

Application Number: LU/9382

Our File Reference Number: Erf 2770, Franschhoek

Your Reference Number: None Enquiries: Ulrich von Molendorff Contact No: 021 – 808 8682

Email address: <u>Ulrich.Vonmolendorff@stellenbosch.gov.za</u>

Sir

#### APPLICATION FOR REZONING AND DEPARTURE ON ERF 2770, FRANSCHHOEK

- 1. The above application refers.
- 2. The duly authorised decision maker has decided on the above application as follows:
- 2.1 That the following applications in terms of the Stellenbosch Municipal Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015, on Erf 2770, Franschhoek, namely:
  - 2.1.1 The **rezoning** of the subject property from Single Residential Zone to General Residential Zone (Franschhoek Town Planning Scheme Regulations) in terms of Section 15(2)(a) of the said Bylaw for the purpose of developing 10 flats on Erf 2770, Franschhoek as indicated on drawing no. 1828/DWA/102-103, drawn by AE (see **Annexure C**).
  - 2.1.2 The **Departure** in terms of section 15(2)(b) of the said bylaw to relax the following on Erf 2770, Franschhoek as indicated on drawing no. 1828/DWA/102-103, drawn by AE (see **Annexure C**):
    - a. The permissible coverage from 25% to 37%;

- b. The construction of units 6, 7, 8, 9 & 10 on a site abutting a street 10.76m in width instead of the required 12.5m width;
- c. The construction of a boundary wall or fence on the street front boundary within 5.4m of the centreline of the street instead of the required 8m;
- d. To permit parking bays P01 and P02 to be  $\pm 1.1$ m from the street front boundary, instead of the required 4.6m.

**BE APPROVED** in terms of Section 60 of the said Bylaw subject to conditions in terms of Section 66 of the said Bylaw.

#### 3. Conditions of Approval:

- 3.1 The approval only applies to the proposed development in question, as indicated on attached Drawing no. 1828/DWA/102-103 and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;
- 3.2 The approval will lapse if not implemented within 5 years from the date of approval;
- 3.3 A site development plan be submitted to the municipality and approved prior to the submission of any building plan application;
- 3.4 The development be phased into two (2) phases with phase 1 comprising of four (4) flats and phase two (2) comprising of six (6) flats and a phasing plan be submitted and be approved together with the site development plan;
- 3.5 The development guidelines for the development be submitted to this department for approval prior to any building plans application;
- 3.6 A landscape plan be submitted together with the site development plan for approval and be implemented by the developer at his cost prior to the first unit/property of each phase being transferred;
- 3.7 The building plans not differ materially from the approved site development plan;
- 3.8 Building plans be submitted to the municipality and be approval prior to any building work taking place;
- 3.9 The new access gate be constructed with a 5.00m setback;

- 3.10 The boundary walls and fences comply with the 2019 Stellenbosch Municipality Zoning Scheme By-Law;
- 3.11 A constitution for the owners' association be submitted to the Municipality and be approved prior to the first unit/property being transferred and which constitution must take into account the requirements stipulated in Section 29(3) of the said bylaw;
- 3.12 An owners' association be established and will take effect with the transfer on the registration of the first property in terms of Section 29(5) of the said bylaw;
- 3.13 The common property be formally transferred in favour of the Owners' Association with the transfer of the first unit / property;
- 3.14 The visitors parking bays be clearly demarcated on site and form part of the common property of the Owners Association;
- 3.15 All conditions of approval relevant to a phase / the development be adhered to prior to the first unit / property of the phase / development being transferred;
- 3.16 The following conditions imposed by the **Director: Engineering Services** as contained in their memo dated 20 February 2020, attached as **ANNEXURE K** be complied with;

### a) Bulk Water Meter

That the "Developer" shall install a bulk water meter conforming to the specifications of the Directorate: Infrastructure Services at his cost at the entrance gate of all private developments before the practical completion inspection is carried out;

## b) Waste Water

Wemmershoek WWTW: The proposed development falls within the catchment area of the existing Wemmershoek WWTW (Waste Water Treatment Works). There is currently insufficient capacity at the WWTW for the proposed development. However, the Municipality is currently busy with the upgrading of the WWTW to create spare capacity. The current estimated completion date for the project is January 2021. A more accurate date will be available when a Contractor has been appointed and an approved programme is available. Clearance for the first five subdivided erven/units can be given prior to completion of the upgrade. The developer must therefore indicate the phasing

of the erven in his application accordingly. Clearance for the remaining erven/units will only be given when the upgrade has been completed and the required spare capacity is available.

