



# STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

Application Number: LU/8477

Our File Reference Number: Erf 1467, Franschhoek

Your Reference Number:

Enquiries: Ulrich von Molendorff

Contact No: 021 808 8682

Email address: [Ulrich.Vonmolendorff@stellenbosch.gov.za](mailto:Ulrich.Vonmolendorff@stellenbosch.gov.za)

PER E-MAIL: [REDACTED] / [REDACTED]

Sir/Madam

**APPLICATION TO COMPLY WITH A CONDITION OF APPROVAL (APPROVAL OF LANDSCAPING PLAN IN TERMS OF SECTION 15(2)(I) OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BYLAW 2015): ERF 1467, FRANSCHHOEK**

1. The above application refers.
2. The duly authorised decision maker has decided on the above application as follows:
  - 2.1 That The application for a permission required in terms of a condition of approval in terms of Section 15(2)(I) of the said bylaw to comply with Conditions 3.6 and 3.7 as stipulated in the letter of approval, dated 21 January 2020 for the implementation of a landscaping plan on Erf 1467, Franschhoek.

**BE APPROVED** in terms of Section 60 of the said Bylaw and subject to the following conditions in terms of Section 66 of said Bylaw:

- (i) The approval applies only to the landscaping plan and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council.
- (ii) The approval granted does not exempt the applicant/operator from complying with any other legal prescriptions or requirements that might have a bearing on the activity.
- (iii) The remaining conditions imposed by Council in its approval letter dated 21 January 2020, are still applicable (see **Annexure C**).

- (iv) The landscaping plan must be implemented before an occupation certificate will be issued.

3. The reasons for the above decision are as follows:

3.1 The landscaping plan sufficiently deals with the screening of the parking area next to the scenic route.

4. You are hereby informed in terms of section 79(2) of the Stellenbosch Municipal Land Use Planning Bylaw, 2015, of your right to appeal the above decision to the Appeal Authority within 21 days from the date of notification of the above decision. Please note that no late appeals or an extension of time for the submission of appeals are permitted in terms of Section 80(1)(a) of the said By-Law.

5. Appeals must be submitted with the prescribed information to satisfy the requirements of Section 80(2) of the said By-law, failing which the appeal will be invalid in terms of Section 81(1)(b) of the said By-Law. The following prescribed information is accordingly required:

(a) The personal particulars of the Appellant, including:

- (I) First names and surname;
- (II) ID number;
- (III) Company of Legal person's name (if applicable)
- (IV) Physical Address;
- (V) Contact details, including a Cell number and E-Mail address;

(b) Reference to this correspondence and the relevant property details on which the appeal is submitted.

(c) The grounds of the appeal which may include the following grounds:

- (i) that the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000);
- (ii) grounds relating to the merits of the land development or land use application on which the appellant believes the authorised decision maker erred in coming to the conclusion it did.

(d) whether the appeal is lodged against the whole decision or a part of the decision;

(e) if the appeal is lodged against a part of the decision, a description of the part;

- (f) if the appeal is lodged against a condition of approval, a description of the condition;
- (g) the factual or legal findings that the appellant relies on;
- (h) the relief sought by the appellant; and
- (i) any issue that the appellant wishes the Appeal Authority to consider in making its decision;
- (j) That the appeal includes the following declaration by the Appellant:

- (i) The Appellant confirms that the information contained in the subject appeal and accompanied information and documentation is complete and correct
- (ii) That the Appellant is aware that it is an offence in terms of Section 86(1)(d) of the said By-Law to supply particulars, information or answers in an appeal against a decision on an application, or in any documentation or representation related to an appeal, knowing it to be false, incorrect or misleading or not believing them to be correct.

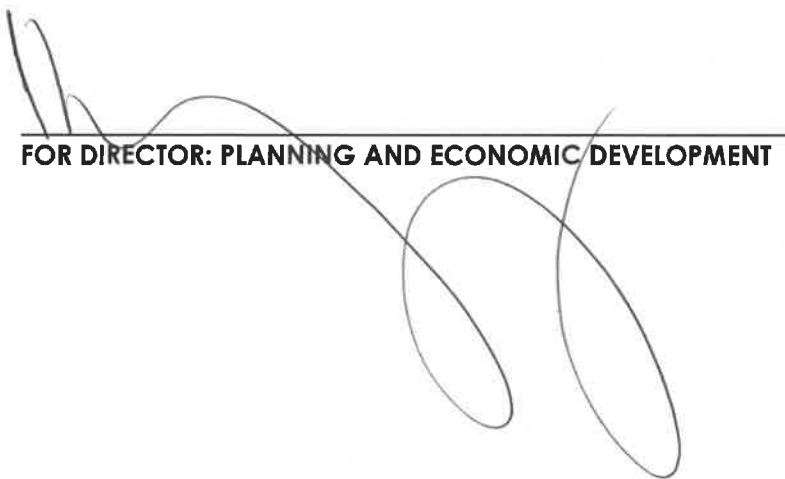
6. Appeals must be addressed to the Municipal Manager and submitted to his/ her designated official by means of E-mail at the following address: [landuse.appeals@stellenbosch.gov.za](mailto:landuse.appeals@stellenbosch.gov.za)
7. Any party (applicant or other) who lodges an appeal must pay the applicable appeal fee in terms of the approved municipal tariffs and submit the proof of payment together with the appeal. The **LU** Reference number on this correspondence, or the applicable Erf/ Farm Number must be used as the reference for the payment of the appeal fee.
8. The approved tariff structure may be accessed and viewed on the municipal website (<https://www.stellenbosch.gov.za/documents/finance/rates-and-tariffs>) and the banking details for the General Account can also be accessed on the municipal website (<https://www.stellenbosch.gov.za/documents/general/8314-stellenbosch-municipality-banking-details-1/file>).
9. An applicant who lodge an appeal must also adhere to the following requirements stipulated in terms of section 80(3) to (7) of the said By-law:
  - (a) Simultaneously serve the appeal on any person who commented on the application concerned and any other person as the municipality may determine.

