



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

Application Number: LU/13715

Our File Reference Number: Erf 864, Stellenbosch

Your Reference Number:

Enquiries: Ulrich von Molendorff

Contact No: 021 808 8682

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

PER E-MAIL: [REDACTED]

Sir/Madam

APPLICATION FOR THE REMOVAL OF THE RESTRICTIVE TITLE DEED CONDITIONS ON ERF 864, CNR PIET RETIEF STREET AND JEAN STREET, KRIGEVILLE, STELLENBOSCH

1. The above application refers.

2. The duly authorised decision maker has decided on the above application as follows:

2.1 That the following application(s) in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015 on Erf 864, Stellenbosch, namely:

2.1.1 **Removal of restrictive title deed condition** in terms of Section 15(2)(f) of the said Bylaw of Clause B.(1)(c); Clause B.1(d); and Clause C(k) as contained in Title Deed Nr 34682/2021 insofar as to permit a garage in the common building line adjacent to Erf 865, Stellenbosch, to accommodate the proposed development. The conditions read as follows:

- *Clause B.1(c) "Not more than one-third of the area of this erf shall be built upon";*
- *Clause B.1(d) "No building or structure of any portion thereof except boundary walls and fences shall be erected nearer than 6,30m to the street line which forms a boundary of his erf, nor within 3,25m of the lateral or rear boundary common to any adjoining erf."*

- *Clause C(k) "The roof of all buildings on this erf must be uniform in regard to material and style. Flat roofs for outbuildings, garages, ect will only be permitted if the main building has a flat roof".*

BE APPROVED in terms of Section 60 of the said Bylaw and subject to conditions of approval.

3. The approval is subject to the following **conditions** imposed in terms of Section 66 of the said Bylaw:

3.1 The approval only applies to the proposal under consideration, as indicated on the referenced (SB864, dated March 2022) Site Plan, attached as **ANNEXURE C** and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council or other legislation or Bylaws or Regulations that may be applicable.

3.2 The development must be undertaken generally in accordance with the Site Plan as referenced SB864, dated March 2022 attached as **ANNEXURE C**.

3.3 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.

3.4 Building plans must be generally in accordance with the site plan as referenced (SB864, dated March 2022) and attached as **ANNEXURE C**.

3.5 The applicant, after publication of a notice in the Provincial Gazette to apply to the Registrar of Deeds to make appropriate entries in, and endorsements on, any relevant register or title deed to reflect the removal, suspension or amendment of the restrictive conditions.

3.6 No structure or any portion thereof may encroach over the erf boundary.

4. **The reasons for the above decision are as follows:**

4.1 The proposal is of limited scale and will not have a detrimental impact on the prevailing character of the subject area and it is in keeping with the current land use of the subject property and the area.

4.2 The proposed removal of the subject restrictive title condition applicable to the abovementioned property is supported as it relates to the prevailing context and will not have a negative impact on the residential character of the area.

4.3 The proposal is for a non-habitable structure only and will not have a detrimental impact on the adjacent property with regards to privacy

5. That the following application(s) in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015 on Erf 864, Stellenbosch, namely,

5.1 **Removal of restrictive title deed conditions** in terms of Section 15(2)(f) of the said Bylaw of Clause B.1 (a) and Clause B.1(b) as contained in Title Deed Nr 34682/2021. The restrictions to be removed read as follows:

- *Clause B.1(a) "This erf shall be used for residential purposes only".*
- *Clause B.1(b) "Only one dwelling together with such outbuildings as are ordinarily required to be used therewith shall be erected on this erf"*

NOT BE APPROVED in terms of Section 60 of the said Bylaw.

6. **The reasons for the refusal are as follows:**

6.1 Title deed restrictions constitutes property rights and when it is proposed and considered to have same removed, the application must be fully motivated and accompanied proposal which will enable all interested and affected parties to be able to fully comprehend and consider the possible impact that such removal may have.

6.2 The subject application contains no grounds or motivation for the proposed removal of the subject title restrictions which also impedes effective public participation, and consequently the application cannot be properly considered in the absence of a proposal associated with the required removal of title restriction and such effective public participation.

7. **Matters to be noted:**

7.1 Building plans be approved by the Municipality.

8. 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.

9. 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;

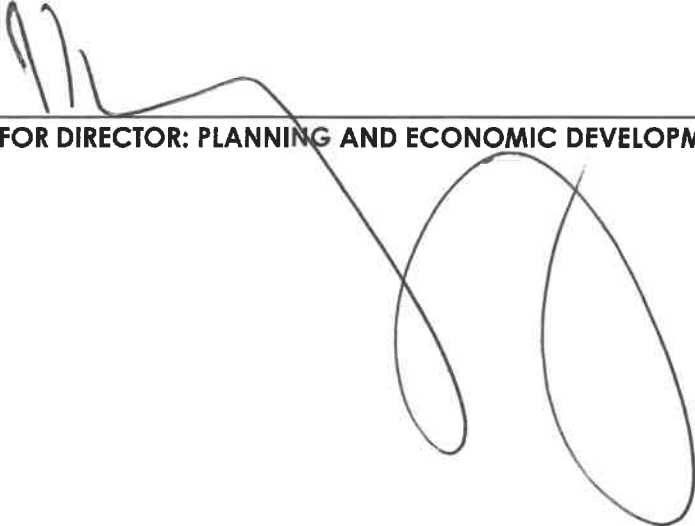
- (j) That the appeal includes the following declaration by the Appellant:

- (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.

10. 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
11. 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.
12. 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>).
13. 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.
14. Kindly note that no appeal right exists in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000.

15. 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



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

FOR DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT

10/1/2023
DATE:

ANNEXURE C

**APPLICATION FOR THE REMOVAL OF THE
RESTRICTIVE TITLE DEED CONDITIONS ON ERF
864, CNR PIET RETIEF STREET AND JEAN
STREET, KRIGEVILLE, STELLENBOSCH**

SITE PLAN

Erf no 866

Erf no 863
28,70m

Erf no 865

Piet Retief street

33,18m

39,36m

2.50m Building line (zoning scheme)
3.15m Building line (title deed)

Existing Covered stoep

Existing Covered stoep

2.50m Building line (zoning scheme)
3.15m Building line (title deed)

Existing House
Erf no 864

6.30m Building line (title deed)

4.00m Building line (zoning scheme)

Development data

Area of erf	1170,0m ²
Area of ground floor	340,0m ²
Area of first floor	288,2m ²
Area of cov stoeps	90,6m ²

Coverage
 $\frac{430,6 \times 100}{1170} = 36,8\%$



Exis Gate

Exist tree

Dry yard

6.30m Building line (title deed)

4.00m Building line (zoning scheme)

8,55m

Site Plan 1-100

25,46m
Jean street

58864, MARCH 2022

