



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

Application Number: LU/14277

Our File Reference Number: 5FH

Your Reference Number: P2164/88(4)

Enquiries: Ulrich von Molendorff

Contact No: 021 – 808 8682

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

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Attention: [REDACTED]

PER E-MAIL: [REDACTED]

Sir / Madam

APPLICATION FOR SUBDIVISION TO REGISTER A SERVITUDE GARDEN AREA: ERF 5, FRANSCHHOEK.

1. The above application refers.
2. The duly authorised decision maker hereby decides 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 5, Franschhoek namely:
 - 2.1.1 Subdivision in terms of Section 15(2)(d) of the said bylaw, in order to register a servitude garden area measuring $\pm 530\text{m}^2$ in extent over the Remainder of Erf 5 Franschhoek in favour of Erf 2749, Franschhoek.

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 applies only to the subdivision to register a servitude in question 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 be undertaken in accordance with the subdivision plan dated June 2022, File No. P2164/88(4), Plan No. 2 and drawn by David Hellig & Abrahamse Professional Land Surveyors attached as **APPENDIX B**.
- 3.3 An electronic copy (shp, dwg, dxf) of the approved servitude diagram be submitted to the Directorate Planning and Economic Development for record purposes, which plan must indicate the following information:
 - (i) Newly allocated erf/diagram numbers
 - (ii) Co-ordinates
 - (iii) Survey dimensions
 - (iv) Street names and numbering where applicable.
- 3.4 The servitude be registered against the title deed of Erf 5 and Erf 2749, Franschoek at the Registrar of Deeds, where required.
- 3.5 Agriculture must remain the primary use on the remainder of the property.
- 3.6 No structures, except garden and private play park structures/furniture be erected on the servitude area for the duration of the lease.
- 3.7 Services at all times be provided to the satisfaction of the Directorate: Infrastructure Service.

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

- 4.1 The application is only an extension of an existing servitude agreement, to use a portion of an agricultural zoned property for gardening purpose of an adjacent residential erf.
- 4.2 The application therefore does not grant the residential property any additional rights to construct any structures for residential accommodation purposes on Erf 5, other than gardening and play park structures.
- 4.3 The objector's (located more than 50m north) concerns will be adequately mitigated by the proposed wire fence, compliant with the zoning scheme bylaw parameters.
- 4.4 The cultivation of land for plants is therefore not prohibited on land zoned Agriculture and Rural Zone.

5. **Matters to be noted:**

5.1 The agreement between the owners of Erf 5 and Erf 2749, Franschhoek for the use of the subject servitude area is a private matter, but needs to take the content of this approval into consideration and may not grant additional rights outside the intend of this approval.

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:

7.1 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;

7.2 Reference to this correspondence and the relevant property details on which the appeal is submitted.

7.3 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.

7.4 whether the appeal is lodged against the whole decision or a part of the decision;

7.5 if the appeal is lodged against a part of the decision, a description of the part;

7.6 if the appeal is lodged against a condition of approval, a description of the condition;

7.7 the factual or legal findings that the appellant relies on;

- 7.8 the relief sought by the appellant; and
- 7.9 any issue that the appellant wishes the Appeal Authority to consider in making its decision;
- 7.10 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:
 - 11.1 Simultaneously serve the appeal on any person who commented on the application concerned and any other person as the municipality may determine.
 - 11.2 The notice by the applicant must invite persons to comment on the appeal within 21 days from date of notification of the appeal.
 - 11.3 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.

11.4 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 a large, stylized initial 'S' followed by a series of connected loops and a long horizontal stroke extending to the right.

SENIOR MANAGER: DEVELOPMENT MANAGEMENT

A handwritten date '1/12/2022' in black ink, written in a cursive style above a horizontal line.

DATE:

Copies:

