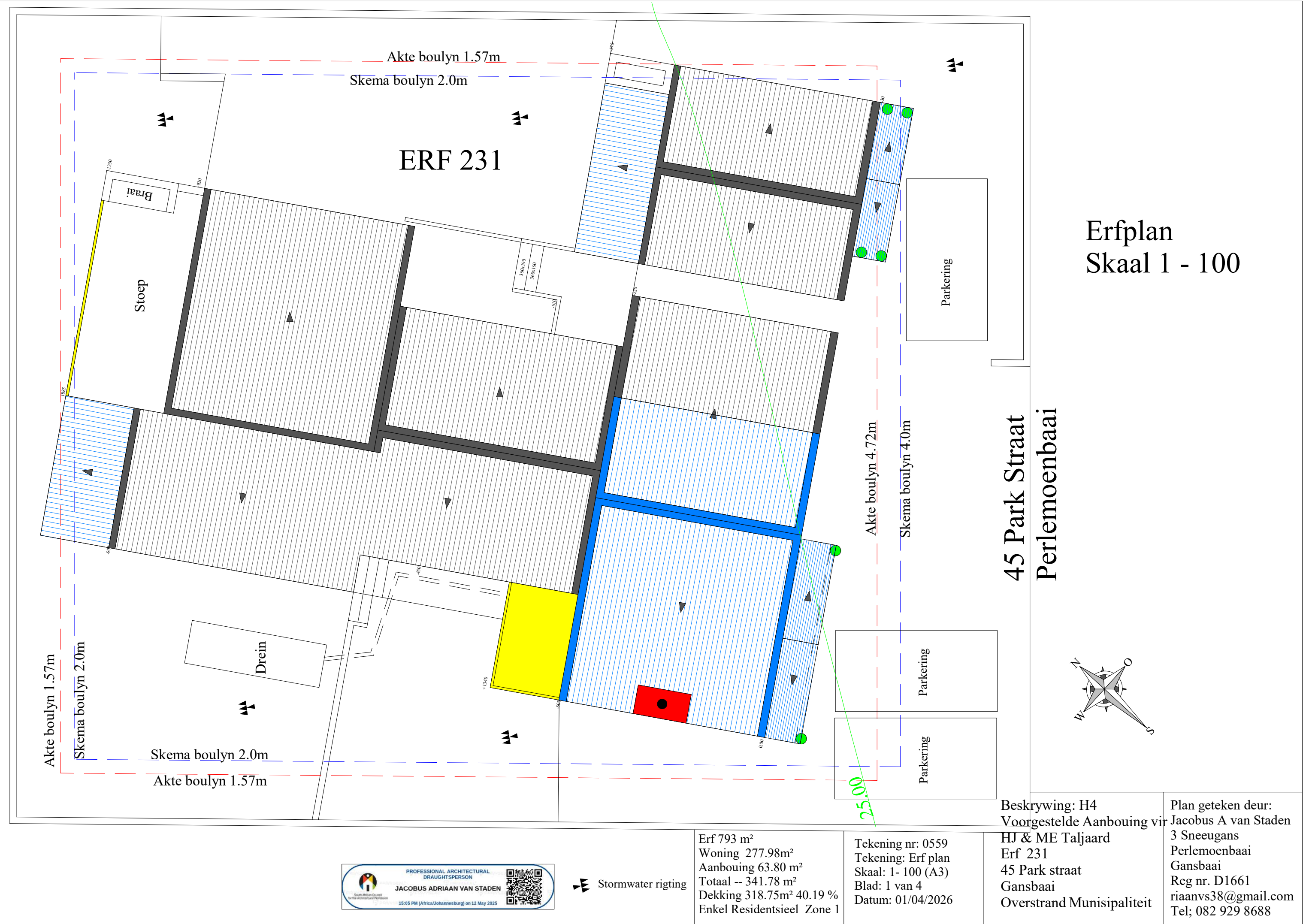
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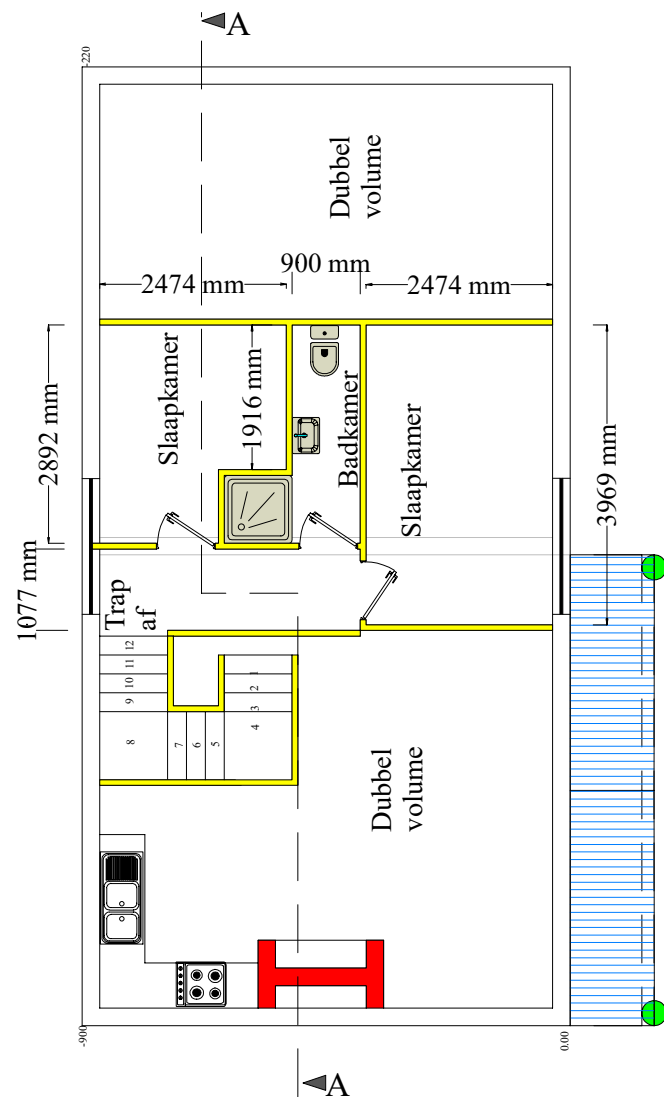


