



STELLENBOSCH

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Application Number: LU/9338

Our File Reference Number: Farm 1077, Paarl Division

Your Reference Number:

Enquiries: Ulrich von Molendorff

Contact No: 021 808 8682

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

PER E-MAIL: alwi@urbanrural.co.za

Sir

APPLICATION FOR A CONSENT USE AND TEMPORARY DEPARTURE: FARM NO. 1077, PAARL DIVISION

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 Temporary Departure in terms of Section 15(2)(c) of the Stellenbosch Municipality Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015 for the continued use of outside garden areas (Angel Tears Garden) as a function venue on Farm No. 1077, Paarl Division, as indicated on Drawing Nr. 333.2019 dated February 2019;

BE REFUSED in terms of Section 60 of the said Bylaw.

2.2 The reasons for the above decision are as follows:

- 2.2.1 Open air function venues are associated with increased noise levels,
- 2.2.2 The above application is associated with noise levels that will have an impact on the surrounding properties.

3. That the following applications:

- 3.1 **Temporary Departure** in terms of Section 15(2)(c) of the Stellenbosch Municipality Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015 for the continued use of specified buildings (Jonkerhuis, existing restaurant, art gallery) as a function venue on Farm No. 1077, Paarl Division;

3.2 **Consent Use** in terms of Section 15(2)(o) of the Stellenbosch Municipality Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015, for a tourist facility on Farm 1077, Paarl Division for the following:

- 3.2.1 a tourist facility in order to utilise a portion of the existing building ($\pm 350\text{m}^2$) with outside seating area as a restaurant ($\pm 100\text{m}^2$); and
- 3.2.2 a Farm store in the form of souvenir shop of $\pm 86\text{m}^2$ in extent

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

4. Conditions of approval

- 4.1 The approval applies only to the consent use for a restaurant and farm store and a temporary departure for functions venue within existing building, as indicated on drawing no. 333.2019 dated February 2019 (**ANNEXURE C**) and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council.
- 4.2 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.
- 4.3 The approval for the consent use shall lapse if not exercised within **5 years** from date of final notification.
- 4.4 The floor area for the restaurant be restricted to $\pm 350\text{m}^2$ and $\pm 100\text{m}^2$ outside seating area (see drawing No. B05) with the capacity of 120 people.
- 4.5 Restaurant shall serve only visitors brought by Fransshoek Tram company buses and trams.
- 4.6 The restaurant shall serve only daytime visitors and shall be closed to the public during the afternoon peak (after $\pm 4\text{pm}$) and evening.
- 4.7 The floor area for the souvenir shop be restricted to $\pm 86\text{m}^2$ (see drawing No. B06).
- 4.8 The functions venue is only restricted to the existing buildings (Jonkershuis, existing restaurant and art gallery) (see drawing No. B04).
- 4.9 No live music/band may be played in any of the above buildings.
- 4.10 No functions may take place outside of the approved structures.
- 4.11 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).
- 4.12 Sufficient on-site parking must be provided for all land uses in accordance with the Stellenbosch Municipality Zoning Scheme By-Law, 2019.
- 4.13 The quality of water stored and distributed by the owner has to comply with SANS 241 Drinking Water Quality Standards. Current proof of compliance must be available on request.

- 4.14 Solid waste must be removed from the site to a 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).
- 4.15 Development contributions are payable in accordance with the prevailing and applicable Council Tariffs at the time of payment prior to the approval of any building plans, or as may be agreed on in writing with the Director Infrastructure Services.
- 4.16 Any change in land use or conditions of approval require the submission of a Traffic Impact Assessment (TIA) to the Department: Road Network Management (See memo dated 4 December 2019).
- 4.17 Building plans shall be generally in accordance with the site and floor layout plan (See **Annexure C**).
- 4.18 Building plans must be submitted for all changes of use in the existing buildings and which building plan(s) must be approved and related occupancy certificates be issued prior to the vesting of any of the related approvals.

