

OVERSTRAND MUNISIPALITEIT

ERF 12, KUSWEG 138, SANDBAAL, HERMANUS:

AANSOEK OM OPHEFFING VAN BEPERKENDE

TITELAKTEVOORWAARDES EN VERGUNNINGSGEBRUIK:

WRAP PROJECT OFFICE NAMENS KAMBRO TRUST

Kragtens Artikels 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die volgende aansoeke van toepassing op Erf 12, Sandbaai (die eiendom), naamlik:

Opheffing van beperkte titelaktevoorwaardes

Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelaktevoorwaardes C.2.(a) en C.2.(c) soos vervat in titelakte T.66008/1998 van die eiendom om 'n gastehuis en tweede woning te akkommodeer.

Vergunningsgebruik

Aansoek om vergunningsgebruik ingevolge Artikel 16(2)(o) van die Verordening om 'n vyf slaapkamer gastehuis vanaf die eiendom te bedryf.

Bepaling van 'n administratiewe boete

Aansoek om bepaling van 'n administratiewe boete ingevolge Artikel 16(2)(q) van die Verordening.

Besonderhede aangaande die voorstel lê ter insae gedurende weksdae tussen 08:00 and 16:30 by die Departement: Stadsbeplanning te Patersonstraat 16, Hermanus.

Enige kommentare op die voorstel moet skriftelik wees in ooreenstemming met Artikels 51 en 52 van die Verordening en die Munisipaliteit (Patersonstraat 16, Hermanus / (e) alida@overstrand.gov.za) bereik voor of op Vrydag, **22 November 2024**, met u naam, adres en kontakbesonderhede, belang in die aansoek, asook die redes vir kommentaar. Telefoniese navrae kan gerig word aan die **Stadsbeplanner, Mnr. B Minnaar** by 028-3138900. Die Munisipaliteit mag weier om kommentare wat na die sluitingsdatum ontvang word, te aanvaar. 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 formuleer. Munisipale Bestuurder, Overstrand Munisipaliteit, Posbus 20, **HERMANUS**, 7200

Munisipale Kennisgewing Nr.159/2024

OVERSTRAND MUNICIPALITY

ERF 12, 138 KUSWEG, SANDBAAL, HERMANUS:

APPLICATION FOR THE REMOVAL OF RESTRICTIVE TITLE

DEED CONDITIONS AND CONSENT USE: WRAP PROJECT

OFFICE ON BEHALF OF KAMBRO TRUST

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 12, Sandbaai (the property), namely:

Removal of restrictive title deed conditions

Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions C.2.(a) and C.2.(c) as contained in the title deed T.66008/1998 of the property to accommodate a guest house and a second dwelling unit.

Consent use

Application for consent use in terms of Section 16(2)(o) of the By-Law to conduct a five-bedroom guesthouse from the property.

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

Details regarding the proposal is available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning at 16 Paterson Street, Hermanus.

Any comments on the proposal must be in writing in accordance with Sections 51 and 52 of the By-Law to reach the Municipality (16 Paterson Street, Hermanus / (e) alida@overstrand.gov.za) on or before Friday, **22 November 2024**, quoting your name, address and contact details, interest in the application, as well as the reasons for comment. Telephonic enquiries can be made to the **Town Planner, Mr. B Minnaar** at 028-3138900. 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.

Municipal Manager, Overstrand Municipality, P.O. Box 20, **HERMANUS**, 7200

Municipal Notice No.159/2024

UMASIPALA WASE-OVERSTRAND

ISIZA 12, 138 KUSWEG, SANDBAAL, HERMANUS:

ISICELO SOKUSUSWA KWEZITHINTELO

NGOKWEMIGAQO KUNYE UYAVUMA

UKUSEBENZISA: WRAP PROJECT OFFICE EMAGENI

LIKA KAMBRO TRUST

Isaziso siyanikezelwa ngokweCandelo lama-47 nelama-48 loMthetho kaMasipala woLungiso loMthetho kaMasipala kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, ka-2020 (uMthetho kaMasipala) kwezi zicelo zilandelayo zisebenza kwiSiza-12, eSandbaai (kwipropati), ezizezi:

Ukususwa kweMiqathango yeSithintelo setayitile yoBunini

Isicelo ngokungqinelana neCandelo 16(2)(f) loMthetho kaMasipala sokususwa kwemiqathango ethintelayo yetayitile yobunini C.2.(a) no-C.2.(c) njengoko iqulethwe kwitayitile T.66008/1998 kule propati kuhlalise indlu yeendwendwe kunye neyunithi yokuhlala yesibini.

Uyavuma ukusebenzisa

Isicelo semvume yokusetyenziswa ngokwemigaqo yeCandelo le-16(2)(o) loMthetho kaMasipala wokuqhuba indlu yeendwendwe enamagumbi amahlanu kule propati.

Ukumiselwa kwesohlwayo solawulo

Isicelo sokumiselwa kwesohlwayo solawulo ngokweCandelo le-16(2)(q) loMthetho kaMasipala.

Iinkcukacha ngesi sindululo ziyafumaneka ukuze zihlole ngeentsuku zokusebenza ngamaxesha eveki phakathi kwentsimbi ye-08:00 neye-16:30 kwiSebe: Zicwangiso ngeDolophu kwa-16 Paterson Street, Hermanus.