- (b) The notice by the applicant must invite persons to comment on the appeal within 21 days from date of notification of the appeal.
- (c) The notice must be served in accordance with section 35 of the said legislation and in accordance with the prescripts or such additional requirements as may be determined by the Municipality.
- (d) Proof of serving the notification must be submitted to the Municipality at the above E-mail address within 14 days of serving the notification.

10. Kindly note that no appeal right exists in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000.

11. Kindly note the above decision is suspended, and in the case of any approval, may therefore not be acted on, until such time as the period for lodging appeals has lapsed, any appeal has been finalised and you've been advised accordingly.

Yours faithfully



**FOR DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT**

9/11/2021  
**DATE:**

# **ANNEXURE B**

**APPROVAL OF LANDSCAPING PLAN  
IN TERMS OF SECTION 15(2)(I) OF  
THE STELLENBOSCH MUNICIPAL LAND  
USE PLANNING BYLAW, 2015 FOR  
ERF 1467, FRANSCHHOEK**

**LANDSCAPING PLAN**

- LEGEND:**
- Planned existing 'Lofteleer' wall
  - Paved road and parking (interlocking exposed sandstone aggregate / grass block paving)
  - Dam
  - Lawn
  - Groundcover, shrub and indigenous tybas planting
  - Extensive tybas verge planting
  - EXISTING TREES: (to remain)
  - Eucalyptus spp.
  - Platanus x acerifolia
  - Pinus spp.
  - Hedge
  - Cyperus spp.

**NEW TREES: (min. size 50L)**

- Syringium guineense
- Tarochanthus camphoratus
- Podocarpus latifolius
- Buddleja saligna
- Olea europaea subsp. Africana
- Rapanea melanophloea
- Quercus serris
- Platanus x acerifolia

**NOTES:**

- 1) A fully automatic irrigation system is to be installed to water trees. Irrigation coverage to be 100%. All trees to be planted in accordance with the SANS 10127:2012. All pipes and fittings to be SANS approved and to the Landscape Architects approval. All irrigation valves to be located in a protected area. All irrigation lines to be laid at a depth of 100mm below the ground surface. All trees to be planted at least 600mm from the edge of road or paving, and are to adhere to 800mm tree protection zone.
- 2) All trees to be staked using 250mm dia. metal tie rods driven 600mm into the ground and tied to a 250mm dia. stake. Care must be taken not to damage the root ball of the tree.

**URBAN VELD**

LANDSCAPE ARCHITECTS

P.O. Box 171743 | Westmead 2745 | Cape Town | South Africa  
 Tel: +27 (0)21 959 5500 | Email: info@urbanveld.co.za  
 www.urbanveld.co.za

**MONT MARTE, FRANSCHHOEK**

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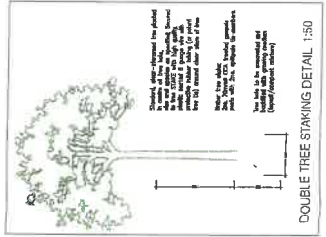
**LANDSCAPE PLAN**

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SCALE: 1:200 @ A1  
 DATE: 02-08-2021  
 PROJECT: 2104/LP/01  
 DRAWING: D



- PLANT LIST**
- TREES: MINIMUM SIZE 50L**
- Eucalyptus spp.
  - Podocarpus latifolius
  - Platanus x acerifolia
  - Pinus spp.
  - Quercus serris
  - Syringium guineense
  - Tarochanthus camphoratus
  - Buddleja saligna
  - Olea europaea subsp. Africana
  - Rapanea melanophloea
- GRASS: MINIMUM SIZE 4 PACK**
- Paspalum glaberrimum



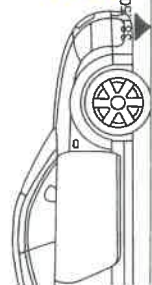
Existing plane tree



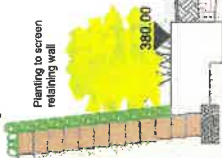
Screening planting



Parking area



Planted existing "Coffelsteier" retaining wall

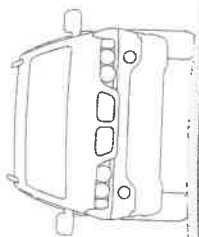


380.00

Planting to screen retaining wall



Existing access road to guest house



Existing tree



Planting



Indigenous fynbos planting



379.50

Lambrechts Road

379.00



# SECTION AA

SCALE 1:50

		LANDSCAPE ARCHITECTS <small>P.O. Box 5118   Plettenberg Bay   Cape Town   South Africa          Tel: +27 21 461 1111   Fax: +27 21 461 1112          www.urbanveld.co.za</small>	
		MONT MARTE, FRANSCHHOEK <small>www.montmarte.co.za</small>	
SECTION AA		DATE	02-09-2021
SCALE	1:50 @ A3	PROJECT	2104/SEC/01
		REVISION	B

# **ANNEXURE C**

**APPROVAL OF LANDSCAPING PLAN  
IN TERMS OF SECTION 15(2)(I) OF  
THE STELLENBOSCH MUNICIPAL LAND  
USE PLANNING BYLAW, 2015 FOR  
ERF 1467, FRANSCHHOEK**

**PREVIOUS APPROVAL**





# STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

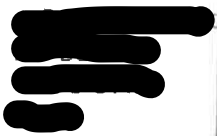
MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

INNOVATION CAPITAL • ININIKOUMSA NINGU • INNOVATION CITY

Application Number: LU/8477  
Our File Reference Number: Erf 1467, Franschhoek  
Your Reference Number: 17100  
Enquiries: Louisa Guntz / Nicole Katts  
Contact No: 021 808 8672 / 8318  
Email address: [louisa.guntz@stellenbosch.gov.za](mailto:louisa.guntz@stellenbosch.gov.za) / [Nicole.katts@stellenbosch.gov.za](mailto:Nicole.katts@stellenbosch.gov.za)

FILE NR:	
SCAN NR:	
COLLABORATOR NR:	

REGISTERED MAIL



STELLENBOSCH MUNICIPALITY  
PLANNING AND DEVELOPMENT SERVICES

26 MAY 2020

**RECEIVED**

**ORDINARY PARCEL**

- Full Domestic tracking and tracing
- Domestic Enquiries: ShareCall 0860 111 502 [www.sapo.co.za](http://www.sapo.co.za)
- PR 925 015 694 ZA