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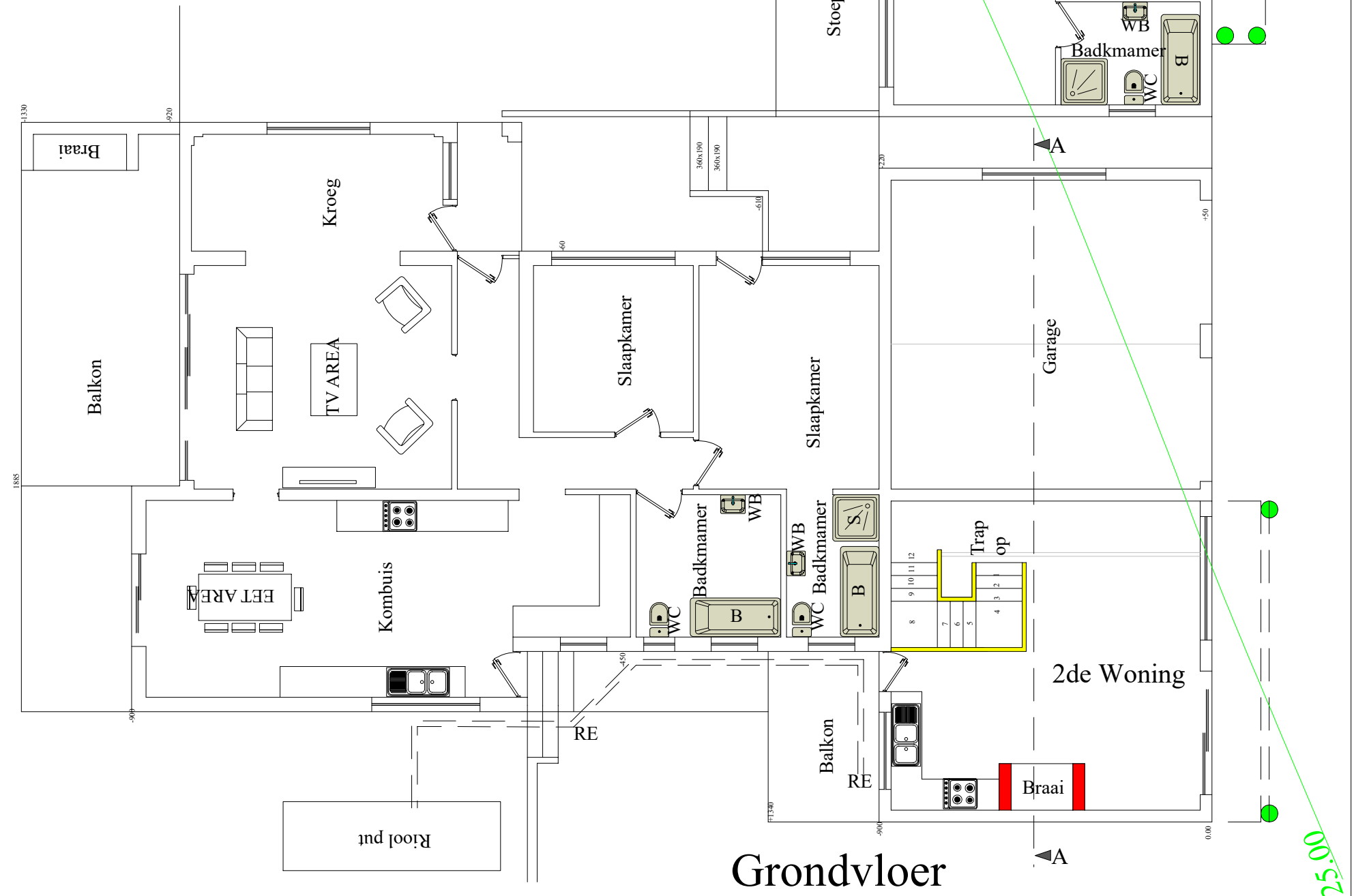


