

Application Number: LU/14139

Our File Reference Number: Farm 524, Stellenbosch

Your Reference Number:

Enquiries: Ulrich von Molendorff

Contact No: 021 808 8682

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



Sir/Madam

APPLICATION FOR AMENDMENT OF AN APPROVED SITE DEVELOPMENT PLAN IN TERMS OF SECTION 15(2)(h) OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BYLAW, 2015: FARM 524, STELLENBOSCH 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 in terms of Section 15(2)(h) of the Stellenbosch Municipal Land Use Planning By-law, promulgated by notice number 354/2015, dated 20 October 2015 for the Amendment of condition 3(a) of the approval dated 17 January 2022 to replace the approved Site Development Plan with a new Site Development Plan to change the positions of the dwelling unit, the second dwelling unit and approved additional dwelling units.

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

- 2.2 The approval is subject to the following conditions imposed in terms of Section 66 of said Bylaw:
 - 2.2.1 The approval applies only to the Site Development Plan as per Drawing nr. "SDP_150, drawn by Wynand Wilsenach Architects, attached as ANNEXURE B1, and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council.

- 2.2.2 The development must be undertaken generally in accordance with the site development plan as referenced (SDP_150, drawn by Wynand Wilsenach Architects) and attached as **ANNEXURE B1**.
- 2.2.3 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.
- 2.2.4 The conditions imposed by council in its approval letters dated 16 January 2019 and 17 January 2022, are still applicable.
- 2.2.5 Building plans must be generally in accordance with the site development plan as referenced (SDP_150, drawn by Wynand Wilsenach Architects) and attached as ANNEXURE B1.

2.3 The reasons for the above decision are as follows:

- 2.3.1 The proposal is in line with the existing land use of the property and will not have a negative impact on the character of the surrounding area.
- 2.3.2 The Site Development Plan will not result in any additional land use rights being granted.
- 3. 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.
- 4. 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:
 - 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 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.
- 5. 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

- 6. 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.
- 7. 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).
- 8. 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.
- 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 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

27 9 2022 DATE: \

ANNEXURE B1

APPLICATION FOR THE AMENDMENT
OF AN APPROVED SITE DEVEOPMENT
PLAN IN TERMS OF SECTION 15(2)(h)
OF THE STELLENBOSCH MUNICIPAL
LAND USE PLANNING BYLAW, 2015:
FARM NO. 524, STELLENBOSCH
DIVISION

SITE DEVELOPMENT PLAN

READ THIS FIRST: WASHINDOWN ASH STÖP!

DRIEKOPPEN

W Y N A N D WILSENACH

APCHITECTS

James Coutts - Drieso

SITE DEVELOPMENT PLAN
Farm Site Development Plan
S R A W I N G

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SDP 150

TE DEVELOPMENT PLAN

ANNEXURE C

APPLICATION FOR THE AMENDMENT
OF AN APPROVED SITE DEVEOPMENT
PLAN IN TERMS OF SECTION 15(2)(h)
OF THE STELLENBOSCH MUNICIPAL
LAND USE PLANNING BYLAW, 2015:
FARM NO. 524, STELLENBOSCH
DIVISION

PREVIOUS APPROVAL



STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT + UMASIPALA + MUNICIPALITY

Application Number: LU/7559

Erf Number: Farm 524, Stellenbosch

Your Reference Number: Enquiries: R Fooy / B Mdoda

Email: Louisa.Ollyn@stellenbosch.gov.za / Bulelwa.Mdoda@stellenbosch.gov.za

Contact No. 021808 8680 / 8690

Date: 16 January 2019

REGISTERED MAIL

TV3 Architects and Planners

1st Floor, La Gratitude Office Building

97 Dorp Street

Stellenbosch

7600

Sir

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APPLICATION FOR CONSENT USE: FARM NO. 524, STELLENBOSCH DIVISION

- 1. The application in the above regard, refers.
- 2. The Municipal Planning Tribunal, on 19 November 2018, 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 a consent use for the purposes of five (5) additional dwelling units.
- The above approval is subject to the following conditions in terms of Section 66 of the above-mentioned by-law;
 - (i) The approval applies only to the consent use in question, as indicated on Appendix 2 (See agenda of 19 November 2018, 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 approval for the consent use shall lapse if not exercised within 5 years from date of final notification:
- (iv) All electrical requirements should comply with Section 49(3) of SPLUMA;
- (v) The relevant conditions imposed by the **Director**: **Engineering Services** as contained in the policy and in the memo dated 18 October 2018, be complied with (see **Appendix 9**) (See agenda of 19 November 2018);
- (vi) The additional dwelling units be limited to ±120m² each including a garage;
- (vii) The height be restricted to a single storey:
- (viii) The dwelling not be used for any commercial and for guest house purposes without prior approval from Council;
- (ix) The dwelling units be built of materials and in colours which blend in with the surrounding landscape and that sufficient landscaping be implemented to screen or mitigate the visual impact of the proposed buildings to the satisfaction of the Director: Planning and Economic Development;
- (x) A revised Site Development Plan (SDP) be submitted for approval;
- (xi) The manager's house is for the use of a bona fide employee of the farming enterprise;
- (xii) The units may not be separately alienated by means of sectional title or share-block or any other means.