## c) Floodplain Management

- I. The floor level of all buildings be at least 100 mm above the 1:100 year flood level. These levels must be indicated on all building plans submitted and must be certified by a Registered Professional Engineer;
- II. That all perimeter fencing below the 1:50 year flood line be visually permeable from ground level and not adversely affect the free flow of water (e.g. palisade fencing). No fences will be allowed across the watercourse;
- III. The developer to adhere to the developer's proposal of constructing the new building on columns to ensure the 1 in 50 year flood line is accommodated for.
- IV. That no disturbance to the river channel or banks be made without the prior approval in accordance with the requirements of the National Water Act;

#### d) General

I. That the "Developer" indemnifies and keep the "Municipality" indemnified against all actions, proceedings, costs, damages, expenses, claims and demands (including claims pertaining to consequential damages by third parties and whether as a result of the damage to or interruption of or interference with the municipalities' services or apparatus or otherwise) arising out of the establishment of the development, the provision of services to the development or the use of servitude areas or municipal property, for a period that shall commence on the date that the installation of services to the development are commenced with and shall expire after completion of the maintenance period.

## e) Development Charges

- that the Development Charges levy be paid by the "Developer" per phase
  - prior to the approval of any building- and/or services plans in the case of a Sectional title erf in that phase or where a clearance certificate is not applicable and/or;
  - prior to the approval of Section 28 Certification in terms of the Stellenbosch Municipal Land Use Planning By-law in all cases and or;
  - prior to the erf or portion thereof being put to the approved use;

- II. Based on the information provided, the Development Charges payable by the developer is R550 425.95 (Vat incl.) as per attached Development Charges calculation.
- III. The DC's were calculated for the 2019/2020 financial year. If the account is paid after 30 June 2020 it has to be recalculated using the then applicable tariffs.
- IV. The appropriate DC's are payable before a Clearance certificate can be issued.

#### 4. Reasons for approval:

- 4.1 The subject property is located within the urban edge and is earmarked for urban development.
- 4.2 The proposed residential development will result in the optimisation of existing infrastructure.
- 4.3 The scale and nature of the proposed development will not compromise the existing character of the surrounding landscape

#### 5. Matters to be noted:

- 5.1 Activity 19 as listed in the National Environmental management Act, 107 of 1998, Environmental Impact Assessment Regulations, Listing Notice 1. This activity refers to the infilling and / or excavation of more than 10m² material from a watercourse. Commencing with the development that triggers the above activity would be illegal in terms of the above legislation without acquiring prior Environmental Authorization. Advice in this regard bust be sought from the Department of Environmental Affairs and Development Planning.
- 5.2 A formal application be submitted for the erection of advertising signs and that all signage to be in line with the signage policy of the municipality and be approved by the Municipality prior to any signage being erected;
- 6. 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. <u>Please note</u> 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.

7. 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: The personal particulars of the Appellant, including: (a) (I) First names and surname; (II)ID number: (III)Company of Legal person's name (if applicable) (VI) 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. The grounds of the appeal which may include the following grounds: (C) (i) that the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000); grounds relating to the merits of the land development or land use application (ii) 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 and 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.
- 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
- 9. 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.
- 10. The approved tariff structure may be accessed and viewed on the municipal website (<a href="https://www.stellenbosch.gov.za/documents/finance/rates-and-tariffs">https://www.stellenbosch.gov.za/documents/finance/rates-and-tariffs</a>) and the banking details for the General Account can also be accessed on the municipal website (<a href="https://www.stellenbosch.gov.za/documents/general/8314-stellenbosch-municipality-banking-details-1/file">https://www.stellenbosch.gov.za/documents/general/8314-stellenbosch-municipality-banking-details-1/file</a>).
- 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.

- Kindly note that no appeal right exists in terms of Section 62 of the Local Government 12. Municipal Systems Act, No 32 of 2000.
- 13. 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

15/07/2021 DATE:

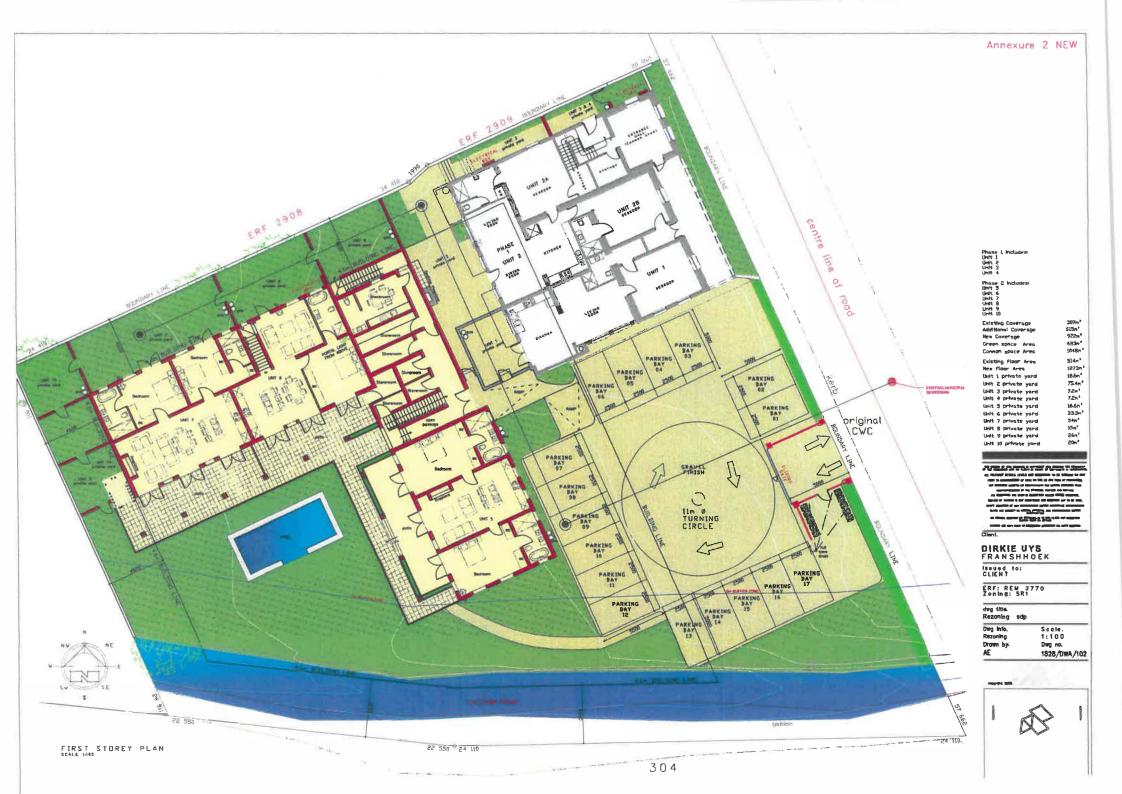
# COPIES TO:

1. Wayne Mclachlan

 Franschhoek Heritage and Ratepayers Association Colin Atkins Irene Catharina Vorster