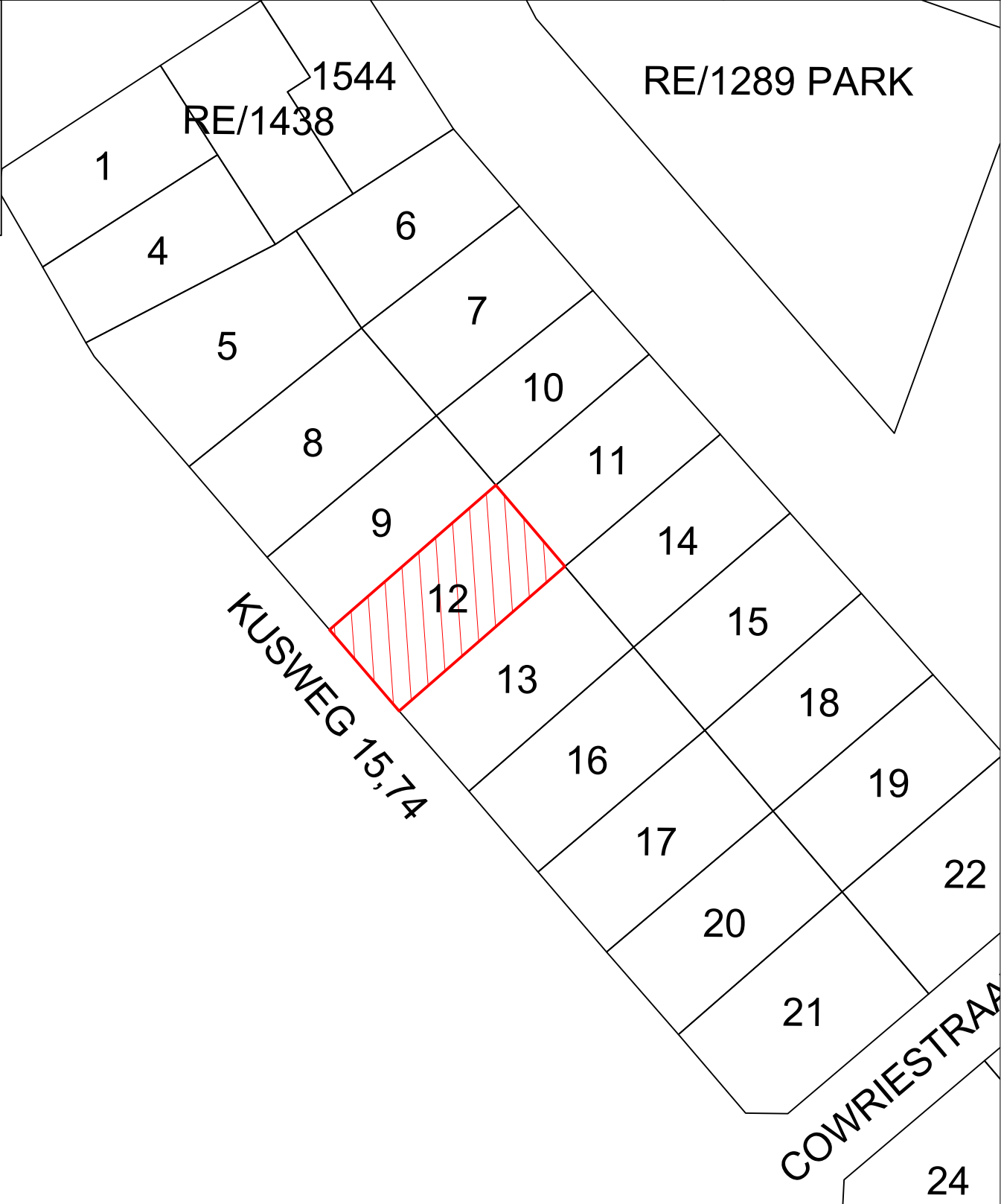
Naziphi na izimvo ezibhaliweyo zingangeniswa ngokungqinelana nemigaqo yeCandelo lama-51 kunye nelama-52 alo Mthetho kaMasipala oxeliweyo kuMasipala (16 Paterson Street, Hermanus / (e) alida@overstrand.gov.za) ngomhla okanye ngaphambi koko **22 eyeNkanga 2024**, uqaphula igama lakho, idilesi kunye neenkukacha zoqhagamshelwano, umdla kwisicelo kunye nezizathu zezimvo Imibuzo ngomnxeba ingenziwa **kuMcwangcisi weDolophu, uMnu. B Minnaar** kule nombolo 028-3138900. UMasipala unokwala ukwamkela izimvo ezifunyenwe emva komhla wokuvala. Nabani na ongakwaziyo ukufunda okanye ukubhala angandwendwela iSebe loCwangciso lweDolophu apho igosa likamasipala liya kuthi limncedise ukuze abhale ngokusesikweni izimvo zakhe.

Umphathi kamasipala, Umasipala iOverstrand, Ibhokisi yePosi 20, **HERMANUS**, 7200

Inombolo yesaziso.159/2024

1. Locality Plan
Erf 12 - Sandbaai

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



Scale 1 : 1000



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

Erf Number	Erf 12 Sandbaai
Extent	714m ²
Zoning	Residential Zone 1: Single Residential

3. BACKGROUND AND INTENT

Erf 12 Sandbaai, referred to as the subject property, is located at 138 Kusweg, Sandbaai (refer to **Plan 1 – Locality Plan**). The property owners (The Kambro Trust) appointed WRAP Project Office to submit this land use application on their behalf (refer to **Annexure A – Power of Attorney**).