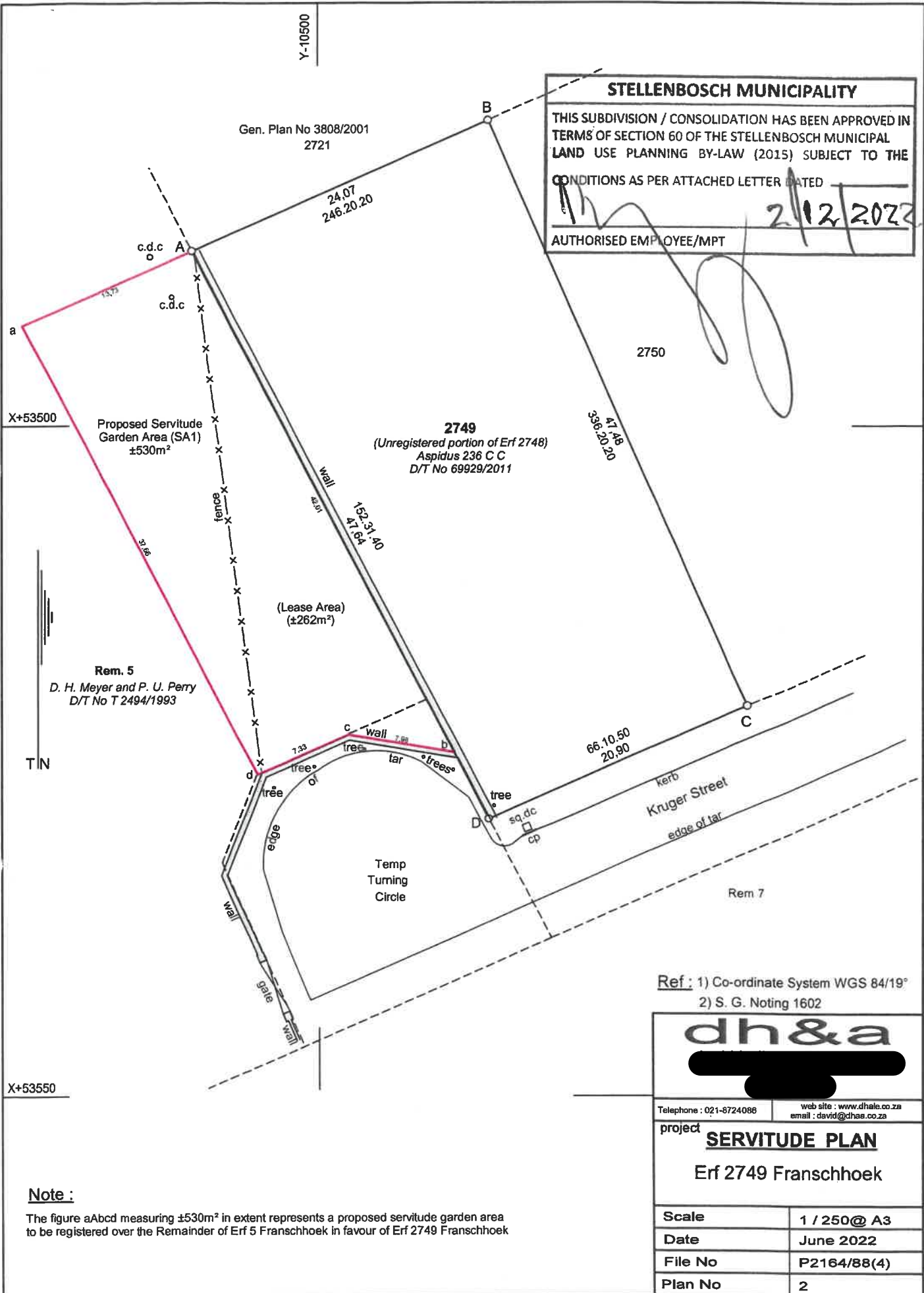
- 1.) [REDACTED]
[REDACTED]

APPENDIX A

Locality plan and location of objector.

APPENDIX B

Subdivision Plan



STELLENBOSCH MUNICIPALITY

THIS SUBDIVISION / CONSOLIDATION HAS BEEN APPROVED IN TERMS OF SECTION 60 OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW (2015) SUBJECT TO THE CONDITIONS AS PER ATTACHED LETTER DATED

2/12/2022

AUTHORISED EMPLOYEE/MPT

Gen. Plan No 3808/2001
2721

24,07
246,20,20

2750

2749
(Unregistered portion of Erf 2748)
Aspidus 236 C C
D/T No 69929/2011

47,48
336,20,20

Proposed Servitude
Garden Area (SA1)
±530m²

(Lease Area)
±262m²

Rem. 5
D. H. Meyer and P. U. Perry
D/T No T 2494/1993

66,10,50
20,90

kerb
Krugers Street
edge of tar

Temp
Turning
Circle

Rem 7

Ref: 1) Co-ordinate System WGS 84/19°
2) S. G. Noting 1602

dh&a

[Redacted]

Telephone : 021-8724086 web site : www.dhale.co.za
email : david@dhale.co.za

project **SERVITUDE PLAN**
Erf 2749 Franschoek

Scale	1 / 250@ A3
Date	June 2022
File No	P2164/88(4)
Plan No	2

Note :

The figure aAbcd measuring ±530m² in extent represents a proposed servitude garden area to be registered over the Remainder of Erf 5 Franschoek in favour of Erf 2749 Franschoek