Sir / Madam

### APPLICATION FOR A TEMPORARY DEPARTURE, SPECIAL CONSENT USE AND REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: ERF 1467, FRANSCHHOEK

1. The application in the above regard, refers.
2. The Authorised Employee, on 10 January 2020, **approved, in whole** in terms of section 60 of the Stellenbosch Municipal Land Use Planning By-law, promulgated by Notice no 354/2015 dated 20 October 2015, the application for :
  - 2.1 A **temporary departure** to convert an existing farm building into a function venue, as indicated on Drawing Nr. A101/A301/A401, dated 22 August 2018, and drawn by KUBE Architecture.
  - 2.2 A **special consent** to regularize the existing guest accommodation facilities (four cottages and main house) on property, as indicated on Drawing Nr. A101/A301/A401, dated 22 August 2018, and drawn by KUBE Architecture.
  - 2.3 A **removal of restrictive title deed conditions** (Condition I. D (1-8)) to allow for a function venue and guest accommodation facilities.



3. **The above approvals are subject to the following conditions in terms of Section 66 of the Stellenbosch Municipal Land Use Planning By-law dated 20 October 2015:**

- 3.1 The approval applies only to the application in question, and shall not be construed as authority to depart from any other legal prescriptions or requirements from council;
- 3.2 The approval granted does not exempt the applicant/operator from complying with any other legal prescriptions or requirements that might have a bearing on the activity;
- 3.3 All electrical requirements must be referred to Eskom, considering that the Stellenbosch Municipality do not supply electricity in the area;
- 3.4 Both the function venue and guest accommodation buildings must comply with SANS 10400 Part 5 (Facilities for disable persons) (see **Appendix 8** for comment from the **Manager: Building Management**);
- 3.5 The conditions imposed by the Senior Legal Advisor as contained in their memo dated 31 January 2019 be complied with (see **Appendix 10**);
- 3.6 The applicant must submit a landscaping plan, compiled by a professional specialist, to ensure parking area is sufficiently screened from the scenic route (see **Appendix 12** for comment from the **Manager: Spatial Planning, Heritage & Environment**);
- 3.7 Landscaping plan to be approved by the Director: Planning and Economic Development (see **Appendix 12** for comment from the **Manager: Spatial Planning, Heritage & Environment**);
- 3.8 Any noise emissions from activities on the said premises comply with the Noise Control Regulation PN200/2013 and the By-Law on the Prevention of Public Nuisance & the Keeping of Animals in that:
  - 3.8.1 The SANS 10103 Table-typical rating levels for noise in districts are adhered to.
  - 3.8.2 No Noise Disturbance is caused in terms of the Provincial Noise Control Regulation PN200/13
  - 3.8.3 No Noise Nuisance is caused in terms of the Provincial Noise Control Regulation PN200/13 and the By law on the Prevention of the Public Nuisances & the Keeping of Animals (see **Appendix 13** for comment from the **Director: Community and Protection Services**).

- 3.9 The conditions imposed by the **Director: Engineering Services** as contained in their memo dated 23 September 2019 be complied with (see **Appendix 14**);
- 3.10 The restrictive title deed conditions relating to servitude rights of way shall remain in place and shall not be removed (see **Appendix 16** for comment from the **Department of Transport and Public Works**);
- 3.11 Access gates shall be left open prior to the start of functions to allow free inflow of traffic and minimise the likelihood of tailbacks into Main Road 191 (the R45, Lambrechts Road) (see **Appendix 16** for comment from the **Department of Transport and Public Works**);
- 3.12 The temporary departure is only valid for **5 years** from date of final notification;
- 3.13 A business licence and liquor licence must be applied for if required;
- 3.14 The function facility be restricted to 100 guests;
- 3.15 That the property only be used for a 14-bedroom guest house facility (four two-bedroom cottages and a six-bedroom house, accommodating 14 people in total) and that no other rooms be occupied by paying guests without prior approval from the municipal decision maker;
- 3.16 Building plans for any alterations to the buildings to be submitted to the municipality for approval, prior to any building work commencing on site.
- 3.17 No advertisement or any other signs may be erected prior to the approval of Council or Council delegated official or the competent authority;
- 3.18 A contravention penalty to be calculated and communicated as stipulated in terms of section 87(2)(b) of the Stellenbosch Municipal Land Use Planning By-Law, dated 20 October 2015, is payable prior to these land use rights coming into effect;
- 3.19 That no music is played at the function facility that may create a noise nuisance for surrounding property owners and that the owners of the application at all times comply with the applicable noise control regulations and by-laws;
- 3.20 The applicant must after the publication of a notice in the Provincial Gazette apply to the Registrar of Deeds to make the appropriate entries in, and endorsements on, any relevant register or title deed to reflect the removal, suspension or amendment of the restrictive conditions; and
- 3.21 The Municipality reserves the right to impose further conditions if deemed necessary.

#### 4. REASONS FOR THE ABOVE DECISION

The application is supported for the following reasons:

- 4.1 The proposed use will have no negative impact on the existing agricultural activity and will have no visual impact on the surrounding area as no new buildings will be construed.
  - 4.2 The proposed development conforms to the character of the area and is therefore considered appropriate within the given context.
  - 4.3 There will be no material impact on the existing rights of the neighbouring properties with regards to views and privacy.
  - 4.4 The scale and extent of the facility is such that it will not have any detrimental impact on the existing infrastructure.
  - 4.5 The existing parking will be sufficient.
  - 4.6 The increase in traffic in the area will be insignificant.
  - 4.7 The proposal complies with the principles of the Stellenbosch Spatial Development Framework.
  - 4.8 The facility will enhance the tourism potential of the region.
5. You are hereby informed of your right to appeal to the Appeal Authority in terms of section 79(2) of the said legislation.
  6. If you intend to appeal, the appeal form, which can be obtained from our Advice Centre; Land Use Management, Ground floor, Plein Street, Stellenbosch or the municipal website at [www.stellenbosch.gov.za/planning\\_portal](http://www.stellenbosch.gov.za/planning_portal), must be completed and should be directed to the Appeal Authority and received by the Municipal Manager at P O Box 17, Stellenbosch, 7599 or faxed to 021 886 6749, or hand delivered to the Office of the Municipal Manager, third floor, Plein Street, Stellenbosch within 21 days of registration of this decision letter together with proof of payment of the appeal fee (*only applicable to applicant appeals*). See the approved tariff structure on the municipal website.
  7. In the event of an applicant appeal, you as applicant are requested to simultaneously serve notice of the appeal on any person who commented on the application and any other persons as the Municipality may determine. Proof of serving the notification must be submitted to the Municipality within 14 days of serving the notification.
  8. The notice must be served in accordance with section 35 of the said legislation and in accordance with the additional requirements as may be determined by the Municipality. The notice must invite persons to comment on the appeal within 21 days from date of notification of the appeal.

