



# STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

Application Number: LU/13621

Our File Reference Number: Erf 21 and 22, Kylemore

Your Reference Number:

Enquiries: Ulrich von Molendorff

Contact No: 021 808 8682

Email address: [Ulrich.Vonmolendorff@stellenbosch.gov.za](mailto:Ulrich.Vonmolendorff@stellenbosch.gov.za)

PER E-MAIL [REDACTED]

Sir/Madam

## APPLICATION FOR REZONING, CONSENT USE, CONSOLIDATION AND CLOSURE OF A PUBLIC PLACE: ERF 21 AND 22, KYLEMORE

1. The above application refers.
2. The Municipal Planning Tribunal on 22 July 2022 resolved as follows:
  - 2.1 That the application in terms of Section 15(2)(n) of the Stellenbosch Municipal Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015 for the closure of a public place, Erf 22 Kylemore **NOT BE APPROVED** in terms of Section 60
  - 2.2 The **reasons** for the above decision are as follows:
    - 2.2.1 A Status Report from the Surveyor Generals Office: Western Cape, confirming that Erf 22, Kylemore is shown as an Ordinary Erf in their records and do not require a closure process, but only rezoning.
3. That the following application in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015, namely:
  - 3.1 Rezoning of Erf 21, Kylemore to Private Open Space Zone, in terms of Section 15(2)(a).
  - 3.2 Rezoning of Erf 22, Kylemore from Public Open Space Zone to Private Open Space Zone, in terms of Section 15(2)(a).

3.3 Consent use in order to accommodate a cemetery on Erf 21 and 22, Kylemore, in terms of Section 15(2)(o).

3.4 Consolidation Erf 21 and 22, Kylemore to form a ±1.5886ha land unit to be used for cemetery purposes, in terms of Section 15(2)(e).

**BE APPROVED** in terms of Section 60 and subject to the conditions of approval in terms of Section 66.

4. The approval is subject to the following **conditions** imposed in terms of Section 66 of the bylaw:

Conditions of approval which should be complied with as required in terms of Section 66(11) of the subject by-Law, before the approval comes into effect and any required building plans is submitted:

4.1 A detailed site development plan as contemplated in terms of Section 16 of the Zoning Scheme Bylaw, 2019 as required in terms of Section 196(3) of the said bylaw, be submitted to the Municipality for approval prior to the submission of any building plans or earthwork's being done. The site development plan, inclusive of a landscaping plan satisfactorily, addresses, but are not necessarily limited to, all the conditions of this approval, compliance with relevant development parameters of the bylaw, any relevant matters relating to Section 16(4) of the said Bylaw, and specifically the requirement from the Spatial Planning Department. That a buffer zone be created between the cemetery and the backyards of the adjacent housing units.

General conditions of approval with no requirement for compliance prior to the development of the land as contemplated in terms of Section 66(11) of the subject By-Law:

4.2 The approval applies only to the rezoning, consent use and consolidation in question and 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.

4.3 The consolidation of the erven 21 and 22 Kylemore and a certificate of consolidated title and endorsement of the relevant title deed by the Registrar of Deeds be proceeded with.

4.4 Building plans be submitted and approved by the Municipality prior to the commencing of any building works, including the preparation of land, which will only be approved when all relevant (or qualified) conditions of approval have been complied with.

- 4.5 Details of service connection be indicated on the building plans.
- 4.6 The Municipality implements regular monitoring of levels of potential pollution and takes reasonable measures to prevent pollution of underground water and the river.

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

- 5.1 The neighbouring properties have already been approved and developed for cemetery purposes.
- 5.2 The proposals are consistent with the objectives and principles of the Stellenbosch Municipal Spatial Development Framework.
- 5.3 Sufficient Services can be provided to the satisfaction of the municipal engineering section if required.
- 5.4 The portion of a public open space to be rezoned, has never been developed as a communal recreational space and a public sportsground and public open space is located less than  $\pm 100\text{m}$  from this site and is currently being used for sport and recreational purposes by the community.
- 5.5 Safe vehicular access could be obtained from two public streets.

6. **Matters to be noted:**

6.1 All electrical requirements should be directed to Eskom.

6.2 The conditions imposed by the Cape Winelands District Municipalities Health Section comes directly from the National Health Act (61 of 2003), which needs to be complied with and it will be the applicant's and owner's responsibility to apply for any exemptions from this legislation.

- 7. 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.
- 8. 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:

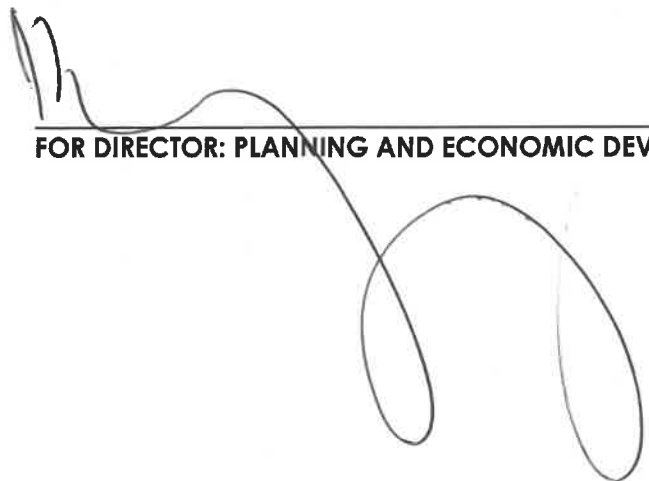
- (a) The personal particulars of the Appellant, including:
  - (I) First names and surname;
  - (II) ID number;
  - (III) Company of Legal person's name (if applicable)
  - (IV) Physical Address;
  - (V) Contact details, including a Cell number and E-Mail address;
  
- (b) Reference to this correspondence 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.