The subject property has been owned by the property owners since 2007. They built the current dwelling to be operated as a guest house and applied for departure to operate a guest house with 4 guest bedrooms. The departure was only valid for a period of five years, which has since lapsed without their prior knowledge. This application aims to rectify the situation to ensure the property may be utilized as a guest house with five guest bedrooms to utilise the property at its maximum capacity. They are in the process of selling the property and only realized the issue after potential buyers inquired about the approvals.

Additionally, when the property was historically constructed, they added a manager's residence where the owners reside. This residence is not linked to the main dwelling, creating a second dwelling. As the title deed restricts the property to be improved with only one dwelling unit, it is proposed to remove this condition from the title deed. Since the owners have been operating without the necessary approval, it is required that an application for the determination of an administrative penalty is also submitted.

The property owner has continued operation of the guest house after the previous approval lapsed.

To ensure compliance with the OMLUS, approval of the following applications is required:

- Removal of a restrictive title deed conditions;
- Consent use to allow a guest house; and
- Determination of an administrative penalty.



4. PROCEDURE TO ACHIEVE THE PROPERTY OWNER'S INTENT

WRAP compiled this report to ensure the property owner's vision is achieved. The following is proposed:

4.1 Removal of restrictive title deed conditions to accommodate the guest house and a second dwelling unit.

There are two title deed conditions that prohibit the approval of the land use rights necessary for the guest house to operate as it is intended and the rationale for the removal of this condition is discussed below:

Restrictive Title Deed Condition
Condition C(2)(a) – <i>“Dat die hierbokeskrewe grond gebruik sal word slegs vir woningsdoeleindes”</i>

The abovementioned condition prohibits the dwelling to be used for a guest house as it is not considered aligned with “woningdoeleindes”.

The rationale for the removal of the restrictive title deed conditions is to enable the owners to achieve their intent highlighted in Section 3 of this report. The reasoning for the removal of this restrictive title deed condition will be discussed in detail in Section 7 of this report.

Restrictive Title Deed Condition
Condition C(2)(c) – <i>“Dat nie meer dan een woonhuis met die nodige buitegeboue en benodighede opgerig sal word op enigeeen van die bogemelde erwe nie en dat nie meer dan helfte van die oppervlakte van elke erf bebou sal word nie”</i>

The abovementioned condition prohibits a second dwelling unit on the subject property. It is important to note that a second dwelling unit is allowed in terms of the OMLUS on a single residential zoned property. Therefore, this condition is more restrictive than what is allowed in terms of the OMLUS.

The rationale for the removal of the restrictive title deed conditions is to enable the owners to achieve their intent highlighted in Section 3 of this report. The reasoning for the removal of this restrictive title deed condition will be discussed in detail in Section 7 of this report.

4.2 Consent Use for a guest house.

As mentioned in Section 3, the subject property had historic departure approval for a guest house in terms of a previous zoning scheme that had lapsed without the knowledge of the property owners. However, operations have continued, and the property owners recently discovered that the approval had lapsed after a potential buyer inquired about the historic approval. The owners purposefully built the dwelling to operate as a guest house of the highest standard. Each room is well equipped to ensure that the requirements of guests are met. In 2014 the owners had made some additions to the property by adding an extra room to the back patio, this room is mainly used for guests to lounge and have also been used by the owner's children when they visit. It is important to note this room is not utilised as one of the guest bedrooms.

The property is improved with two dwellings. The main dwelling house is a double-storey structure with a ground floor and a first floor. The second dwelling unit is an extension of the main dwelling connected via the garage and is exclusively used by the managers (the owners). The property is ideally located on Kusweg in Sandbaai with uninterrupted views of the ocean.

The building plans of the guest house reflect high architectural integrity, and the property was designed to be optimally used as a guest house. It blends seamlessly with the mixed-use character of the surrounding area. Each bedroom is fitted with a double bed to accommodate two guests, and each room has an en-suite bathroom to ensure the privacy of the guests. In addition, the property has seven parking bays of which two are used by the owners, and five are provided for the guests, aligning with the parking requirements of the OMLUS (refer to **Plan 4 – Site Plans**).

The guest house is located in Sandbaai, and the property owner hopes that it will continue to attract guests and patrons from all over the world. The property owner has operated the guest house successfully over the past few years and is aware of the high competition in Sandbaai and Hermanus with regard to guest houses. They welcome this competition, as each guest house offers a unique experience. See figures below:



Figure 1: Pictures of the subject property

- **Economic Benefit:**

Allowing the guest house to operate legally will contribute to the local economy by attracting tourists, which will benefit local businesses and create employment opportunities.

- **Architectural and Environmental Harmony:**

The guest house is designed with high architectural integrity and blends seamlessly with the mixed-use character of the surrounding area. Its location on Kusweg provides guests with scenic views of the ocean, enhancing their experience and contributing positively to the area's aesthetic.

- **High-Quality Accommodation:**

The property is purpose-built to provide high-quality accommodation. Each room is well-equipped, ensuring guest comfort and privacy, which meets the high standards expected by visitors.



- **Compliance with OMLUS:**

The guest house meets the parking requirements stipulated by OMLUS, demonstrating the owners' commitment to complying with land use regulations.

- **Operational Success and Experience:**

The property owners have successfully operated the guest house for several years, demonstrating their capability to manage the establishment efficiently and effectively. Their experience ensures that guests receive a high standard of service.