9. Kindly note that no appeal right exists in terms of Section 62 of the Local Government Municipal Systems Act No 32 of 2000.
  
10. Kindly note the above decision is suspended and may therefore not be acted on until such time as the period for lodging appeals has lapsed. any appeal has been finalised and you've been advised accordingly.

Yours faithfully



A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned over a horizontal line.

**FOR: DIRECTOR PLANNING AND ECONOMIC DEVELOPMENT**

21/1/2020  
DATE

# APPENDIX 2

**APPLICATION FOR A TEMPORARY  
DEPARTURE, SPECIAL CONSENT AND  
REMOVAL OF RESTRICTIVE TITLE DEED  
CONDITIONS: ERF 1467, FRANSCHHOEK.**

**SITE DEVELOPMENT PLAN**

Handwritten signature or initials, possibly 'T. M.', in black ink.

**NOTES:**  
 1. The design is preliminary and subject to change without notice.  
 2. All dimensions are in feet and inches unless otherwise noted.  
 3. All areas are approximate and subject to change without notice.  
 4. All areas are subject to change without notice.  
 5. All areas are subject to change without notice.  
 6. All areas are subject to change without notice.  
 7. All areas are subject to change without notice.

Zoning: Agriculture AG  
 Building: Agriculture AG

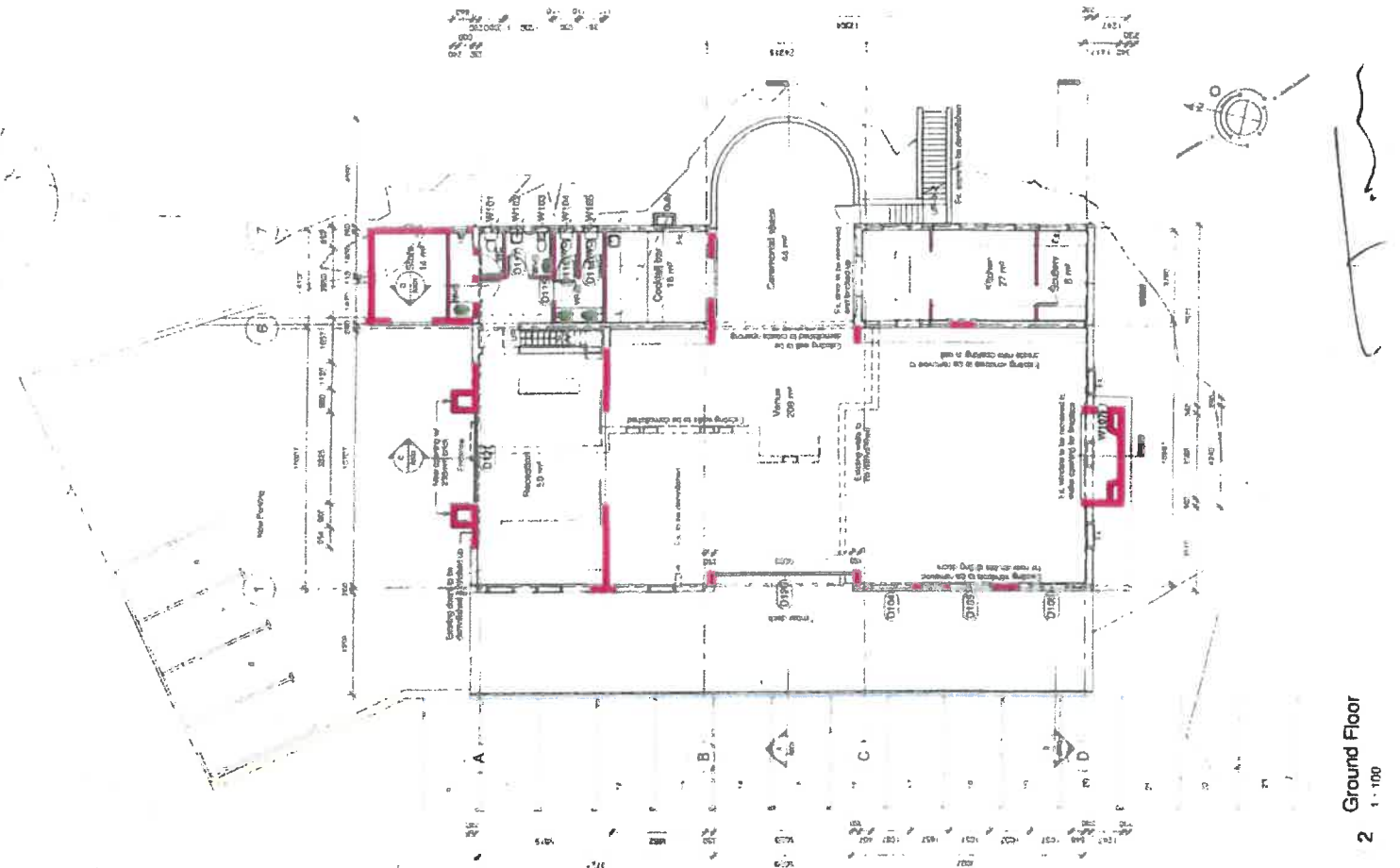
Architects & Builders

Sheet Name: Architecture 1st 107

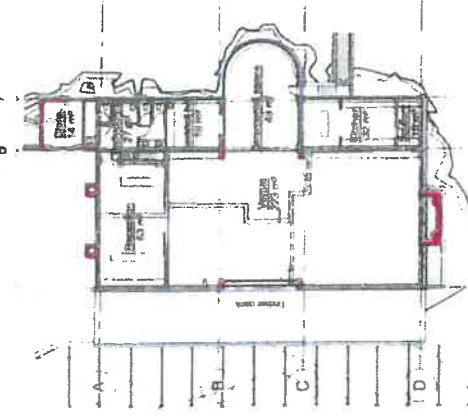
**KUBE**  
 architecture

10000 BURNING CREEK RD.  
 SUITE 100  
 DALLAS, TEXAS 75243

Client: Starvation  
 Date: 09/20/18  
 Project: 18-23308-PA  
 Status: Planning  
 As indicated  
 0001 A 101 Locality  
 Project Name: 18-23308-PA