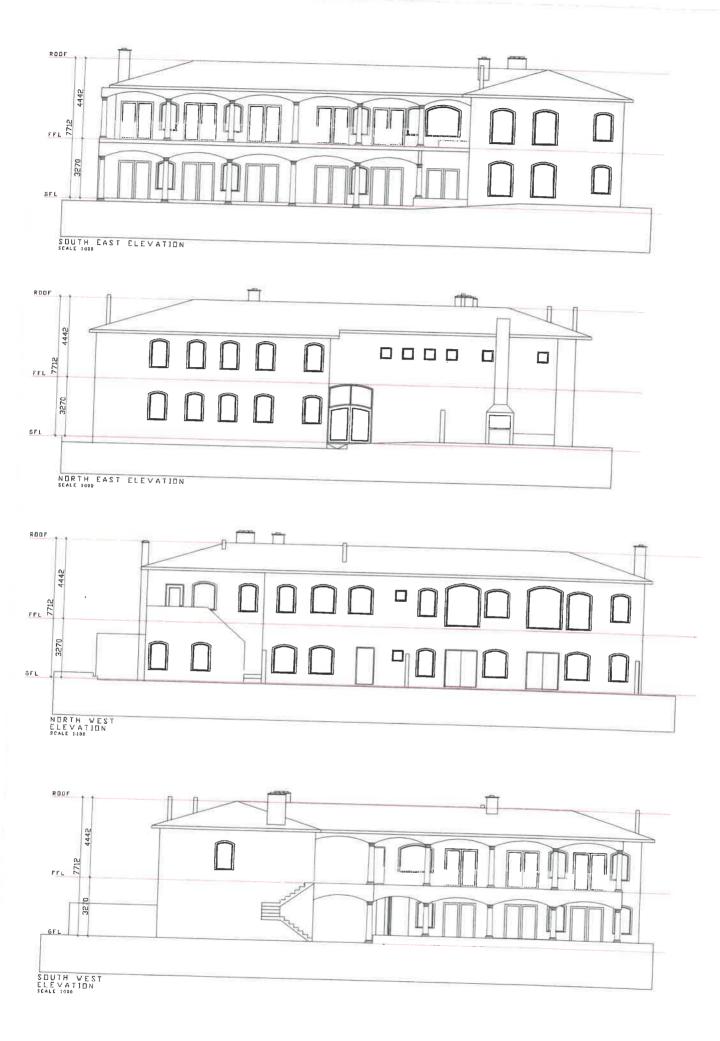
# ANNEXURE C

# SITE DEVELOPMENT PLAN









# **ANNEXURE K**

COMMENT FROM THE DIRECTOR: ENGINEERING SERVICES



# STELLENBOSCH MUNICIPALITY

STELLENBOSCH-PNIEL-FRANSCHHOEK

# **MEMORANDUM**

DIREKTEUR: INFRASTRUKTUURSDIENSTE DIRECTORATE: INFRASTRUCTURE SERVICES

To - Aan:

**Director: Planning + Economic Development** 

Att Aandag

S Newman

From • Van:

**Abdullah Daniels (Development)** 

Date - Datum:

20 February 2020

Our Ref o Ons Verw:

Civil Lu 1909

Re • Insake:

Erf 2770, Rezoning

The application is for the following items:

i. Rezoning from single residential to general residential,

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. Bulk Water Meter

1.1 the "Developer" shall install a bulk water meter conforming to the specifications of the Directorate: Infrastructure Services at his cost at the entrance gate of all private developments before the practical completion inspection is carried out;

# 2. Waste Water

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- 3.2 That all perimeter fencing below the 1:50 year flood line be visually permeable from ground level and not adversely affect the free flow of water (e.g. palisade fencing). No fences will be allowed across the watercourse:
- 3.3 The developer to adhere to the developers proposal of constructing the new building on columns (See attached proposal) to ensure the 1 in 50 year floodline is accommodated for.

3.4 that no disturbance to the river channel or banks be made without the prior approval in accordance with the requirements of the National Water Act;

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  - prior to the approval of Section 28 Certification in terms of the Stellenbosch Municipal Land Use Planning By-law in all cases and or;
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- Based on the information provided, the Development Charges payable by the developer is R 5.2 550 425.95 (Vat incl.) as per attached Development Charges calculation.
- The DC's were calculated for the 2020/2021 financial year. If the account is paid after 30 5.3 June 2020 it has to be recalculated using the then applicable tariffs.
- The appropriate DC's are payable before a Clearance certificate can be issued. 5.4

#### 6 Electrical

Refer to annexure A for electrical comments

# **ABDULLAH DANIELS**

PRINCIPAL TECHNICIAN: DEVELOPMENT (INFRASTRUCTURE SERVICES)

W:\2.0 DEVELOPMENT\00 Developments\1856 AD 1704, Franschhoek, Rezoning, departure, Amendment of SDP, SUB plans and other\1856 AD 1704, Franschhoek, Rezoning, departure, Amendment of SDP, SUB plans and other\doc

ate Payment Received fotal Payable (including VAT) Total bereforment Charges before Deductions
Total Development Charges before Deductions
Total Deductions Total Payable (excluding VAT) celpt Number ount Paid: Pication Processed by: 17 Bits (m) Stored Bellding Plen No. angled Year arra Stellenbosch Municipality - Development Charge Calculation Water 3,750 R 92 184,37 R 92 104,27 R 13 823,18 R 105 977,83 R 40 212,62 R ep 184,80 R e 027,72 APPLICANT INFORMATION APPLICATION INCOMMATION 82708,31 R418,76 R3218,08 Put shows Abdullah Daviele R 25 716.42 R 22 391,58 R 3 354,34 Roads Community Sociales to the Mary Parties 24.38 24.3 24.30 R 170 744,00 R 130 30.72 R 179 744,50 R 25 911,69 R 199 354,30 R 130 384,72 A 130380,72 R 10 550,01 R 149 M4,73 R 478 030,30 R 71 794,46 R 559 424,95 R478 030,30