Additionally, the guest house has been awarded through several institutions on its historic operations, refer to **Annexure C – Awards obtained by the guest house.**

- **Support for Local Tourism:**

The guest house attracts visitors from around the world, contributing to the tourism sector in Sandbaai and Hermanus. This influx of tourists supports local tourism initiatives and promotes the region as a desirable destination.

4.3 Determination of an administrative penalty in terms of Section 90(3).

The property has been operating as a guest house since 2007 and have not been interrupted. To ensure compliance with the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 it is of importance to include the determination of an administrative penalty into this application.

We however would like to request that the administrative penalty is waived as this application serves as method to rectify contravention that had occurred.

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 4.2 above.

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

The intention was never to knowingly contravene the provisions of the OMLUS. The property owner had a vision and executed on their vision and there was never any malintent planned by the property owner.

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

Due to the scale of the contravention a quantity surveyor was not involved.

The municipal valuation of the property is R 5 670 000.00, the land value of the property is R2,000,000.00 and the value of the improvements is R 3 670 000.00. The total extent of the building is 442,77 m² which gives a construction cost of R 8 288,73 per m².

The property was developed in two phases, the initial phase in 2007 and second was only renovations.

According to the owners the total building cost was R2 900 000.00 at the time, which equates approximately R6550.00 per square meter.



Since the approval of the initial departure for a guest house, the owners paid property rates for a guest house with 5 lettable rooms in terms of the Overstrand Municipality's budget. Even when the initial departure lapsed after 5 years, the owners kept on paying the rates applicable to a property letting 5 rooms.

The Municipality at no stage lost any property rates but received rates according to the use. We are of the opinion that this fact plays a major role in considering that the administrative penalty is waived completely.

Whether the unlawful conduct was stopped

The guest house is still operational as it would not be financially viable to shut down the guest house. The property owners are dependent on the income from the guest house, and it would cause financial ruin should the guest house be closed.

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. 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).

6. TITLE DEED

Title deed T66008/1998 (refer **Annexure B**) was perused and there are two restrictive conditions that require removal to allow the existing structure to be compliant.

Title deed restrictions

Condition C(2)(a) – “Dat die hierbokeskrewe grond gebruik sal word slegs vir woningsdoeleindes”

Condition C(2)(c) – “Dat nie meer dan een woonhuis met die nodige buitegeboue en benodighede opgerig sal word op enigeeen van die bogemelde erwe nie en dat nie meer dan helfte van die oppervlakte van elke erf bebou sal word nie.”

Motivation

The rationale for the proposed removal

The subject property is currently being used as a guest house with a second dwelling unit on the ground floor. Due to the property not complying with conditions of the title deed it is proposed to remove these conditions in order to achieve the intent of the owners.

Title deed condition background

The restrictive title deed conditions were originally intended to protect the residential character of the Sandbaai area. Any amendment or removal of these conditions require the consent of the Administrator. This authority now vests with the Overstrand Municipality.



Status quo

The current OMLUS has clear development guidelines in place to ensure the whole of the Overstrand Area's residential properties are managed in a similar manner. The title deed condition C(2)(a) is more restrictive than the development parameters of the OMLUS. The development parameters of the OMLUS allows a residential erf to be used for a guest house (with consent of the municipality). This condition made sense prior to the OMLUS, however, is now more restrictive than the provisions of the OMLUS. Therefore, removal of condition C(2)(a) is proposed to allow the second dwelling unit.

It is now the current owners' responsibility to ensure that the property complies with the applicable legislation and the title deed to be able to use the property as they intend to.

In terms of the requirements of LUPA, the following is addressed in terms of Section 39(5)(a-f):

LUPA, Section 39(5) (a-f)	
<i>(a) 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>	No person or entity will be affected financially by the removal of these restrictive title deed conditions.
<i>(b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;</i>	No person is personally benefitting from this condition as this condition is only restricting the owners.
<i>(c) 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 owners will be gaining from the removal of the restrictive conditions as it will allow them to continue operating the guest house and utilising the second dwelling unit.
<i>(d) the social benefit of the restrictive condition remaining in place in its existing form;</i> <i>(e) the social benefit of the removal, suspension or amendment of the restrictive condition; and</i>	These restrictive conditions do not provide socials benefits.
<i>(f) 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>	There is no specific beneficiary of these conditions, and no person or entity will be affected if this is removed.

7. 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:



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.	Guest House	
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%	Area of site = 714m ² Building Footprint – 496m ² Coverage = 496m ² / 38,48%	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	Comply
Height	The maximum height of a building, measured from the base level to the top of the structure, is 8,0 m.	Existing – two Storey	Comply
Garages and carports	Garages and carports may be constructed within building lines in accordance with Chapter 16.1.2.	Parking Requirements 5 parking bays required for the 5 guest rooms & 2 parking bays required for the managers 7 parking bays required 7 parking bays provided	Comply



8. 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 is not expected to put excessive amount of pressure on these networks.

Solid waste is collected every week by the OM.

Access and Egress

Access and egress to the subject property is gained from Kusweg and the proposal will not affect this.

9. 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 need for the land use application was a result of addressing all the land use requirements and ensuring the property meets the requirements of the owners. To achieve this, the owners are required to apply for a removal of restrictive title deed conditions and a consent use to allow the guest house.