4. REASONS FOR THE DECISION

- (i) The application as applied for is a residential estate outside the urban edge which is not in line with the principle of agri-tourism as embedded in the Section 8 regulations as well as the Stellenbosch SDF. Furthermore it is in conflict with the Provincial Rural Guidelines.
- (ii) The proposal does undermine the character of the rural area.
- (iii) The height and the size of the units are out of context with the rural environment.

- (iv) The approval of the proposal will set an undesirable precedent for the whole of Western Cape.
- (v) The site does not have any site specific circumstances as contemplated in Section 22 of SPLUMA to deviate from the Stellenbasch SDF.

5. REASONS FOR AMENDED APPROVAL

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- (i) Agri-tourism opportunities in the rural area are specifically provided for in the Stellenbosch SDF.
- (ii) The location as well as the amended size and height of the units will not have an intrusive impact on the visual landscape and it will not be detrimental to the scenic quality and rural character of the area.
- (iii) The limitation on the size of the additional dwelling units is to discourage permanent occupation and to encourage short term tourism/rental opportunities to diversify the income of the agricultural entity or farmer.
- (iv) The limitations on the size of the additional dwelling units are in compliance with the provisions of the Section 8 Zoning scheme as well as the Provincial Rural Guidelines.
- (v) The site has been approved as a grade 2 heritage cultural landscape in terms of the National Heritage Resources Act.
- 6. You are hereby informed of your right to appeal to the Appeal Authority in terms of section 79(2) of the said legislation.
- 7. 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, must be completed and should be directed to the Appeal Authority and received by the Municipal Manager at PO 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.
- 8. 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 (see attached list). Proof of serving the notification must be submitted to the Municipality, within 14 days of serving the notification.

- 9. 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.
- 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 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

OR ACTING DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT



STELLENBOSCH . PNIEL . FRANSCHHOEK

MUNISIPALITEIT . UMASIPALA . MUNICIPALITY

NOTICE OF DECISION OF APPEAL AUTHORITY

APPEAL LODGED IN TERMS OF SECTION 79(2) OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW (2015) AGAINST THE CONDITIONS IMPOSED BY THE MUNICIPAL PLANNING TRIBUNAL FOR THE APPROVAL OF THE CONSENT USE ON FARM NO. 524, STELLENBOSCH DIVISION (LU/7559)

DECISION OF APPEAL AUTHORITY:

The Appeal Authority hereby, in terms of Section 81(7) of the Stellenbosch Municipal Land Use Planning By-law 2015:

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CONFIRM VARY X REVOKE

THE DECISION OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL ON THE 19th OF NOVEMBER 2018, TO APPROVE IN TERMS OF SECTION 60 OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW DATED 20 OCTOBER 2015, THE APPLICATION FOR A CONSENT USE FOR THE PURPOSES OF FIVE(5) ADDITIONAL DWELLING UNITS

- 1. The abovementioned appeal refers.
- 2. The Municipal Planning Tribunal, approved on the 19th of November 2018, 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 a consent use for the purposes of five (5) additional dwelling units.
- 3. The aforementioned application was approved subject to a number of conditions imposed in terms of Section 66 of the Stellenbosch Municipality Land Use Planning By-Law (2015). (See annexure A)
- Mr Clifford Heys from TV3 Architects and Town Planners lodged an appeal in terms of Section 79(2) of the By-Law, with the Municipality on the 05th of February 2019, against the decision of the Stellenbosch Municipal Planning Tribunal, which was against 2 conditions in specific namely condition 6 and 7 which stated the following:
 - 4.1 The additional dwelling units be limited to ±120m² each including a garage;



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4.2 The height be restricted to a single storey;

- 5. The appeal assessment report was drafted by the Department of Environmental Affairs and Development, based on all documentation provided.
- 6. An inspection of the said report took place on the 17th of May 2019. This was done in compliance with section 81(6) of the Stellenbosch Municipality Land Use Planning By-Law (2015). The applicant requested an oral hearing in writing to appear before the Appeal Authority
- An oral hearing was held on the 30th of July 2019, where the parties appeared before the Appeal Authority.
- 8. After careful consideration of the written appeal, as well as all relevant documents, information and submissions made to me as Appeal Authority. I have decided, in terms of Section 81(7)(b) of the By-Law to VARY the decision of the Stellenbosch Municipal Planning Tribunal:
 - 8.1 That the application for the amendment be granted on condition that the one building already constructed, be demolished prior to the construction of the dwellings(houses) on the location as applied for;
 - 8.1.1 That landscaping on the relocated area, and as far as possible the indigenous vegetation be rehabilitated to the satisfaction of the Head of Parks of the Stellenbosch Municipality;
 - 8.2 That the condition 4.2 as per MPT approval relating to the height restriction be scrapped.