|               | Land-Divis (Caregory)                    | UNIT TYPE    |           | " Elifoling I leave   |        |            | possid New         | neada.                                  | Geage  | Wester      | See        |      | Beliamenta   | BHOS-PERSON | Raeds         | Gum munity free place  |                | SHELD RES |
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| 3             | Less Formel Residential >260m2           | du           |           |                       | 0 t at | 1 5        | 200                | 0.40                                    | 0      | R -         | R          | - R  | - 1          |             | R -           | R  | - R            |           |
| Ĕ             | ees Formal Residential <260m2            | du           |           | 문란                    | 0      | 110        | 200                | 5.0%                                    | 0      | R -         | R          | - R  | - R          |             | R -           | R  | - R            |           |
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|               | High Density Resistential - flats        | du           |           |                       | 0      | 100        | 1201               | 0                                       | 11     | ž 121 643,7 | 7 R 71 571 |      | 6 156.28     | 24 597,74   | R 196 762.83  | 5 143 42   | 49 R           | 564 157   |
|               | High Density Residential - student rooms | du           | 11 3      |                       | 0      | 2.78       | 100000             | m-0.                                    | 0      | я .         | A          | - R  | - 8          | _           | R -           | R  | . 8            |           |
|               | Local Business - office                  | mZGLA        | - 50      |                       | 0%     | 9          | E CON              | 0%                                      | 0      | 2 -         | 25         | - R  | . R          |             | R .           | R  | - R            |           |
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| Ē             | General Business - retails               | MEGLA        |           | <b>ASSESS</b>         | 0%     |            | a manual           | 0%                                      | 0      | Ř -         | R          | - R  | . A          |             | R -           | R  | - R            |           |
| 3             | Community                                | m2 GLA       | - A       | 1                     | 0%     | 1 3        |                    | 9%                                      | 0      | R -         | R          | - R  | - R          | (e)         | R -           | R  | - R            |           |
|               | Education                                | m2 GLA       |           |                       | 0%     | 2 3 M      | BEET STATE         | .0%                                     | 0      | Я -         | R          | - R  | - R          |             | R -           | R  | - R            |           |
|               | Light Industrial                         | m2 OLA       | - 4.      |                       | 0%     | 1913       | DECIMA             | .0%                                     | 0      | R -         | R          | - R  | - R          |             | R -           | R  | R              |           |
| 7             | Ownerel Industriel - light               | m2 GLA       |           |                       | 0%     |            |                    | 0%                                      | 0      | R -         | R          | - R  | - R          |             | R -           | R  | . R            |           |
| 8             | General Industrial - Impvy               | m2 GLA       | 0.11      | Name of               | 0%     | e - 100    | 1-10               | 0%                                      | 0      | R -         | R          | - R  | - R          | -           | R -           | R  | - R            |           |
| ا ء           | Noxious Industrial - henry               | m2 GLA       |           | 5555                  | 0%     | 1525       | 1310               | 0%                                      | 0      | R -         | R          | - A  | - R          |             | A -           | R  | . R            |           |
| $\overline{}$ | Resort                                   | m2 GLA       |           | 200                   | 0%     |            | THE REAL PROPERTY. | 0%                                      | . 0    | R -         | R          | - R  | - R          |             | R _           | R  | R              |           |
|               | Public Open Spece                        | m2           |           | 1807017               |        |            | 4000m              | 0%                                      | 0      | R -         | R          | . R  | - B          |             | R -           | -  | R              |           |
| - 1           | Private Open Space                       | m2           |           | E3250                 |        |            | Mess               | 0%                                      | 0      | R -         | R          | - R  | . R          |             | R -           | R  | -              |           |
| . 1           | Hatural Environment                      | m2           |           | 3047                  |        |            | 225,550-1          | 0%                                      | 0      | R -         | R          | - B  | - R          |             | R             | R  | 10             |           |
| 1             | Utility Services                         | m2 GLA       |           | SECTION AND ADDRESS.  | 0%     | 100        | 2000               | 0%                                      | 0      | R -         | R          | - R  | - R          |             | R .           | R  | -              |           |
| - 11          | Public Roads and Parking                 | m2           |           | BERNS                 |        |            | 4-34               | 0%                                      | 0      | R -         | R .        | R    | . R          | . 33.       | R .           | R  | 10             |           |
| - 1           | Transport Facility                       | m2           |           | WEAD!                 |        |            | 00/650             | 0%                                      | 0      | R -         | R .        | R    | - R          |             | R .           | 8  | T <sub>R</sub> |           |
|               | Limited Use                              |              |           | 1000                  |        |            | Salahari           | 0%                                      | 0      | R -         | IR .       | R    | - B          | -           | R             | R  | R              |           |
|               | California of the                        |              |           | PERM                  |        | S F49      | Total Village      |   |        |             |            |      |              |             |               |  | 1              |           |
| 1             | To be calculated                         |              |           | Political Contract    |        |            | 27-387             |   |        |             |            |      |              |             |               |  |                |           |
| Ĭ             | based on equivalent demands              |              |           | (E)45                 |        |            | (35)               |   |        |             |            | -    |              |             |               |  |                |           |
| ᆚ             | eta yellow/gruen selts.                  | -            | 0         |                       | _      |            | Sec. 254.          | _                                       |        |             |            | _    |              |             |               |  |                |           |

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