Noord Wes aansig
Skaal 1 - 100





Eerste vloer
Skaal 1 - 100



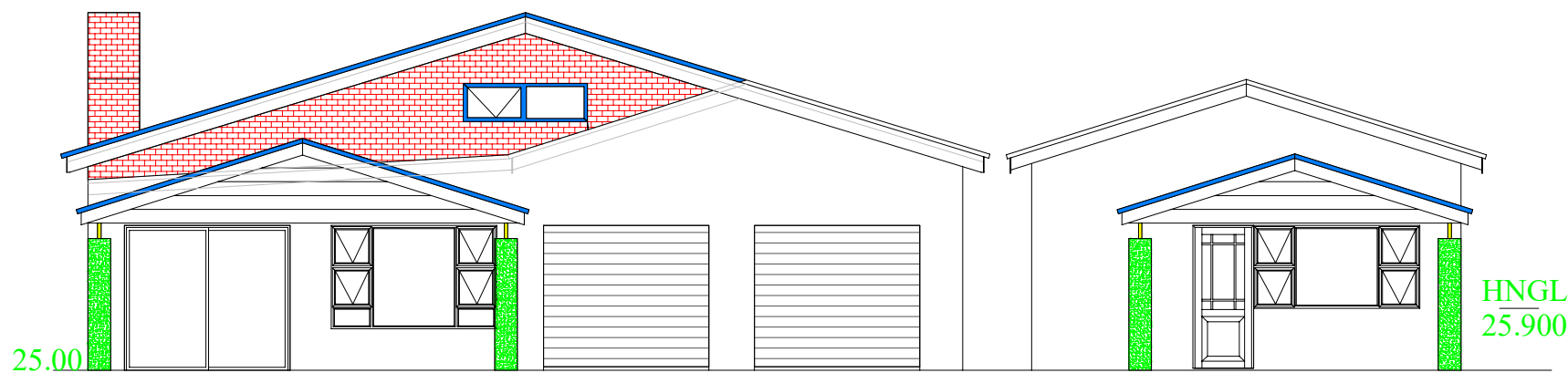
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Tekening nr: 0559
Tekening: Vloer plan
Skaal: 1- 100 (A3)
Blad: 2 van 4
Datum: 01/04/2026

Beskrywing: H4
Voorgestelde Aanbouwing vir
HJ & ME Taljaard
Erf 231
45 Park straat
Gansbaai
Overstrand Munisipaliteit

Plan geteken deur:
Jacobus A van Staden
3 Sneegans
Perlemoenbaai
Gansbaai
Reg nr. D1661
riaanvs38@gmail.com
Tel; 082 929 8688