2 Ground Floor  
 1 : 100



4 Area Plan  
 1 : 200



5 Locality  
 1 : 5000



1 Site  
 1 : 500







# APPENDIX 8

**APPLICATION FOR A TEMPORARY  
DEPARTURE, SPECIAL CONSENT AND  
REMOVAL OF RESTRICTIVE TITLE DEED  
CONDITIONS: ERF 1467, FRANSCHHOEK.**

**COMMENT ON THE MANAGER: BUILDING  
DEVELOPMENT MANAGEMENT**

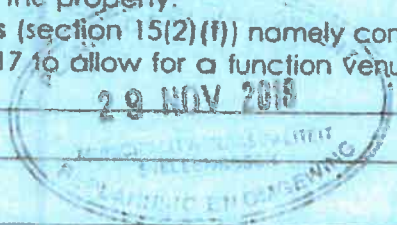
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INTERDEPARTMENTAL CIRCULATION FORM

L&ER VERW/ FILE REF	Erf 1467, Franschhoek	DATE: 15 November 2018
AANSOEKNUMMER/APPLICATION NUMBER	LU/8477	
MEMO AAN/ TO :		
	Director : Traffic Engineer / Engineering Services	
	Manager : Electrical Department	
X	Manager : Building Development Management	
	Manager : Fire Services	
	Manager: Spatial Planning / Heritage / Environment / Signage	
	Manager: Health Department (Winelands Health)	
	Manager: Community Services: <b>Albert Van Der Merwe</b>	
	Manager: Property Management (P Smit)	
	Chief Financial Officer	
	Legal Services	
	Manager: Local Economic Development	

**Application** Application is made in terms of the Stellenbosch Municipal Land Use Planning By-Law, for the following on Erf 1467, Franschhoek;

- A temporary departure (section 15(2)(c)) to convert an existing farm building into a function venue;
- A consent use (section 15(2)(d)) to regularise the existing guest accommodation facilities ( four cottages and main house) on the property.
- A removal of restrictive title deed conditions (section 15(2)(f)) namely conditions I.D.1-8 as contained in title deed T12953/2017 to allow for a function venue and guest accommodation facilities.



Adres / Address	Erf 1467, Pass Road, Franschhoek
Aansoek Datum / Application Date	19 September 2018
Aansoeker / Applicant	Andre Roux

Aangeheg vind u tersaaklike dokumentasie in verband met bogenoemde aansoek. Ten einde my in staat te stel om die aansoek aan die besluitnemingsowerheid vir oorweging voor te lê, word u versoek om my skriftelik van u kommentaar, indien enige, te voorsien. Onderskei asseblief tussen algemene kommentaar op die meriete van die aansoek en enige voorwaardes wat u departement wil opleë indien die aansoek goedgekeur word.

Attached please find the relevant documentation regarding the abovementioned application. Kindly furnish me with your written comment, if any, in order to enable me to submit the application to the decision making authority for consideration. Please differentiate between general comment on the merits of the application and any conditions that your department wishes to impose should the application be approved.

Geliewe die memorandum per hand aan my terug te besorg voor **31 January 2019**  
 Please hand deliver the memorandum to me on or before : **31 January 2019**

**B Mdoda**  
 For DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT

FILE NR:	
SCAN NR:	E 1467 FH
CO-OPERATE NR:	620345
	SANS 1040

**ALGEMENE KOMMENTAAR / GENERAL COMMENT:** *Both the guest accommodation must comply with Part 5 Conditions for durable structures*

**VOORWAARDES/CONDITIONS:**

HANDTEKENING / SIGNATURE	<i>[Signature]</i>
DATUM / DATE	19/11/2018

# APPENDIX 10

**APPLICATION FOR A TEMPORARY  
DEPARTURE, SPECIAL CONSENT AND  
REMOVAL OF RESTRICTIVE TITLE DEED  
CONDITIONS: ERF 1467, FRANSCHHOEK.**

**COMMENT FROM THE SENIOR LEGAL  
ADVISOR**

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INTERDEPARTMENTAL CIRCULATION FORM

13

LÊER VERW/ FILE REF Erf 1467, Franschhoek DATE: 15 November 2018  
 -AANSOEKNUMMER/APPLICATION NUMBER LU/8477

MEMO AAN/ TO :  
 Director : Traffic Engineer / Engineering Services  
 Manager : Electrical Department  
 Manager : Building Development Management  
 Manager : Fire Services  
 Manager: Spatial Planning / Heritage / Environment / Signage  
 Manager: Health Department (Winelands Health)  
 Manager: Community Services: **Albert Van Der Merwe**  
 Manager: Property Management (P Smit)  
 Chief Financial Officer

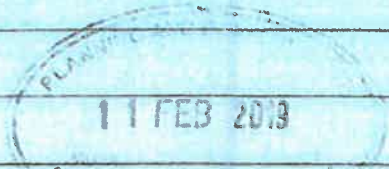
**X** Legal Services  
 Manager: Local Economic Development

**Application** Application is made in terms of the Stellenbosch Municipal Land Use Planning By-Law, for the following on Erf 1467, Franschhoek:  
 • A temporary departure (section 15(2)(c)) to convert an existing farm building into a function venue;  
 • A consent use (section 15(2)(0)) to regularise the existing guest accommodation facilities ( four cottages and main house) on the property.  
 • A removal of restrictive title deed conditions (section 15(2)(f)) namely conditions I.D.1-8 as contained in title deed T12953/2017 to allow for a function venue and guest accommodation facilities.