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

- 5.1 The proposed activities (functions venue, restaurant & Farm shop) are located within the existing buildings, therefore the existing agricultural viability of the farm will not be impacted on.
- 5.2 Tourist facilities on properties outside the urban edge are encouraged by the Municipal Spatial Development Framework.
- 5.3 The proposed activities are in line with the character of the area as similar tourist facilities and function venues exist in the area and the proposal will add to the tourist industry without impacting the character of the area.
- 5.4 The proposed function venue will have minimal noise impact on the surrounding properties as it will be located inside existing building thus noise factor will be contained;
- 5.5 The proposed souvenir shop is in line with the definition of a farm store as defined in the Section 8 Zoning Scheme Regulations.
- 5.6 Sufficient on-site parking for the proposed land uses has been provided.
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. 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.

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:

(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

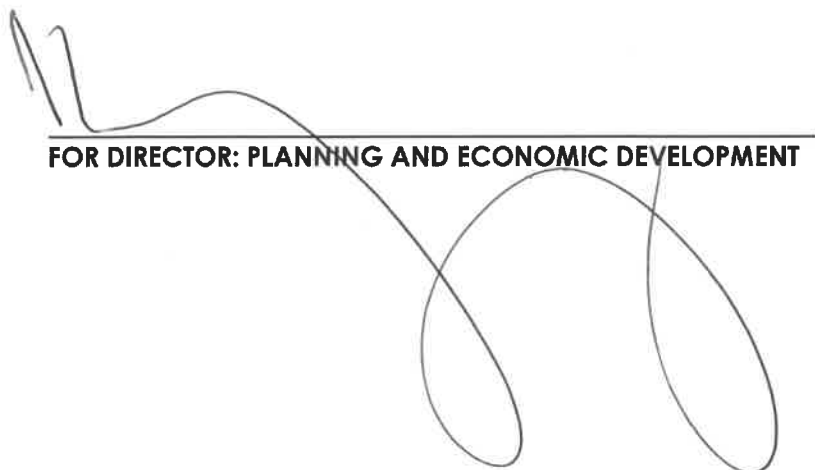
(i) any issue that the appellant wishes the Appeal Authority to consider in making its decision;

(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.
- 8. 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 (<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>).
- 11. 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.
- 12. Kindly note that no appeal right exists in terms of Section 62 of the Local Government 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



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

23/5/2022.
DATE:

COPIES:

- (i) Dupr  Lombard (Virdus Works)
Email: dupre.lombard@virdus.com
- (ii) Hardik Manek (Leeu Collection)
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ANNEXURE C

(CONSENT USE AND TEMPORARY DEPARTURE: FARM NO. 1077, PAARL DIVISION)

SITE & FLOOR PLAN



DESCRIPTION
AERIAL VIEW



Property FARM 1077	Application Consent Use	Date February 2019
Division Paarl	Utilisation Restaurant & Art/Souvenir shop & Function venue	Source Google Maps
Municipality Stellenbosch	Scale as indicated/or unknown	Project Number 333.2019