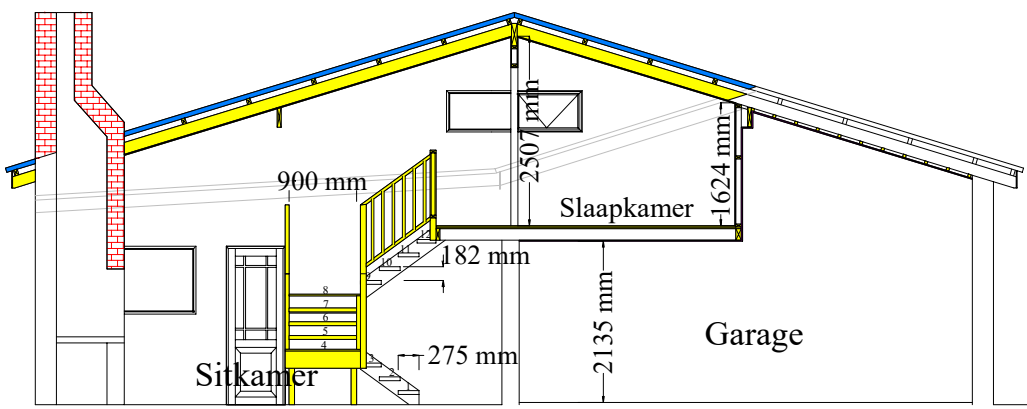
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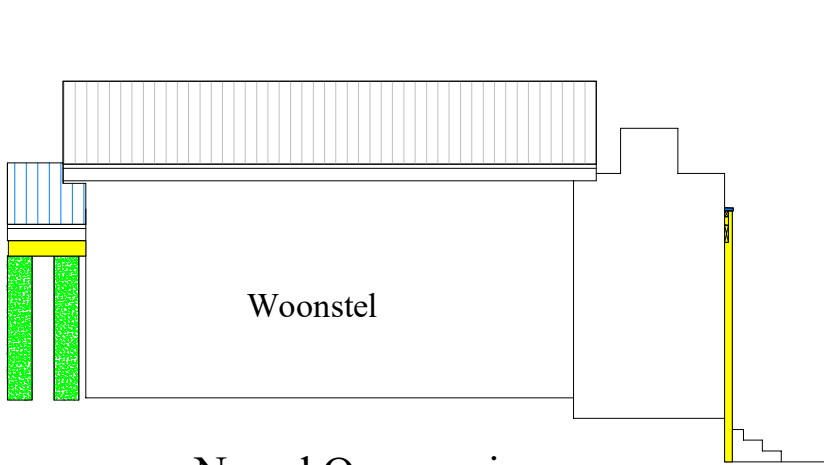
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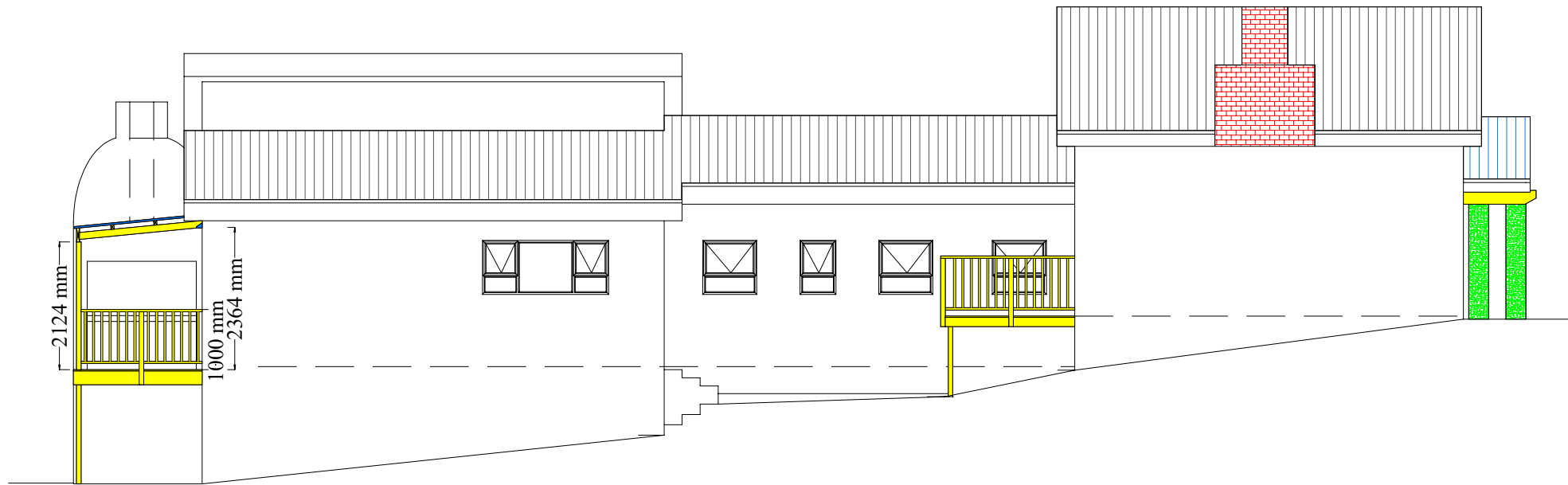
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