Socio-economic impact	<p>The consent use and removal of the restrictive title deed conditions are predicted to have a socio-economic impact, some of the impact expected are the following:</p> <ul style="list-style-type: none"> • Job Creation: The operation of the guest house will create direct employment opportunities for local residents, including managerial staff, housekeeping, maintenance, and other support services. This will provide stable income and improve the livelihood of employees and their families. • Support for Local Businesses: Guests staying at the guest house will likely frequent nearby restaurants, shops, and attractions, leading to increased revenue for local businesses. This boost in customer traffic can help sustain and potentially expand these businesses, fostering a more vibrant local economy. • Tourism Growth: By offering high-quality accommodation, the guest house will attract more tourists to Sandbaai and Hermanus. Increased tourism can lead to a higher demand for local tours, activities, and cultural experiences, further stimulating economic growth in the region.
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- **Property Value Enhancement:**

The presence of a well-maintained and attractive guest house can enhance the overall appeal and value of surrounding properties. This can be beneficial for other property owners in the area, contributing to a positive real estate market.

- **Community Development:**

The economic benefits generated by the guest house can contribute to community development projects. Increased tax revenue from the successful operation of the guest house can be used by local authorities to improve infrastructure, public services, and community facilities.

- **Cultural Exchange:**

The guest house will host visitors from various parts of the world, promoting cultural exchange and understanding. This can enrich the local community's cultural fabric and foster a sense of global connectedness.

- **Sustainable Tourism:**

With its commitment to high-quality service and environmental harmony, the guest house can serve as a model for sustainable tourism practices. This can encourage other businesses in the area to adopt similar practices, leading to a more sustainable and responsible tourism industry.

- **Increased Tax Revenue:**

The guest house will continue to contribute to local tax revenues through property taxes, business taxes, and other applicable levies. This revenue can be utilized by the local government to fund public services and community improvements.

- **Enhanced Local Identity:**

A successful guest house can enhance the identity and reputation of Sandbaai and Hermanus as desirable tourist destinations. This can attract more visitors and investment to the area, further boosting economic development and community pride.

In summary, the approval and continued operation of the guest house will provide substantial socio-economic benefits, including job creation, support for local businesses, tourism growth, enhanced property values, community development, cultural exchange, sustainable tourism practices, increased tax revenue, and an enhanced local identity.



Compatibility with surrounding uses	<p>The proposal is to ensure the property complies with the OMLUS. It is not predicted that the proposal is out of line with the surrounding area:</p> <ul style="list-style-type: none"> • Residential Harmony: The guest house is designed to maintain a residential feel, ensuring it does not disrupt the tranquillity of the neighbourhood. Its operation is consistent with the local residential atmosphere, and it provides a quiet and comfortable environment for guests and neighbours alike.
Impact on the external engineering services	Refer Section 9.
Impact on safety, health and wellbeing of the surrounding community	It is not predicted that the proposal will have an impact on safety, health, and wellbeing of the surrounding community.
Impact on heritage	The subject property is not listed in the OM Heritage Register.
Impact on the biophysical environment	It is not predicted that the proposal will have an impact on the biophysical environment.
Traffic impacts, parking, access and other transport related considerations	The proposal will not have an impact on traffic, parking or access.

Impact on views, sunlight and character of the area

The subject property is located in a residential neighborhood and the existing buildings are compliant with the OMLUS's development parameters ensuring no views, sunlight, or the character of the area is affected.

The guest house was designed in such a way to ensure it does not take away from the character of the area. It is not predicted that the proposal will have any impact on the views, sunlight, and character of the area.

Economic impact

The proposal will have a sustainable impact on the economy by firstly creating job opportunities in an area where there was historically low economic activity. The guests being accommodated at the guest house will be spending money in Sandbaai, Hermanus and the surrounding areas. The guest house will also add additional value onto the property, and which would create additional income for the municipality through the collection of rates and taxes and an increased municipal valuation.

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 and the renovation had a positive impact on the area itself.

Impact on heritage

The subject property is not listed in the OM Heritage Register.



Environmental impact

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

10. POLICIES AND REGULATIONS

10.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

The subject property is not located within the EMOZ.

10.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The subject property is located within the 'Costal Strip' HPOZ. The proposal will not have an impact on these Heritage Protection Overlay Zones.

10.3 Spatial Planning Policies

PSDF

Broad policy objectives

The objective of the policy is to create an enabling policy environment and prioritises the creation of employment opportunities, social inclusion and improvement of the quality of life of the Western Cape inhabitants. The development principles in the PSDF are informed by other spatial planning policies which are aimed at creating a policy alignment between different spheres of government.

Consistency of the proposal with the policy

The PSDF highlights that the OM functions as a significant leisure, lifestyle and holiday economic centre. The approval and implementation will enable the property owners to continue to operate a guest house that will allow guests and tourist to have accommodation available while supporting the lifestyle and holiday economic centre as prescribed by the policy.

The policy cites those coastal economic activities to include nature-based tourism. The guest house is ideally located in Sandbaai located close to Hermanus and has easy access to the Hermanus CBD to support the local businesses. This is one of the drawcards to the region and this proposal is intended to capitalise on this nature-based tourism that is prevalent on the subject property.

The PSDF promotes the transition of urban settlements from having limited economic opportunities to a variety of livelihoods and opportunities. This guest house is intended to ensure additional economic opportunities are available on the subject property which is compatible with the mixed land use fabric and will contribute towards the provision of a variety of livelihoods as prescribed by the policy.