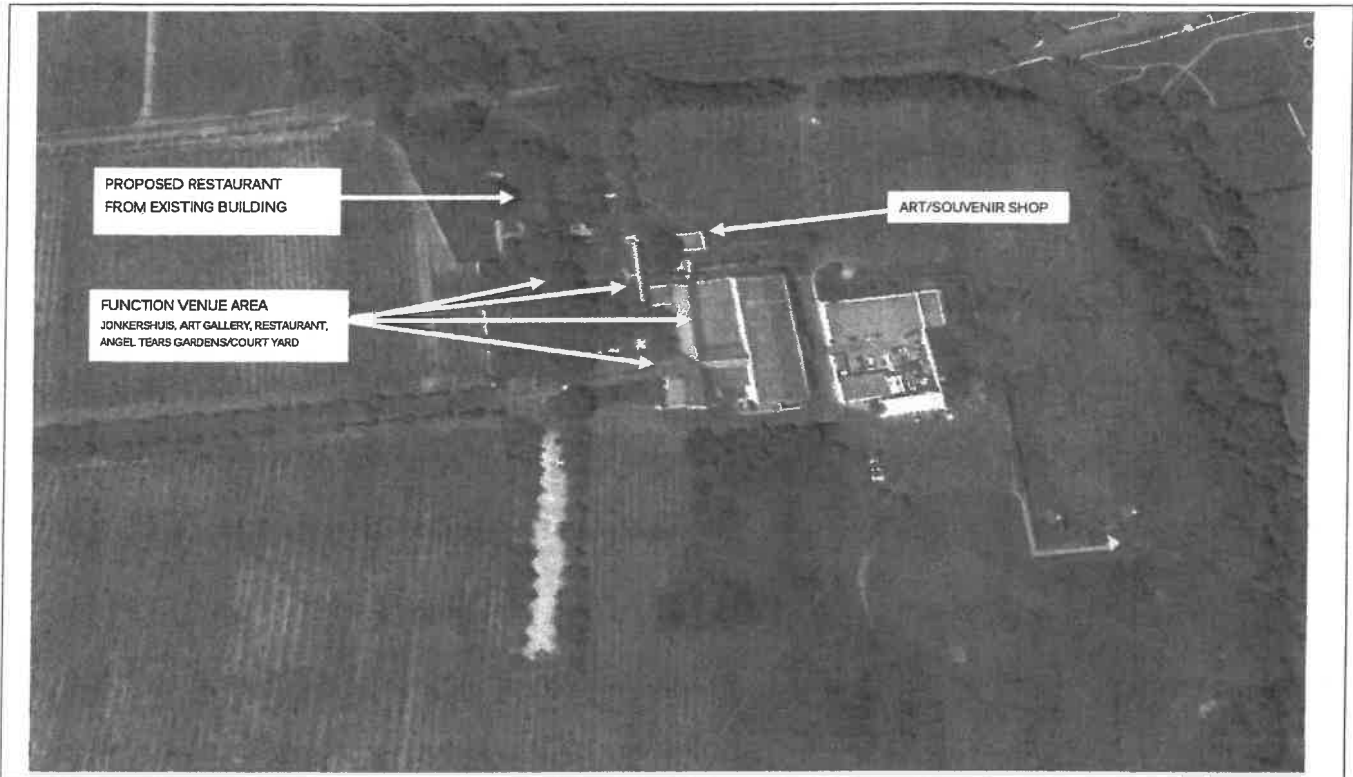
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0 8 2 - 4 1 1 7 9 1 4
 alw@urbanrural.co.za