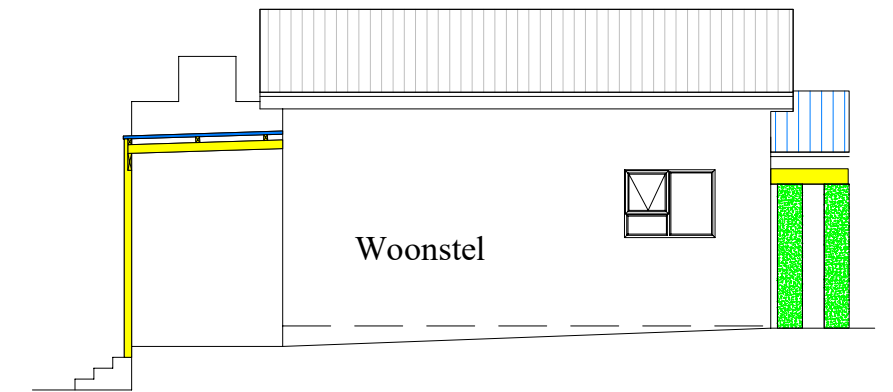
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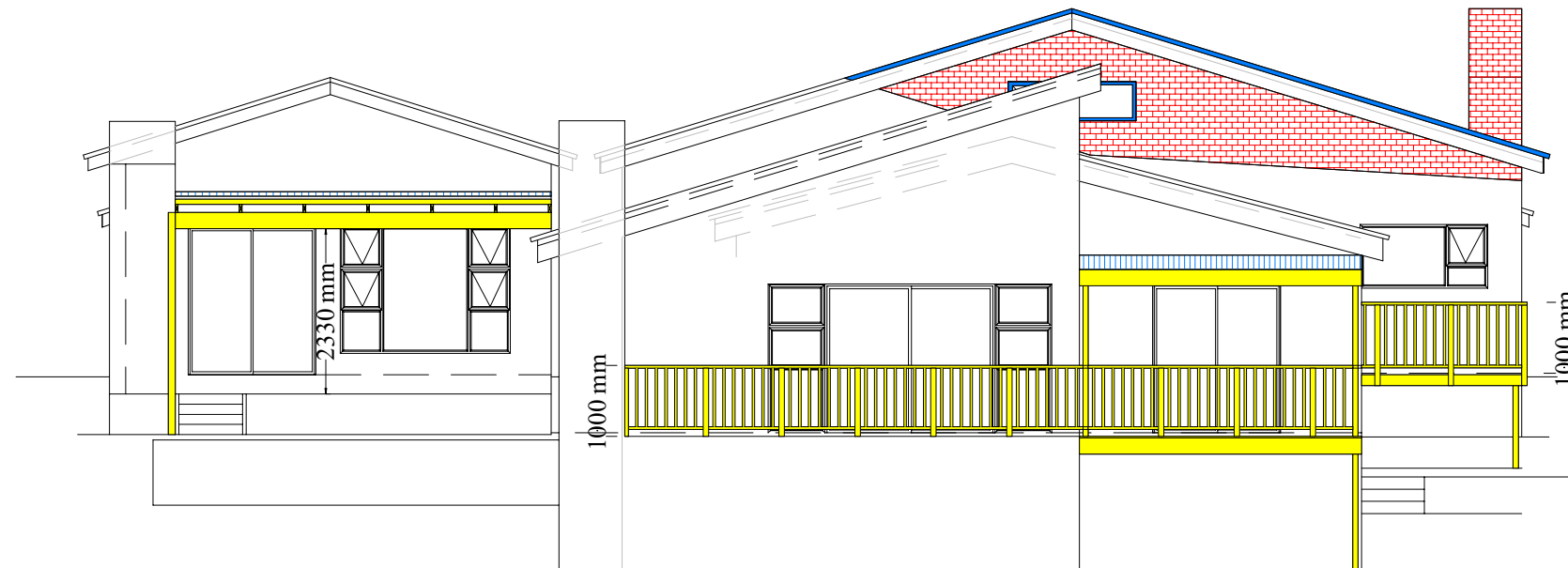
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Skaal 1 - 100



Suid Wes aansig
Skaal 1 - 100



Noord Wes aansig
Skaal 1 - 100