MSDF

The broad policy objectives of the SDF include enhancing the image of the Overstrand as a liveable urban area that provides a range of facilities and activities which tourists can enjoy. Development proposals should also capitalise on the unique sense of place which urban areas in the Overstrand are renowned for. The SDF promotes developments that enhance the visual quality and attraction of the built environments while preserving the social and cultural attributes which are valued by inhabitants.



Consistency of the proposal with the policy

The spatial proposal plan designates the subject property for residential purposes and the proposed guest houses on the property is in harmony with this designation.

The policy cites that tourism destinations need to be accessible, safe and attractive through maintaining current facilities and developing new ones. This proposal entails the continuation of the operation of the guest house and entails the continuation to operate the property as a tourist accommodation facility that is accessible and with a variety of safety and security measures as prescribed by the policy.

The policy highlights that development proposals should ideally protect the unique character of the Greater Hermanus. The building is within the development bulk and scale of the SR1 zoning, and the guest houses is in harmony with the prevalence of other guest houses within the Hermanus area.

11. PLANNING PRINCIPLES

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

Spatial justice

Spatial justice refers to planning proposals that do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal to continue to operate a guest house is not predicted to contribute to past spatial injustices.

Spatial sustainability and Efficiency

Spatial sustainability refers to planning proposals that result in communities that are viable. This proposal to continue the utilisation of the property for more than just a residential property and operate a guest house which will ensure the property is being used for its maximum capabilities.

Spatial resilience

This proposal is not in conflict with any spatial planning policies or other OM regulations which is a hallmark of resilience.

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.



12. EVALUATION

The proposal is to allow the property owners to continue utilising their property as a guest house. The property owners now understand the land use process and will ensure that all land uses and buildings adhere to the provisions of OMLUS in the future.

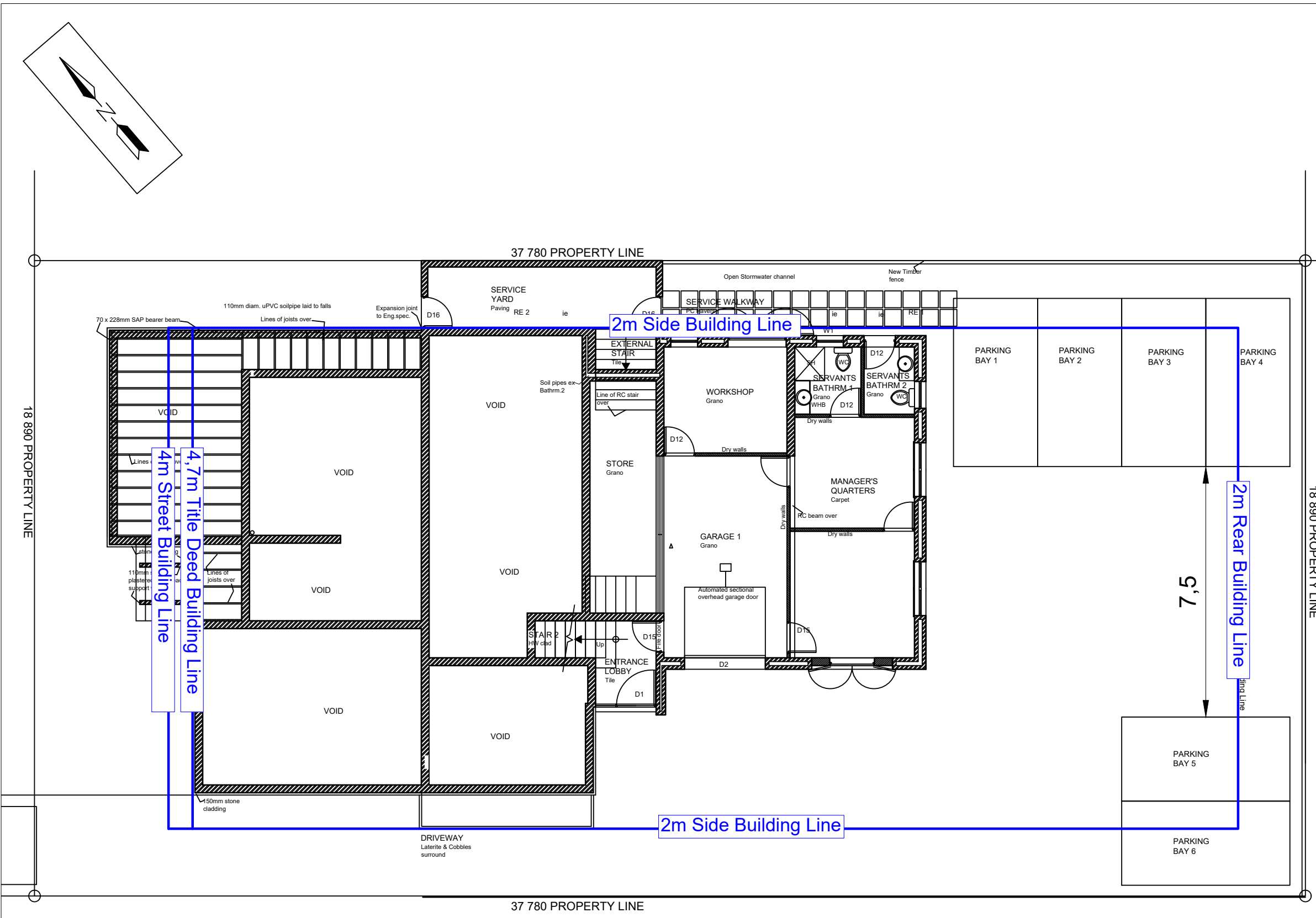
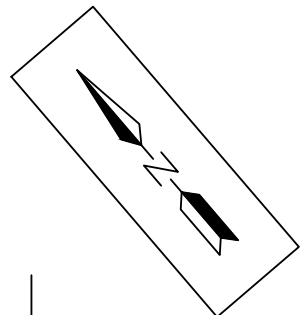
Therefore, the application serves as a mitigation measure to waive the administrative penalty, as there has been no malintent and no complaints have been received regarding the operations of the guest house. The property owners have also taken corrective steps to submit this application to ensure the guest house is legally operated, including approval for the additional storage area at the rear of the property.

