



STELLENBOSCH

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Application Number: LU/12325

Our File Reference Number: Erf 311, Kylemore

Your Reference Number: None

Enquiries: Ulrich von Molendorff

Contact No: 021 – 808 8682

Email address: Ulrich.Vonmolendorff@stellenbosch.gov.za

PER E-MAIL: [REDACTED]

Sir/Madam

APPLICATION FOR TEMPORARY DEPARTURE ON ERF 311, KYLEMORE

1. The above application refers.
2. The duly authorised decision maker has decided on the above application as follows:
 - 2.1 An application is made in terms of Stellenbosch Municipal Land Use Planning By-Law, promulgated by notice number 354/2015, dated October 2015, on Erf 311, Kylemore for the following;
 - 2.2 **Temporary Departure** in terms of Section 15 (2) (c) of the said by-law, in order to operate an off-site consumption liquor shop.

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

Conditions of approval

- 2.3 The approval applies only to the application in question as indicated on plan provided (See **Annexure C**) on Erf 311, Kylemore attached and shall not be construed as authority to depart from any other legal prescriptions or requirements from council.
- 2.4 The approval granted shall not exempt the applicant from complying with any other legal prescriptions or requirements that might have a bearing on the proposed use.
- 2.5 The Temporary Departure is valid for **Five (5) years** from the date of final notification.

- 2.6 The Liquor shop shall be limited to **11 m²** (including storage areas) as indicated on Plan no: Z311 drawn b E. P (blueprints), dated 31/08/2020 (See **Annexure C**) and strictly operate from Mondays to Saturdays from 09h00 to 18h00.
- 2.7 No goods, material or equipment in connection with the proposed use shall be displayed or be visible from a public road. Any such goods, materials or equipment to be stored on the land unit shall be within an enclosed structure which forms part of the dwelling house.
- 2.8 The proposed use may not cause any excessive fumes or smell to be emitted, cause any noise disturbance, be harmful or a disturbance to the neighbours, may not cause excessive congregation of people, disturbing after-hours activity, excessive parking in the public road or an excessive increase in the number or frequency of visitors to land unit so as to be a nuisance.
- 2.9 No video games or pinball tables be permitted in the liquor shop.
- 2.10 The premises must comply with the health regulations at all times, not be operated as tuck shop and no sale to persons under the age of 18.
- 2.11 No directional or advertising signage may be erected without the prior approval of the Provincial Roads Engineer and the Municipality.
- 2.12 No more than 3 persons, including the owner of the dwelling or residing family member, shall be employed in the liquor shop.
- 2.13 The owner of the property shall reside on the property, be the business owner and may not lease out the property.
- 2.14 The land use shall not create any undue noise or be a nuisance to the neighbourhood and that precautionary measures be taken in order to avoid environmental noise pollution in terms of the Noise Control Regulations (PN627 dated 20 November 1998) made in terms of Section 25 of the Environmental Conservation Act, 1989 (Act No 73 of 1989).
- 2.15 The Municipality reserves the right to withdraw the approval for the liquor shop should the conditions of approval not be complied with or in the event of the business creating a disturbance or nuisance to the adjacent property owners. The Municipality shall not be held responsible for any costs incurred by the applicant.

3 Matters to be noted:

- 3.1 It will be the responsibility of the owners to obtain the necessary approval and comply with any other law, regulation, permits or conditions from external departments and any other applicable

activities requiring a separate approval, licence or permit such as business license and liquor license.

4 The reasons for the above decision are as follows:

4.1 The proposed application would not negatively affect the aesthetic appearance of the property or surrounding environment and the primary use of the property will still remain residential.

4.2 There will be limited impact on the existing dwelling house and limited additional traffic will be generated as most customers will be pedestrians.

5. 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.

6. 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.

7. 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

8. 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.

9. 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>).

10. 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.