ANNEXURE

B02

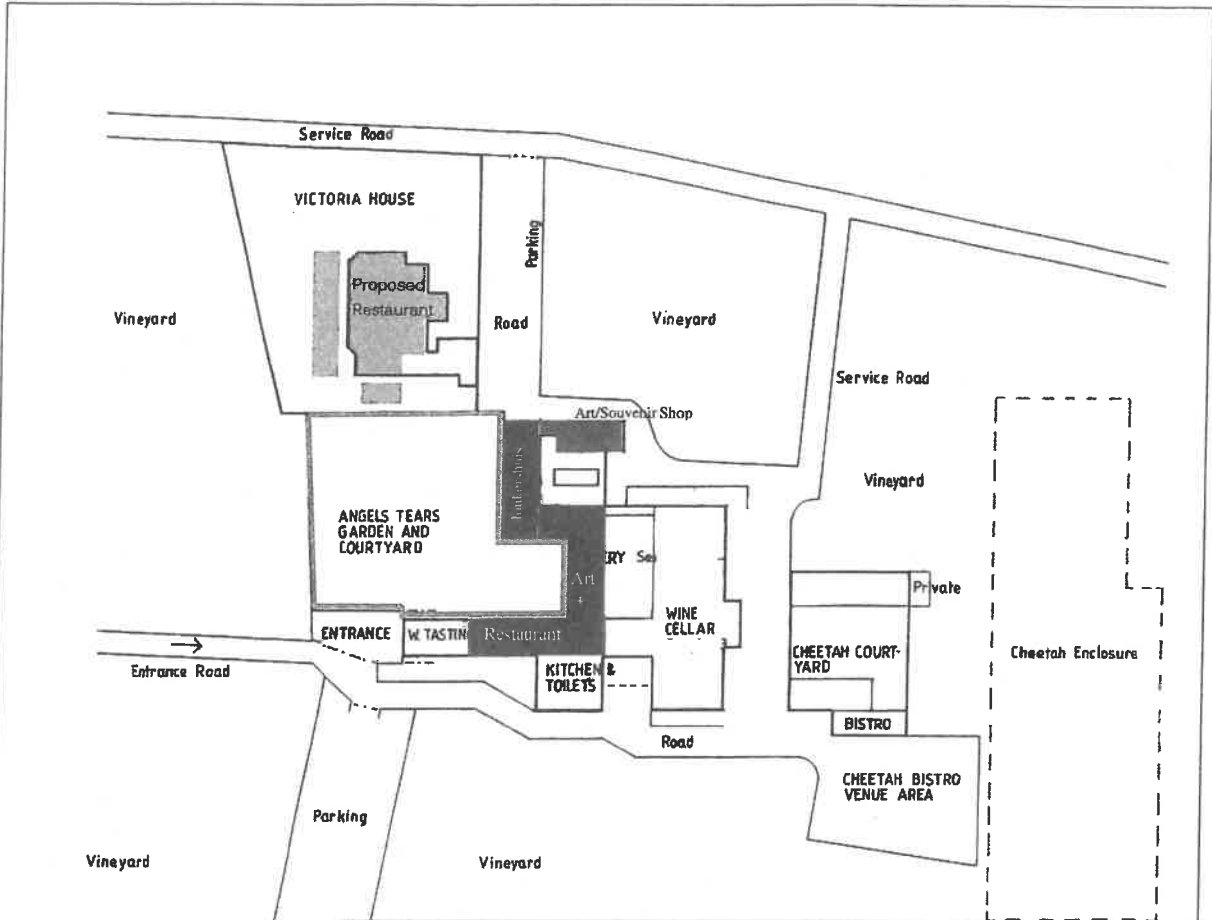


PROPOSED RESTAURANT
FROM EXISTING BUILDING

ART/SOUVENIR SHOP

FUNCTION VENUE AREA
JONKERSHUIS, ART GALLERY, RESTAURANT,
ANGEL TEARS GARDENS/COURT YARD

<p>DESCRIPTION</p> <p>AERIAL VIEW</p>	<p>Property Farm 1077</p>	<p>Application Consent Uses & Temp Dep</p>	<p>Date February 2019</p>	<p>urb www.urbanural.co.za</p> <p>Please take note that these plans and drawings were copied into this document and although it is done to scale it is not suitable for physical measurements. Although the dimensions indicated on the plans / maps are considered to be correct, it must be verified on site.</p> <p>0 8 1 - 4 1 1 7 9 1 4 a1a1@urbanural.co.za</p>	<p>B03</p>
	<p>District Paarl</p>	<p>Utilisation Restaurant & Art/Souvenir Function Venue</p>	<p>Source Google Earth</p>		
	<p>Municipality Stellenbosch</p>	<p>Scale as indicated/or unknown</p>	<p>Project Number 333/2019</p>		



	Consent Use: Proposed New Restaurant (portion of existing building) Outside Seating Area	Approx. 350 sqm Approx. 100 sqm
	Consent Use: Tourist Facility: Art/Souvenir Shop	Approx. 86 sqm
	Temporary Departure: Function Venue within Jonkershuis, Existing Restaurant, Art Gallery and areas of the AngelsTears Garden/ Terrace (This facility was previously approved and this application is merely to continue with the function venue)	Approx. 700 sqm
	Other approved land uses: Agricultural Zone II: Wine Cellar Area Agricultural Zone II: Consent Use: Restaurant Agricultural Zone II: Consent Use: Wine Tasting Agricultural Zone II: Consent Use: Art Gallery Agricultural Zone I: Consent Use: Cheetah Outreach Area	Approx. 6000 sqm Approx. 341 sqm Approx. 105 sqm Approx. 60 sqm Approx. 4950 sqm

DESCRIPTION

SITE PLAN

Property FARM 1077	Application Consent Use	Date February 2019
Division Paarl	Utilisation Restaurant & Tasting	Source E.S Albertyn
Municipality Stellenbosch	Scale as indicated/or unknown	Project Number 333.2019