The proposals are not out of context with the surrounding area and are not seen as nuisance land uses. The proposals are in harmony with all relevant spatial planning policies, demonstrating that the property owners did not arbitrarily invent this proposal but had due consideration for relevant spatial planning policies.

13. RECOMMENDATION

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

- 13.1 Removal of restrictive title deed conditions** in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;
- 13.2 Consent Use** for a guest house in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020; and
- 13.3 Waiving of the determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.



4. Site Plan
Erf 12 - Sandbaai

Extent - 713m²

Coverage - 442,77m² / 38.2%

Proposed Parking

5 Guest Rooms = 5 Parking Bays
Managers = 2 Parking Bays

Total Parking Bays required = 7

Total Parking Bays provided = 7

LOWER GROUND FLOOR

Scale 1 : 125

Plan prepared by: Thian Jansen on 22/07/2024
Based on plans by Andrew Greeff Architects

All distances are approximate
and subject to a survey

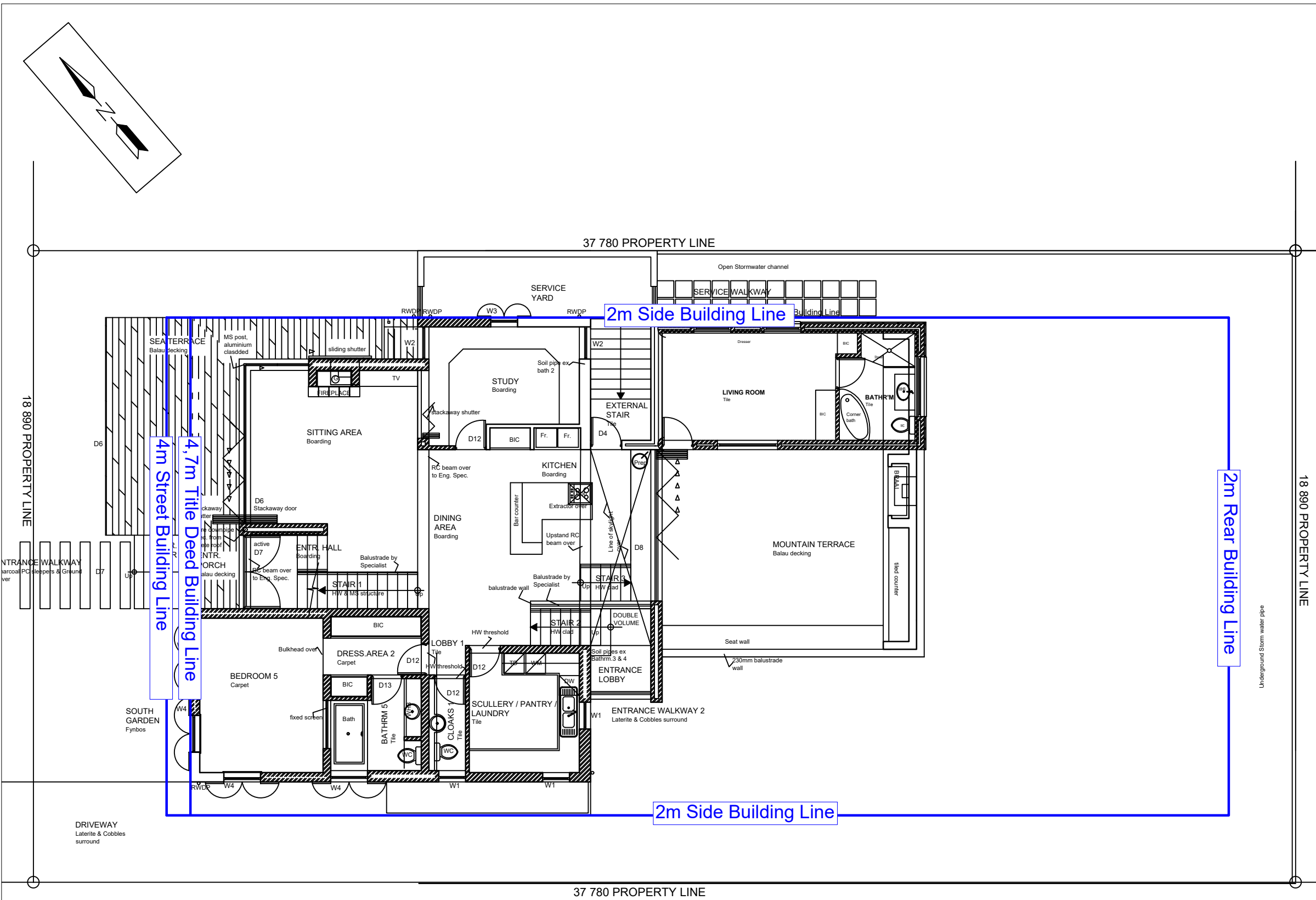
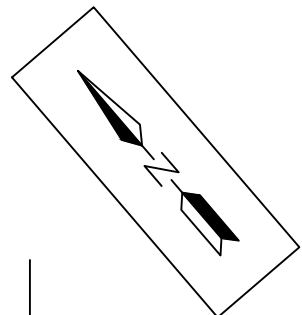
Tel: 028 313 1411