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

12. 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

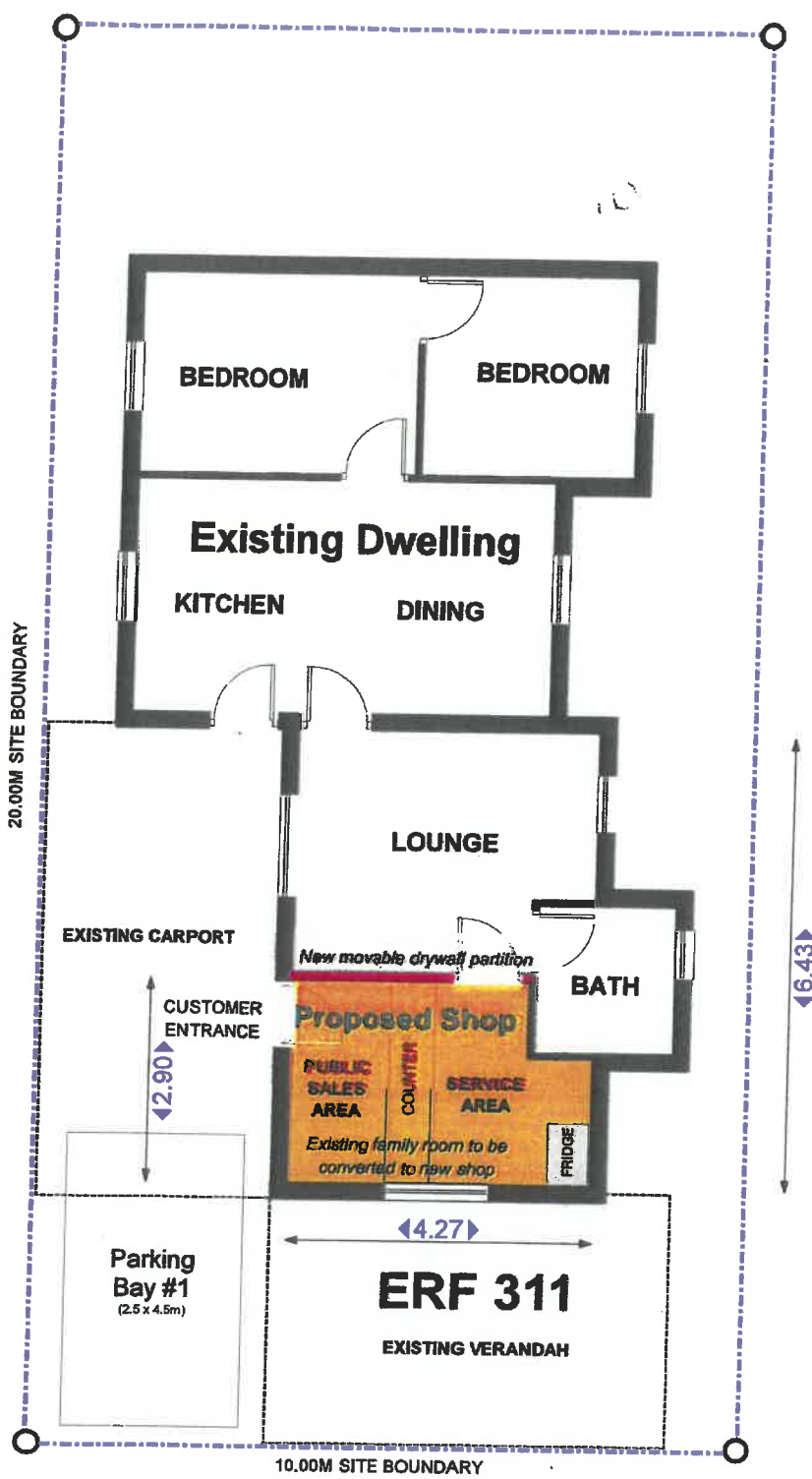


FOR: DIRECTOR PLANNING AND ECONOMIC DEVELOPMENT



DATE:

ANNEXURE C: SITE DEVELOPMENT PLAN



Upon lapse of the temporary departure then the shop will revert to residential use.

Development Rules	
FLOOR FACTOR	
ERF SIZE	200 SQM
BUSINESS	11 SQM
RESIDENTIAL- existing	65 SQM
FLOOR FACTOR	0.38

COVERAGE CALCULATIONS	
ERF SIZE	200 SQM
BUILDINGS/ CARPORTS	130 SQM
COVERAGE	65 %

Malva Road



Project:

SITE DEVELOPMENT PLAN
ERF 311, KYLEMORE

Date: 31/08/2020

Revision : 21/10/2021

Checked by:

D. Pienaar

Drawn by:

E.P.

Dwg # :

Z311 (1 of 2), Scale 1:100