SIGNATURE:

DATE 19 08. 2019

Adv. Gesie van Deventer

EXECUTIVE MAYOR

(Appeal Authority in terms of Section 79(1) of the Stellenbosch Municipal Land Use Planning By-Law)



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Application Number: LU/7559

Our File Reference Number: Farm 524, Stellenbosch

Enquiries: Lenacia Kamineth Contact No: 021 808-8697

E-mail address: Lenacia.Kamineth@stellenbosch.gov.za

Date: 04 September 2019

REGISTERED MAIL

Mr Clifford Heys TV3 Architects and Town Planners 1st Floor, La Gratitude Office Building 97 Dono Street STELLENBOSCH 7600

E-mail address: cliftord@tv3.co.za

Dear Mr Heys

APPEAL IN TERMS OF SECTION 79(2) OF THE STELLENBOSCH MUNICIPAL PLANNING BY-LAW (2015) AGAINST THE DECISION OF THE MUNICIPAL PLANNING TRIBUNAL: APPLICATION FOR CONSENT USE: FARM 524, STELLENBOSCH

- 1. Your letter dated 3 September 2019 refers.
- 2. The original consent granted allowed for five (5) dwellings with a footprint of $350 m^2$ and a double storey height restriction.
- 3. An application was lodged for an amendment to allow the dwellings to be built on another portion of the property.
- 4. The Appeal Authority granted this amendment on appeal.
- 5. Please be advised that the Appeal Authority concluded her decision and the matter is now functus officio.

Yours faithfully,

Ms Geraldine Mettler MUNICIPAL MANAGER

Page 1 of 1



Application Number: LU/12367

Our File Reference Number: Farm 524, Stellenbosch

Your Reference Number:

Enquiries: Ulrich von Molendorff

Contact No: 021 - 808 8682

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

PER E-MAIL: Cliffford@tv3.co.za

Sir / Madam

APPLICATION TO COMPLY WITH A CONDITION OF APPROVAL (APPROVAL OF A SITE DEVELOPMENT PLAN) IN TERMS OF SECTION 15(2)(I) OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY LAW, 2015, FARM 524, STELLENBOSCH DIVISION

- 1. The above application refers.
- 2. That the application in terms of Section 15(2)(1) of the said bylaw for a **permission required in terms of a condition of approval** for the approval of the Site Development Plan to comply with condition 3(x) as stipulated in the letter of approval, dated 16 January 2019 for Farm No. 524, Stellenbosch Division.

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:

3. Conditions:

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- (a) The approval applies only to the Site Development as per Drawing nr. "Site Development Plan/1/3520-P", dated 22 November 2021, attached as ANNEXURE B, and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;
- (b) 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;

- (c) The rest of the conditions imposed by council in its approval letter dated 16 January 2019; are still applicable (see ANNEXURE C);
- (d) The existing approved additional dwelling unit must be demolished prior to the construction of the additional dwelling units;
- (e) The conditions imposed by the **Manager: Community Services** in their memo dated 21 June 2021, attached as **ANNEXURE F** be adhered to:
- (f) The conditions imposed by the **Director: Engineering Services** in their memo dated 19 July 2021, attached as **ANNEXURE G** be adhered to:
- (g) Development contributions are payable in accordance with the prevailing and applicable Council tariffs at the time of payment prior to submission of any building plans, or as may be agreed on in writing with the Directorate Infrastructure Services;
- (h) Building plans must be submitted to this Municipality for approval prior to any building work commencing on the site.
- 4. The reasons for the above decision are as follows:

2)

- (a) The Site Development Plan will not result in any additional rights being granted and it will not be lead to an increase in the permissible floor factor, coverage and height of the proposed buildings.
- (b) The property will be developed in accordance with approved land use rights.
- (c) The submission of the site development plan is to comply with some of the conditions of approval as indicated in the letter dated 16 January 2019.
- 5. You are hereby informed in terms of section 79(2) of the \$tellenbosch 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.
- 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;

(1)

- (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:
 - 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 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.

- 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

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