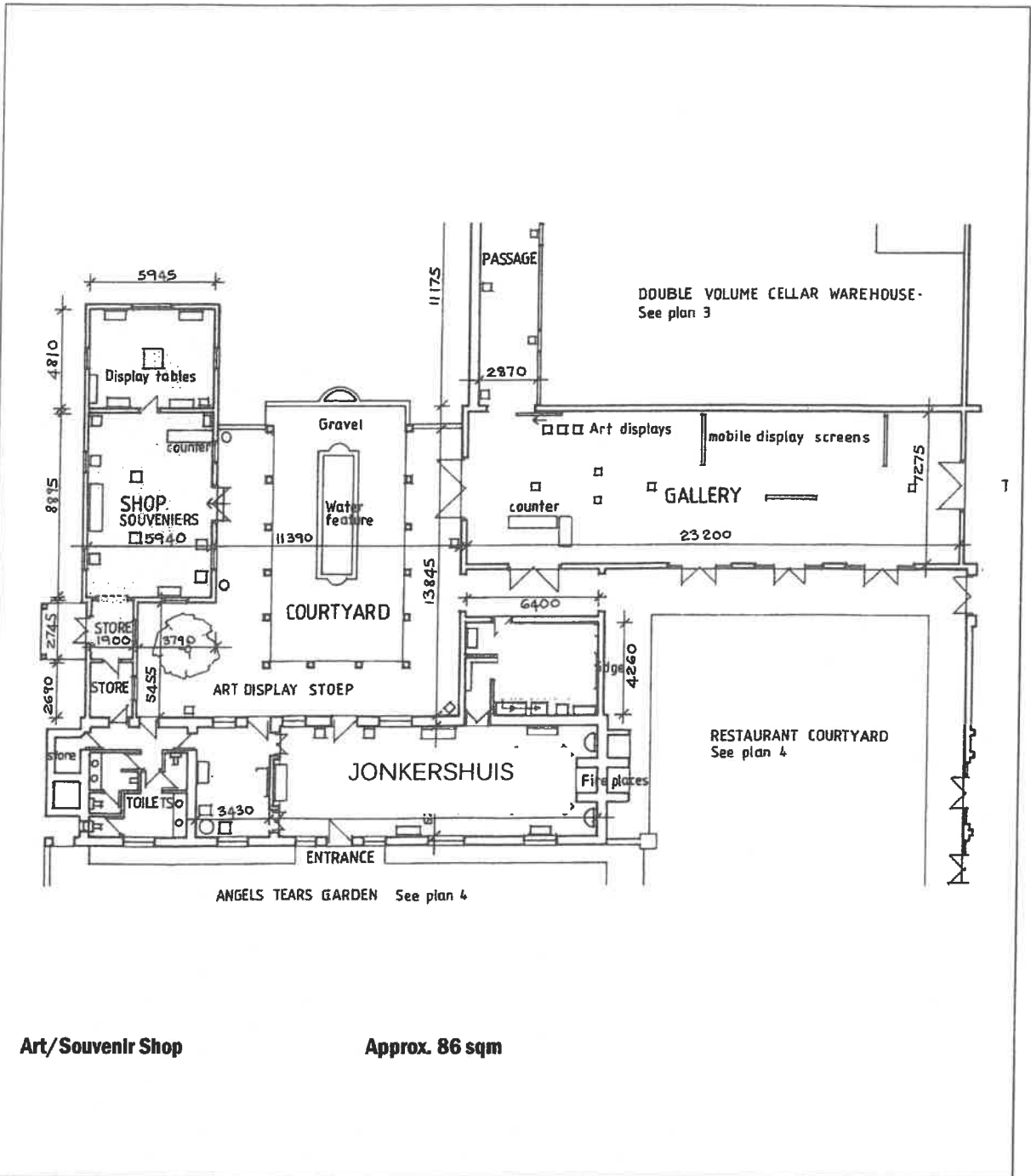
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ANNEXURE

B04

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Art/Souvenir Shop

Approx. 86 sqm

DESCRIPTION

FLOOR PLAN

ART / SOUVENIR SHOP



Property FARM 1077	Application Consent Uses & Temp Dep	Date February 2019
Division Paarl	Utilisation Restaurant & Art Souvenir & Function Venue	Source Base Plan - E.S Albertyn
Municipality Stellenbosch	Scale as indicated/or unknown	Project Number 333.2019