**Adres / Address** Erf 1467, Pass Road, Franschhoek

**Aansoek Datum / Application Date** 19 September 2018

**Aansoeker / Applicant** Andre Roux



Aangeheg vind u tersaaklike dokumentasie in verband met bogenoemde aansoek. Ten einde my in staat te stel om die aansoek aan die besluitnemingsowerheid vir oorweging voor te lê, word u versoek om my skriftelik van u kommentaar, indien enige, te voorsien. Onderskei asseblief tussen algemene kommentaar op die meriete van die aansoek en enige voorwaardes wat u departement wil opleë indien die aansoek goedgekeur word.

Attached please find the relevant documentation regarding the abovementioned application. Kindly furnish me with your written comment, if any, in order to enable me to submit the application to the decision making authority for consideration. Please differentiate between general comment on the merits of the application and any conditions that your department wishes to impose should the application be approved.

Geliewe die memorandum per hand aan my terug te besorg voor of op: 31 January 2019  
 Please hand deliver the memorandum to me on or before : 31 January 2019

B Mdoda  
 For DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT

FILE NR:  
 SCAN NR: E 1467 FH  
 COLLABORATOR NR: 62983

**ALGEMENE KOMMENTAAR / GENERAL COMMENT:**  
 The application is for the department to consent to the regularisation of the existing guest accommodation facilities on the property. All restrictive title deed conditions are to be removed.

**VOORWAARDES/CONDITIONS:**  
 Condition as per Annexure A

**HANDTEKENING / SIGNATURE** *[Signature]* **DATUM / DATE** 3/01/2019

**Re: Comment on the Application received for a temporary departure, consent use and the removal of the restrictive title deed conditions for erf 1467 Franschoek**

**Background**

The owner has submitted an application in terms of Stellenbosch Municipal Land Use Planning Bylaw on 15 November 2018 for:

- a) A temporary departure in terms of section 15(2) ( c) to convert an existing farm building into a function venue
- b) Requesting Council's consent to permit guest accommodation facilities
- c) Application for removal of restrictive title deed conditions

**Assessment in terms of the Land Use Planning Bylaw**

**A. Request for a temporary departure in terms of section 15(2) ( c) to convert an existing farm building into a function venue**

- 1. A request was submitted for a temporary departure in terms of Section 15(2) (c) to convert an existing building into a function venue in terms of the Stellenbosch Municipality's Standard Land Use Planning Bylaw. Section 15(2) provides that the owner of land or his or her agent may apply to the Municipality in terms of this Chapter and Chapter iv that a departure be granted on a temporary basis in terms of section 15(2)( c) to utilise land for a purpose not permitted in terms of the primary rights of the zoning applicable to land.
- 2. The application is compliant with the Municipal Land Use Planning Bylaw dated 15 October 2015 and it is advisable that should approval be granted it be subject to section 60 and 66 of the Municipal Planning Bylaw.
- 3. It is advisable that should approval be granted it be subject to the following conditions:
  - 3.1. the owner must comply with any other legal prescription or requirements which may have a bearing on the activity and the property must be used in accordance with this approval only.
  - 3.2. An application for the relevant licences must be submitted and the property must solely be used for short term hosting of events for up to 100 people only;
  - 3.3. Council reserves the right to take appropriate action should the applicant transgress any of the conditions which were imposed with the granting of temporary departure.



**B. Requesting Council's consent to permit guest accommodation facilities**

1. Section 15(2) provides that the owner of land or his or her agent may apply to the Municipality in terms of this Chapter and Chapter IV that a departure be granted on a temporary basis in terms of section 15(2)(c) to utilise land for a purpose not permitted in terms of the primary rights of the zoning applicable to land.
2. The application is compliant with section 15(2) of the Land Use Planning Bylaw 2015 and in terms of the documents at my disposal it appears as if there are no impediment which prohibits approving the application
3. It is advisable that should approval be granted for a special development to permit the operation of a guest house it be subject to section 60 and 66 of the Municipal Planning Bylaw.
4. The following conditions must however be incorporated into the approval:
  - 4.1. The owner must comply with any other legal prescriptions or requirements that might have a bearing on the activity that the property must be used in accordance with this approval only.
  - 4.2. An application for licences must be submitted.
  - 4.3. The Council reserves the right to take appropriate action should the applicant transgress any of the conditions which were imposed with the approval of the application.

**C. Application for removal of restrictive title deed conditions**

1. An application is made in terms of Section 15(2)(f) of the Stellenbosch Municipal Land Use Planning Bylaw, 2015 for the suspension of restrictive conditions in order to suspend a condition which limits the use of Erf 1647 Franshoek.
2. Section 39(5) of the Land Use Planning Act, Act 3 of 2014 provides that when a municipality considers the removal, suspension or amendment of a restrictive condition, the municipality must have regard to the following:
  - 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;
  - b) The personal benefits which accrue to the holder of rights in terms of restrictive condition;
  - 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;
  - d) The social benefit of the restrictive condition remaining in place in its existing form;
  - e) The social benefit of the removal, suspension or amendment of the restrictive condition ; and
  - 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

Section 39(5) of LUPA is reinforced in section 33(5) of the Stellenbosch Municipality Land Use Planning Bylaw.



3. In terms of the information at disposal there is no impediment which prohibits the application for removal of restrictive title deed conditions as contained in title deed T12953/2017.

4. it is advisable that should approval be granted it be subject to section 60 and 66 of the Land Use Planning bylaw as well as the following conditions :

4.1. that all legal prescriptions or requirement from the Council must be adhered to;

4.2. in the event of any contravention of the zoning scheme, non-adherence to the conditions of approval and or if it constitutes a nuisance the Council shall take appropriate action.

Mervin Williams

30/01/2019





# APPENDIX 12

**APPLICATION FOR A TEMPORARY  
DEPARTURE, SPECIAL CONSENT AND  
REMOVAL OF RESTRICTIVE TITLE DEED  
CONDITIONS: ERF 1467, FRANSCHHOEK.**

**COMMENT FROM MANAGER: SPATIAL  
PLANNING, HERITAGE & ENVIRONMENT**



25



# STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

*Spatial Planning, Heritage and Environment*

To : Head: Customer Interface & Administration (B Mdoda)  
 From : Manager: Spatial Planning, Heritage & Environment  
 Date : 23 May 2019  
 Re : Application for temporary departure, consent use and removal of restrictions on Erf 1467, Paart FH

I refer to your request for comment on the above application. Please note that we received the applicant's response (dated 16 May 2019) on our previous comment. This comment therefore replaces our comment, dated 19 February 2019.