9. 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](mailto:landuse.appeals@stellenbosch.gov.za)
10. 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.
11. 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>).
12. 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.
13. Kindly note that no appeal right exists in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000.

14. 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 series of loops and curves, positioned above a horizontal line.

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**FOR DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT**

18/8/2022  
DATE:

**Annexure F**  
**Consolidation map**

**LEGEND:**

Newly consolidated erf  
1.5886ha

Consolidation



**STELLENBOSCH MUNICIPALITY**

THIS SUBDIVISION / CONSOLIDATION HAS BEEN APPROVED IN  
TERMS OF SECTION 60 OF THE STELLENBOSCH MUNICIPAL  
4/15/23 LAND USE PLANNING BY-LAW (2015) SUBJECT TO THE

CONDITIONS AS PER ATTACHED LETTER DATED

16/8/2022

AUTHORISED EMPLOYEE/MPT

TITLE: PROPOSED CONSOLIDATION OF  
ERVEN 21 AND 22, KYLENMORE

NOTE: ALL SIZES AND MEASUREMENTS ARE SUBJECT TO SURVEY

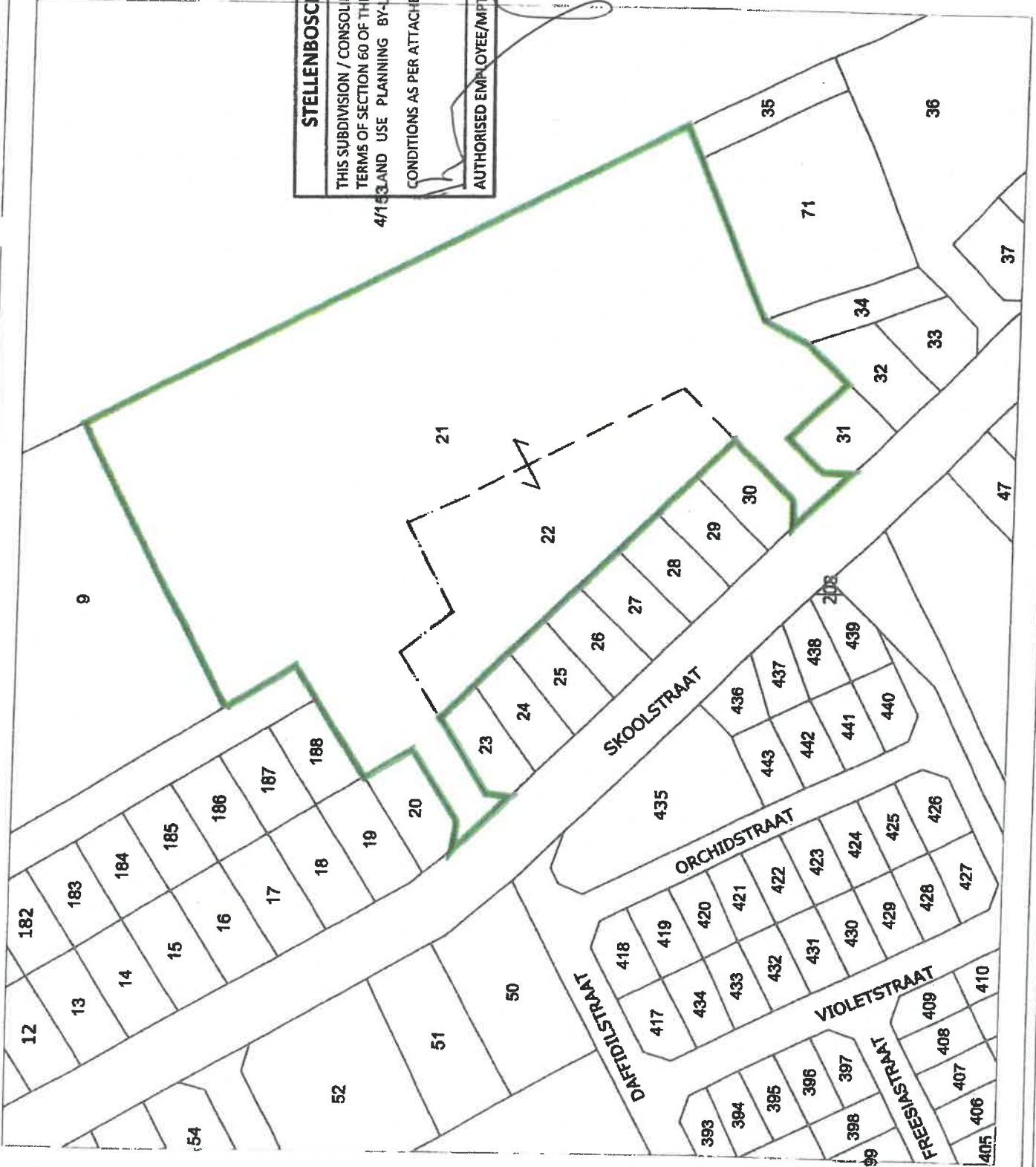
DRAWN BY:



DATE: August 2021

SCALE: not to scale

REF: KYLE/12067/JL





# **APPENDIX I**

**Cape Winelands District Municipalities Health  
comments.**



# CAPE WINELANDS DISTRICT

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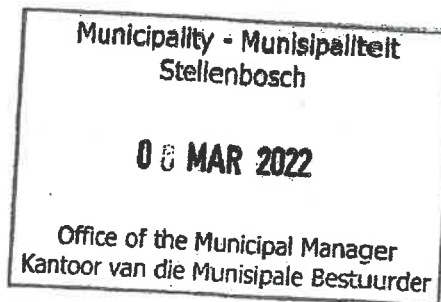
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TELEFOON/TELEPHONE/UMNXEBA:  
FAKS/FAX/FEKSI:  
E-POS/E-MAIL/E-MAIL:  
U VERW/YOUR REF/REF YAKHO:  
ONS VERW/OUR REF/REF YETHU:

Lorenzo Pharo  
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lorenzo@capewinelands.gov.za  
17/1/15/8  
8387187

Trappesstraat 51 Trappes Street  
91  
WORCESTER  
6849

01/03/2022

The Municipal Manager  
Stellenbosch Municipality  
PO Box 17  
Stellenbosch  
7599



**ATTENTION: Ms. G Van Deventer**

Madam

**APPLICATION FOR LAND USE APPLICATION: ERF 21 AND 22 KYLEMORE, STELLENBOSCH.**

Your application correspondence dated 02/02/2022 in the above regard refers.

From an environmental health perspective this application may be recommended for approval; provided that the following conditions are complied with:

**NATIONAL HEALTH ACT, 2003 (ACT NO. 61 OF 2003)**

**REGULATIONS RELATING TO THE MANAGEMENT OF HUMAN REMAINS**

**CHAPTER 5 - BURIAL IN EXCAVATED LAND**

**Burial sites and burials**

15 (1) No land or site shall be identified and used for the purpose of a burial site, unless environmental authorization has been granted in terms of the National Environmental Management Act, 1998 (Act 107 of 1998) (NEMA), Environmental Impact Assessment Regulations, R543 of 18 June 2010, as amended (EIA Regulations).

- In the case of private burial sites, a land survey has been conducted by a local government and necessary approval granted, such approval must be in writing and should contain such conditions for use as the availability of waste management and ablution facilities which shall include access to potable water and sanitation facilities.

- (2) All burial sites must comply with the following environmental requirements:
- (a) be located outside the 100 year floodplain;
  - (b) be located at least 350 m from ground water sources used for drinking purposes and at least 500m from the nearest habitable building;
  - (c) for a preferred burial site with a soil of sand-clay mix of low porosity and a small and fine-grain texture, the water table should be at least 2.5m deep in order to allow for traditional grave depth of six feet (1.8 meters);
  - (d) for areas with higher water tables, the local government may determine a reasonable depth with additional walling recommendations to protect underground water; and
  - (e) the covering soil shall not be less than 1 m, should two bodies be buried in the same grave, 300mm of soil shall be maintained between the coffins.
- (3) All burials must be registered with the relevant local government, and the local government concerned shall enter all burials in the register of burials of such local government.
- (4) Surface or ground water must not be polluted due to any actions on the site. The applicable requirements with respect to relevant legislation pertaining to water must be met.
- (5) Any solid waste must be disposed of at a waste disposal facility licensed in terms of applicable legislation.
- (6) Should any heritage remains be exposed during excavations or any actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape.
- (7) The applicable requirements with respect to relevant legislation pertaining to occupational health and safety must be adhered to.
- (8) The holder of the Environmental Authorisation must, always, ensure that the construction activities comply with the Noise Control Regulations in terms of the relevant legislation, namely:
- (a) All noise and sound generated during all phases of the proposed development, as well as during the operation of the Kylemore Cemetery, must comply with relevant SANS Codes and Standards.
  - (b) No pure tone sirens or sounds must be used unless in emergency situations, or when required with respect to health and safety regulations.
  - (c) Silencers must be installed and maintained on machinery, vehicle and earth moving equipment.
- (9) Dust suppression methods must be used to mitigate dust during the construction phase.
- (10) Adequate ablution facilities must be provided on site during construction. The ratio of 15 people per ablution facility must not be exceeded.

- 60 50 20
- (11) A search and rescue of conservation worthy plants species must be conducted prior to any construction activities.
  - (12) Notwithstanding the Environmental Authorization, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.

Please contact me if you have any further questions or comments in this regard.

Kind Regards



Lorenzo Pharo