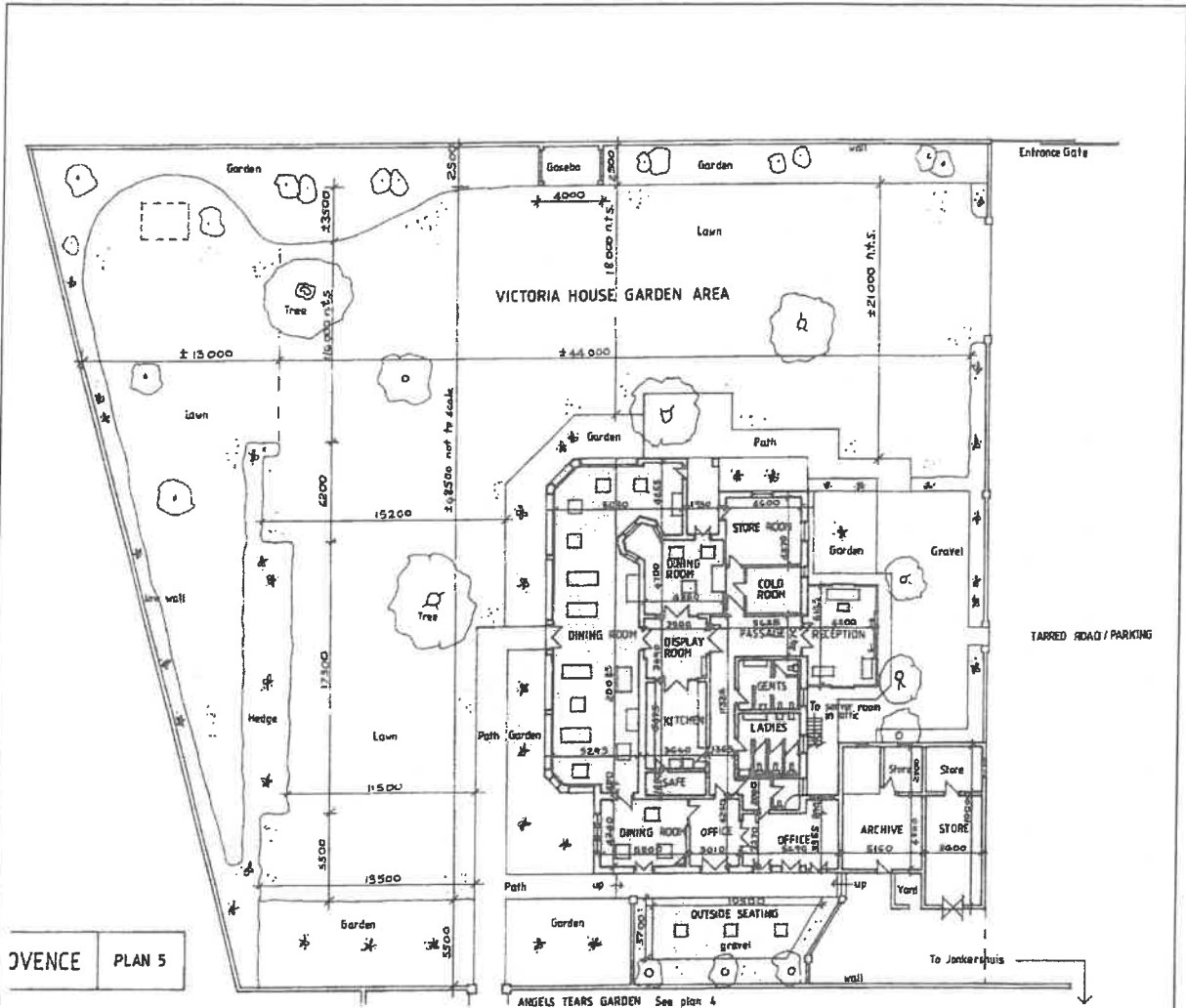
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ANNEXURE

B06



FLOOR PLAN VICTORIA HOUSE BISTRO AND GARDEN AREA

Restaurant Building
Dining Area Outside
Rest of building (farm offices)

Approx. 350 sqm
Approx. 100 sqm
Approx. 150 sqm

DESCRIPTION
FLOOR PLAN



Property FARM 1077	Application Consent Use & Temp Dep	Date February 2019
Division Paarl	Utilisation Restaurant & Art/Souvenir shop & Functions	Source Google Maps
Municipality Stellenbosch	Scale as indicated/or unknown	Project Number 333.2019



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ANNEXURE
B05