**1) Opinion / reasoning:**

In terms of the approved Stellenbosch Municipality MSDF, the subject property is located outside of the approved urban edge of Franschhoek. The following principles apply to properties that fall outside the urban edge:

- Land outside of existing and proposed urban settlements should be used for agricultural production, biodiversity conservation, scenic quality and **agri-tourism**;
- Intensification of agriculture, biodiversity conservation and agri-tourism should be promoted in farming areas outside of urban settlements.

The subject property is located outside the urban edge and in principle this department supports agri-tourism uses if it is related to the farm and if the agricultural activities remain the primary use. Tourist related activities can be used as secondary use.

**2) Supported / not supported:**

This department supports the proposed development subject to the following condition of approval:

- Applicant to submit a landscaping plan compiled by a professional specialist to ensure parking area is sufficiently screened from scenic route;
- Landscaping plan to be approved by The Director: Planning & Economic Development.

FILE NR.
SCAN NR.
E 1467 FH
COLLABORATOR NR.
647390

PLANNING & ECONOMIC DEVELOPMENT  
 24 MAY 2019  
 MUNICIPALITY OF STELLENBOSCH  
 BEPLANNING EN EKONOMIESE ONTWIKKELING

*B de la Bat*

**B de la Bat**  
MANAGER: SPATIAL PLANNING, HERITAGE AND ENVIRONMENT

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# APPENDIX 13

**APPLICATION FOR A TEMPORARY  
DEPARTURE, SPECIAL CONSENT AND  
REMOVAL OF RESTRICTIVE TITLE DEED  
CONDITIONS: ERF 1467, FRANSCHHOEK.**

**AIR QUALITY AND NOISE CONTROL OFFICER**

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# STELLENBOSCH

STELLENBOSCH • PN111 • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

*Spatial Planning, Heritage and Environment*

Office Tel no: 021 808 8694 | martin.vanas@stellenbosch.gov.za

**Andre Roux**

A Roux Town Planning  
P.O. Box 259  
Cape Gate, 7562  
[www.arouxplanning.co.za](http://www.arouxplanning.co.za)

18 June 2019

Applicant: Andre Roux – Montmartre Chalets (Pty) Ltd

**MONTEMARTE – PROPOSED NEW VENUE HALL AND FACILITY – PROJECT RECOMMENDATION FOR THE FACILITY OPERATION AND BUILDING ATTENUATION FEATURE AND MEASURES REQUIRED TO BE CONSIDERED FOR THE BUILDING REFURBISHMENT**

**ERF 1647, FRANSCHHOEK – PASS ROAD, FRANSCHHOEK**

The above refers:

Further to the attached Noise Management Report and my subsequent discussions with Gerry Kuhn Environmental Engineer, I wish to advise that from a noise point of view the Directorate Community & Protection Services, Environmental Management Section has no objection to this application subject to the following conditions being imposed & complied with:

- The recommendations by Gerry Kuhn Environmental Engineers, as stipulated in the report, dated 11/06/2019 must be complied with.

As a precautionary measure, however, and in view of the fact that the proposed new facility is located in a rural setting and surrounded by other agricultural properties, the following regulatory requirements (stated below) should be imposed as a condition of approval:

Any noise emissions from activities on the said premises comply with the **Noise Control Regulation PN200/ 2013** and the **By-Law on the Prevention of Public Nuisances & the Keeping of Animals** in that:

- 1) The SANS 10103 Table typical rating levels for noise in districts are adhered to.
- 2) No **Noise Disturbance** is caused in terms of the Provincial Noise Control Regulation PN200/13
- 3) No **Noise Nuisance** is caused in terms of the Provincial Noise Control Regulation PN200/13 and the By Law on the Prevention of Public Nuisances & the Keeping of Animals.

Furthermore, the local authority reserves the right to impose any other measures that may be found hereafter, during operations, which may be deemed reasonable to apply to reduce noise, either as determined by the Applicant and/ or the local authority.

Yours truly



**Martin van As**

-----  
Air Quality & Noise Control Officer  
Community & Protection Services





# STELLENBOSCH

STELLENBOSCH • PN111 • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

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18 June 2019

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- 3) No **Noise Nuisance** is caused in terms of the Provincial Noise Control Regulation PN200/13 and the By-Law on the Prevention of Public Nuisances & the Keeping of Animals

Furthermore, the local authority reserves the right to impose any other measures that may be found hereafter, during operations, which may be deemed reasonable to apply to reduce noise, either as determined by the Applicant and/ or the local authority.

Yours truly



**Martin van As**

-----  
Air Quality & Noise Control Officer  
Community & Protection Services



# APPENDIX 14

**APPLICATION FOR A TEMPORARY  
DEPARTURE, SPECIAL CONSENT AND  
REMOVAL OF RESTRICTIVE TITLE DEED  
CONDITIONS: ERF 1467, FRANSCHHOEK.**

**COMMENT FROM THE DIRECTOR:  
ENGINEERING SERVICES**

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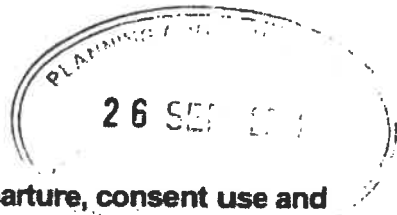
STELLENBOSCH MUNICIPALITY  
STELLENBOSCH·PNIEL·FRANSCHHOEK

**MEMORANDUM**

**DIREKTEUR: INGENIEURSDIENSTE  
DIRECTORATE: INFRASTRUCTURE SERVICES**

8

**To ◦ Aan:** Director: Planning + Economic Development  
**Att Aandag** N Petersen  
**From ◦ Van:** Colin Taylor (Development)  
**Date ◦ Datum:** 23/09/2019  
**Our Ref ◦ Ons Verw:** Civil LU 1738  
**Re ◦ Insake:** Erf 1467 Franschhoek: Temporary departure, consent use and removal of restrictive title deed conditions



The application is for the following items:

- i. Temporary departure to convert an existing farm building into a function venue;
- ii. Consent use to regularize the existing guest accommodation facilities (four cottages and main house) on the property; and
- iii. Removal of restrictive title deed conditions namely conditions as contained in title deed to allow for a function venue and guest accommodation facilities.