Email: admin@wrapgroup.co.za

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



Project Office
Town Planning & Project Management



4. Site Plan
Erf 12 - Sandbaai

Extent - 713m²

Coverage - 442,77m² / 38.2%

Proposed Parking

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Managers = 2 Parking Bays

Total Parking Bays required = 7

Total Parking Bays provided = 7

UPPER GROUND FLOOR

Scale 1 : 125

Plan prepared by: Thian Jansen on 22/07/2024
Based on plans by Andrew Greeff Architects

All distances are approximate
and subject to a survey

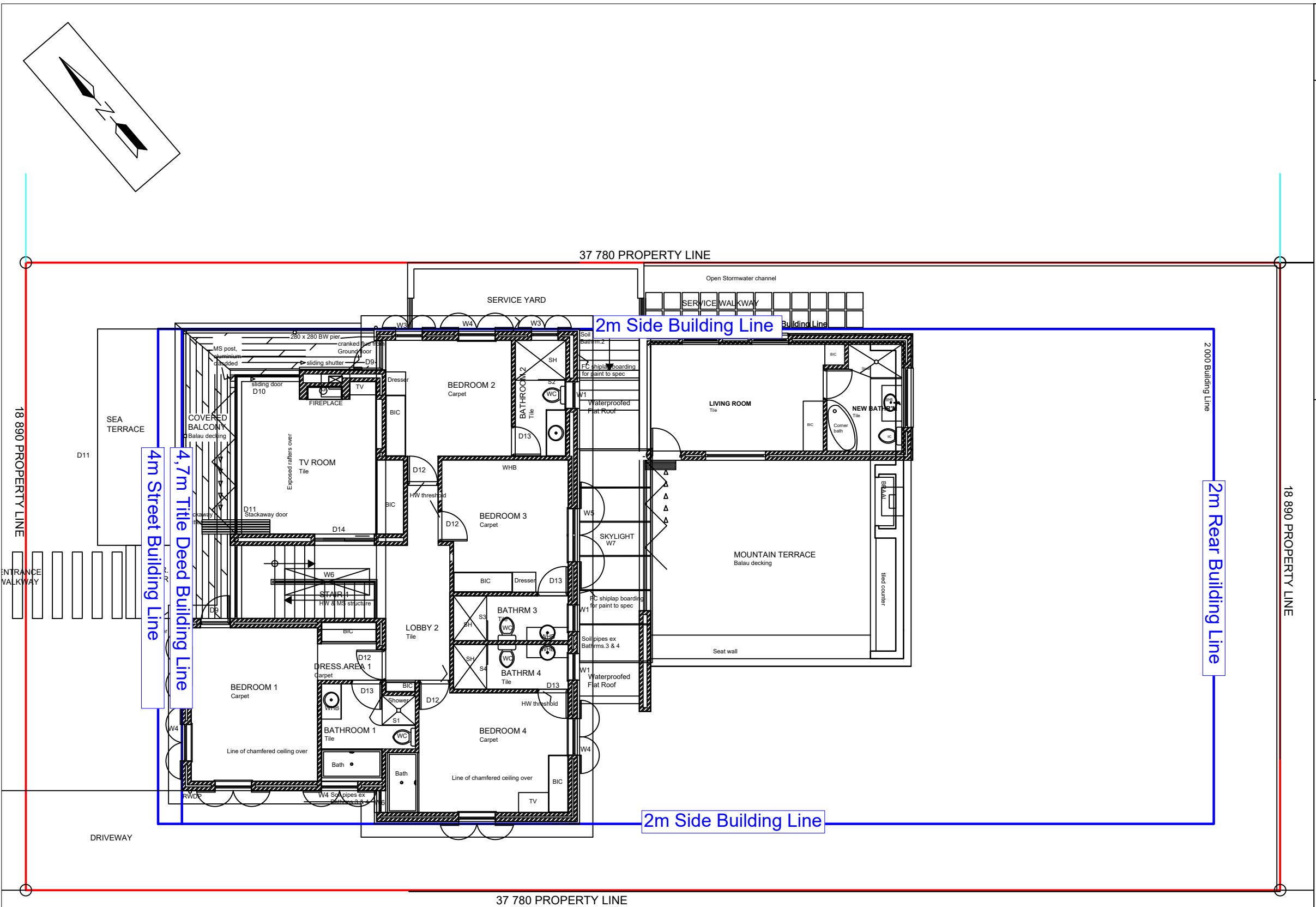
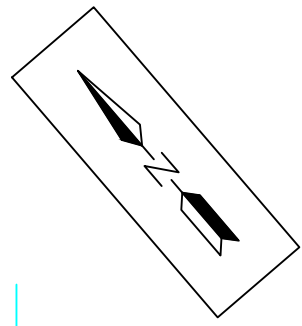
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4. Site Plan
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EXISTING DWELLING

Plan prepared by: Thian Jansen on 22/07/2024
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FIRST FLOOR

Scale 1 : 125