Comments from the Transport, Roads and Stormwater, Water Services, Traffic Engineering and Development Departments will be reflected in this memo and is to be regarded as development conditions to be reflected in the land-use approval.

The application is recommended for approval **subject to the following conditions:**

- 1. Water**
  - 1.1 It was indicated that borehole water source will be utilized on Erf 1467.
  - 1.2 The quality of the water stored and distributed by the owner has to comply with SANS 241 Drinking Water Quality Standards.
- 2. Waste Water and Sewage**
  - 2.1 No new septic tanks and soak-aways are permitted to be built.
  - 2.2 Wastewater and sewage may not pollute any groundwater, stormwater or surface water.
  - 2.3 Provision must be made for grease trap and sludge catcher for the kitchen areas.

FILE NR:	
SCAN NR:	E 1467 FH
COLLABORATOR NR:	66 2898

*T. L.*

**3. Solid Waste**

- 3.1 Please note: Solid waste must be removed from the site to lawful solid waste disposal site in accordance with the requirements of section 26 of the National Environmental Management Waste Act 2008 (Act 59 of 2008).

**4. Roads**

- 4.1 The application has to be referred to the District Roads Engineer for comments and conditions.
- 4.2 All the conditions set by the District Roads Engineer will be applicable.
- 4.3 Sufficient parking must be provided and indicated on the SDP at building plan submission stage.

**5. Development Charges (DCs)**

- 5.1 DC's will not be charged, as the temporary departure application is to convert an existing farm building into a function venue which lapses after a maximum of 5 years. Should a new application be submitted, DC's will be charged as this would constitute a prolonged impact on the bulk services.

**Colin Taylor****PRINCIPAL TECHNICIAN: DEVELOPMENT (INFRASTRUCTURE SERVICES)**

V:\2.0 DEVELOPMENT\00 Developments\06 Colin Taylor\Dev Applications\1738 - Erf 1467 Franschoek\Final comment\1738 - Erf 1467 Franschoek 20190923.doc



# APPENDIX 16

**APPLICATION FOR A TEMPORARY  
DEPARTURE, SPECIAL CONSENT AND  
REMOVAL OF RESTRICTIVE TITLE DEED  
CONDITIONS: ERF 1467, FRANSCHHOEK.**

**COMMENT FROM THE DEPARTMENT OF  
TRANSPORT & PUBLIC WORKS**

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Western Cape  
Government

Tsiyobom and Tsima: Moya

**ROAD NETWORK MANAGEMENT**

Email: [Grace.Swanepoel@westerncape.gov.za](mailto:Grace.Swanepoel@westerncape.gov.za)

tel: +27 21 483 4669

Rm 335, 9 Dorp Street, Cape Town, 8001

PO Box 2603, Cape Town, 8000

**REFERENCE: 16/9/6/4-03/01 (Job 19575)**

**ENQUIRIES: Ms GD Swanepoel**

**DATE: 8 March 2019**

ARoux Town Planning  
PO Box 259  
**CAPE GATE**  
7562

Attention: Mr Andre Roux

Dear Sir

**ERF 1467, FRANSCHHOEK: MAIN ROAD 191 (R45 LAMBRECHTS ROAD): APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE CONDITIONS, TEMPORARY DEPARTURE AND CONSENT USE**

1. Your letter dated 5 December 2019, ref. 17100, Municipal Ref. No.: Erf 1467, Franschhoek, Application Number LU/8477, refers.
2. Erf 1467 Franschhoek is located on the east side of Franschhoek on Main Road 191 (the R45 Lambrechts Road) near the foot of Franschhoek Pass. Main Road 191 lies to the south of the property and in this area the road has a relatively steep gradient, with the south side being uphill from the property and the north side downhill towards the town.
3. The application is for the following:
  - 3.1 Temporary land use departure and consent use for a tourist facility (function venue);
  - 3.2 Removal of certain restrictive title deed conditions.
4. Main Road 191 has relatively low traffic flows, with the Friday pm peak period being the highest and coinciding with potential functions. Two-way flow observed in the Friday pm peak hour was 293 vehicles, with 183 southbound (uphill) and 110 northbound (downhill).

5. The forecast peak trip generation of the venue is 29 vph, with 25 in movements and 4 out. The traffic impact study assumed 65% of entering vehicles coming from the south, ie. downhill. This is considered unlikely, as more attendees at functions could be expected to come from the Franschhoek/Cape Town direction; however, the assumed distribution represents a worst case scenario, as more vehicles will be turning right into the property rather than left in.
6. SIDRA traffic analyses for the development with forecast 2023 background traffic plus development traffic indicated that the level of service for all movements would be A, ie. effectively free-flow conditions.
7. Shoulder sight distance in both directions exceeds desirable minima for single vehicles.
8. Spacing to neighbouring accesses is adequate (155m to the south (uphill) to La Petite Ferme, on the opposite side of the road and 250m to the north (downhill) to Haute Cabriere, on the same side of the road as the subject property) and traffic accessing these properties will not conflict with traffic entering or leaving the subject property.
9. The gate on the driveway to the function venue is set at least 15m from the road and will be kept open prior to the start of events to avoid tailbacks into Main Road 191.
10. **This Branch offers no objection to the application for consent use, temporary departure and removal of restrictive title conditions in respect of Erf 1467 Montmartre, Franschhoek subject to the following:**
  - 10.1 Restrictive title deed conditions relating to servitude rights of way shall remain in place and shall not be removed and
  - 10.2 Access gates shall be left open prior to the start of functions to allow free inflow of traffic and minimise the likelihood of tailbacks into Main Road 191 (the R45, Lambrechts Road).

Yours faithfully

  
**SW CARSTENS**  
For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

